

**TOWNSHIP OF ANDOVER
COUNTY OF SUSSEX, STATE OF NEW JERSEY**

ORDINANCE #2021-10

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF ANDOVER TO
ESTABLISH CHAPTER 59A, "MOBILE RETAIL FOOD VENDORS"**

WHEREAS, the Township Committee has been investigating the feasibility of permitting mobile food vendors to operate within the Township; and

WHEREAS, other municipalities in Sussex County currently permit mobile food vendors and regulate the licensing and operation of same; and

WHEREAS, the Township Committee wishes to establish clear licensing and operating standards for mobile food vendors in the Township; and

WHEREAS, the Township Health Officer and Board of Health have reviewed and approved the licensing and operating standards.

NOW, THEREFORE BE IT RESOLVED THAT the Code of the Township of Andover shall be amended and supplemented to add Chapter 59A, entitled "Mobile Retail Food Vendors" as follows:

SECