

ORDINANCE 2005-22
Passed May 17, 2005

AN ORDINANCE ENACTING CODIFIED ORDINANCE CHAPTER 715 ENTITLED MOBILE FOOD ESTABLISHMENTS.

WHEREAS, Council has determined that it is necessary to regulate mobile food establishments within the City.

NOW THEREFORE BE IT ORDAINED BY THE MUNICIPALITY OF POWELL, DELAWARE COUNTY, OHIO AS FOLLOWS:

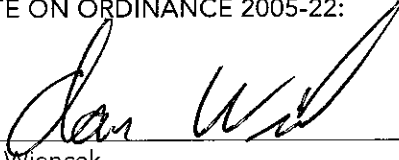
Section 1: Council hereby ratifies and adopts Chapter 715 of the Codified Ordinances of the City of Powell entitled Mobile Food Establishments which is attached hereto and incorporated herein by reference.

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 the Council and that all deliberations of the Council and any of the decision making bodies of the Municipality of Powell which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the Municipality of Powell, Delaware County, Ohio.

Section 3: That this Ordinance shall take effect as of July 15, 2005.

VOTE ON RULE SUSPENSION: Y _____ N _____

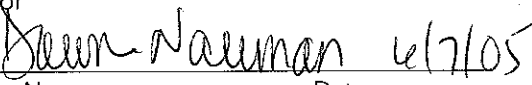
VOTE ON ORDINANCE 2005-22: Y 6 N 0



Dan Wiencek
Mayor

Date

6/7/05

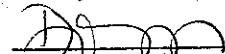


Dawn Nauman
Clerk of Council

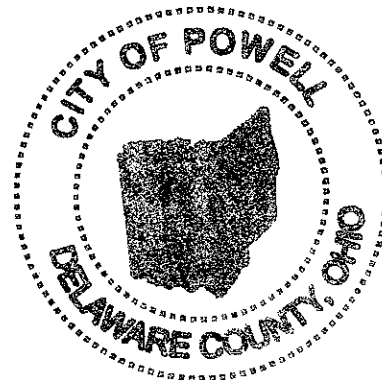
Date

6/7/05

This legislation has been posted in accordance with the City Charter on this date 6/8/05.



Clerk of Council



CHAPTER 715
Mobile Food Establishments

715.01 Definitions
715.02 Permit Required
715.03 Application For Permit
715.04 Criteria For Issuance of Permit
715.05 Issuance of Permits

715.06 Content and Appearance
of Permit
715.07 Display of Permits
715.08 Hours of Operation
715.09 Revocation of Permits
715.10 Penalties

715.01 DEFINITIONS.

The following definitions shall apply in construing the provisions of this chapter:

(a) "Application" shall mean the document created by the City to be submitted to the City in accordance with the terms of this chapter.

(b) "Exempt Mobile Food Establishment" means any mobile food establishment:

1. From which food or any other substance intended to be for human consumption is sold, offered for sale, stored or dispensed or is otherwise handled for consumption which is utilized no more than three (3) times per year in the City and is owned or leased by a civic, charitable or fraternal organization organized not for profit and is recognized as such by the Chief of Police.

2. Which is parked, which means the standing of a vehicle whether occupied or not, other than temporarily for the purpose of and/or actually engaging in loading or unloading merchandise or passengers, on other than a public right of way.

3. Whose occupants are engaged in the solicitation of sales on public rights of way in areas not zoned as residential under the *City Zoning Code*.

(c) "Mobile Food Establishment" means any vehicle which traverses the streets and neighborhoods of the city whose occupants are engaged in soliciting sales of food or any other substance intended to be for human consumption and which is intended to be sold, offered for sale, stored, or otherwise handled for consumption by such occupants from such vehicle.

(d) "Operator" includes any person who drives a mobile food establishment during any time that it is in the public rights of way of the City.

(e) "Permit" means the document issued by the City authorizing the operation of the mobile food establishment on public rights of way within the City.

(f) "Vendor" means any person who sells, offers for sale and immediate delivery of food or any other substance for human consumption or any person who

operates or is otherwise physically within a mobile food establishment while it is operating within the public rights of way of the City.

(g) "Owner" means the entity or persons shown on the certificate of title as the owner.

715.02 PERMIT REQUIRED.

No Vendor or operator shall operate a mobile food establishment within the City of Powell without first having obtained a permit from the Powell Police Department and paying the required fee for such permit in accordance with the provisions of this chapter. Exempt mobile food establishments may apply to the Chief of Police for an Exempt Certificate. There shall be no fee for an Exempt Certificate.

715.03 APPLICATION FOR PERMIT.

The Chief of Police shall be authorized to create from time to time an application for permits required by this chapter. The application shall contain information determined necessary by the Chief of Police including but not limited to:

- (a) Name, address, date of birth, and proof of automobile liability insurance regarding any operator in at least the amount of state minimum required insurance.
- (b) Name, address, date of birth, criminal background check for any operator or vendor.
- (c) Proof of compliance with City, State, Health Department, County or Federal Health Code Regulations.
- (d) The name and address of the owner of the mobile food establishment and if the owner is not a natural person then the name, address and telephone number of the officer in charge of the business entity owning the mobile food establishment.
- (e) Each vendor or operator applying for a permit must also provide authorization for a criminal background check in order to be approved for a permit. The authorization shall be provided as part of the application for a permit on a form approved by the Chief of Police.
- (f) Each vendor or operator applying for a permit must list his or her entire criminal/traffic background on the application for permit on a form approved by the Chief of Police.
- (g) Each owner, vendor or operator who seeks an exemption from the Code shall provide detailed information as to the nature of the civic and/or charitable organization involved; the name and address of each vendor or operator of the vehicle for such civic or charitable organization and an affirmation by the owner of such mobile food establishment that owner checked the criminal/traffic background of each vendor or operator and disclosed the contents of such examination to the Chief of Police.

715.04 CRITERIA FOR ISSUANCE OF PERMIT.

The Chief of Police shall issue the permit required under this section to vendors operating mobile food establishments within the City who are not otherwise exempt upon full compliance of the vendors and operators with the requirements of this chapter and

upon the Chief of Police determining that there is nothing in the criminal background of any vendor or operator which would create a risk to the public. Permits shall be issued on an annual basis. No permit shall be issued to any vendor or operator who:

(a) Within ten years prior to the application for permit, has been convicted or entered a plea of "no contest" to any misdemeanor or felony within any state or under federal law if the crime involved any of the following:

(1) Any offense which would require the offender to register as a sexual offender under Ohio or federal law.

(2) Possession, use or sale of controlled substance described under state or federal law.

(3) Any other offense deemed as "disqualifying" by the Chief of Police.

(b) In the event the vendor or operator is convicted of or enters a plea to any of the above after the issuance of a permit but before the expiration of the permit the owner, operator or vendor is required to immediately notify the Chief of Police who shall forthwith revoke the permit.

715.05 ISSUANCE OF PERMITS.

The Chief of Police is authorized to issue permits to vendors or operators of mobile food establishments upon full compliance by such vendor or operator with the requirements of this chapter and payment of the appropriate fee. All permits shall be issued in duplicate.

If the permit is denied notice of denial shall be mailed to the applicant at the address stated in the application.

715.06 CONTENT AND APPEARANCE OF PERMIT.

The content and appearance of permits issued in accordance with this chapter shall be in a manner approved by the Chief of Police but as a minimum shall consist of the following:

(a) The background, color or shade of permit shall be changed from year to year.

(b) The permit shall contain a clear color photograph of the vendor or operator taken within ninety (90) days of the issuance of the permit and must accurately depict the current appearance of the vendor or operator. If the Chief of Police determines that the photograph does not accurately depict the current appearance of the vendor or operator, or is unclear in any way, or is misleading, the vendor or operator shall be required to submit photographs deemed acceptable by the Chief of Police. If the appearance of the vendor changes during the calendar year as the permit is issued, the vendor shall be required to obtain a new permit with a photograph deemed appropriate by the Chief of Police. The owner, operator or vendor is under a duty to notify the Chief of Police with any change in appearance. The photograph shall be a minimum of three inches by five inches (3" x 5").

(c) Each permit shall contain the name and address of the vendor or operator and a current working telephone number for the owner of the mobile food establishment.

(d) Each permit shall contain the following text in bold print of no less than twenty four (24) point font "ONLY THE PERSON APPEARING IN THIS

PHOTOGRAPH IS AUTHORIZED TO OPERATE THIS MOBILE FOOD ESTABLISHMENT. IF ANYONE ELSE IS OPERATING THIS MOBILE FOOD ESTABLISHMENT CALL THE POWELL POLICE DEPARTMENT AT (614) 885-3374." The text and telephone number set forth above may be modified from time to time at the discretion of the Chief of Police.

715.07 DISPLAY OF PERMITS.

Each operator and vendor shall display the permits issued in accordance with this chapter pursuant to the guidelines promulgated by the Chief of Police, such guidelines shall at a minimum require:

(a) Every vendor or operator operating a mobile food establishment must display two (2) valid permits on the exterior of the mobile food establishment in the manner set forth in this chapter. Each person operating or serving as vendor in the vehicle shall have a valid permit.

(b) One permit shall be displayed on the passenger side of the mobile food establishment for each vendor or operator.

(c) Permits displayed on the passenger side of the mobile food establishment shall be displayed in a way as to be clearly visible to all customers, potential customers, patrons or other persons who might purchase food or any other substance for human consumption from the mobile food establishment.

(d) Permits displayed on the passenger side of the mobile food establishment shall be displayed no lower than three feet (3') and no higher than six feet (6') as measured from street level.

(e) Permits displayed on the passenger side of the mobile food establishment shall be displayed no further than three feet (3') from the window, opening, enclosure other location on the mobile food establishment where the vendor generally sells food or any other substance for human consumption to customers of the mobile food establishment.

(f) One permit shall be displayed on the driver's side of the mobile food establishment for each of the vendors or operators operating the mobile food establishment.

(g) Permits displayed on the driver's side of the mobile food establishment must be displayed on or within three feet (3') of the driver's side door or window of the mobile food establishment.

(h) Permits displayed on the driver's side of the mobile food establishment must be displayed no lower than three feet (3') and no higher than six feet (6') as measured from street level.

(i) It shall be the responsibility of the vendor and/or operator of the mobile food establishment to maintain permits in good condition. Permits may be protected by lamination, plastic or other transparent materials as long as each portion of the permit is clearly visible and legible to customers, potential customers, patrons or other persons who might purchase food or any other substance for human consumption from the mobile food establishment. Permits that are lost, become illegible, faded or otherwise in poor condition shall be replaced at the expense of the vendor.

(j) Each owner, vendor or operator who fails to display permits in accordance with the provisions of this chapter shall be found to be in violation of this chapter.

715.08 HOURS OF OPERATION.

Vendors or operators may operate mobile food establishments within the City of Powell between the hours of 9:00 a.m. and one half hour after sunset as determined by the National Weather Service or in accordance with hours established under the City Building Code, whichever is more restrictive.

715.09 REVOCATION OF PERMITS.

The Chief of Police shall have the authority to revoke or suspend the permit of a vendor, owner or operator under any of the following circumstances:

- (a) If the Chief of Police determines that the vendor or operator has made a false material statement in the application for a permit.
- (b) Upon a violation of the vendor or operator of any of the provisions of this chapter.
- (c) Upon determination that the vendor or operator has an unsanitary condition on the mobile food establishment including the owner or operator's personal clothing.
- (d) A determination that a communicable disease is present on the mobile food establishment or that any of the vendors or operators of such establishments have a communicable disease.

715.10 APPEAL.

(a) Any person aggrieved by the actions of the Chief of Police under this Ordinance may appeal to a Court of record.

715.11 PENALTIES.

(a) Any person, firm or corporation which owns, operates or serves as a vendor of a mobile food establishment after revocation of a license in accordance with this chapter or who fails to obtain a new license due to change in appearance or who has previously been convicted of a violation under this chapter shall be found guilty of a misdemeanor of the second degree and fined not more seven hundred fifty dollars (\$750.00).

(b) Any person, firm or corporation which operates, owns or serves as a vendor that violates any provision of this chapter for which no other penalty is specified shall be guilty of a misdemeanor of the third degree and fined not more than five hundred dollars (\$500.00) for each offense.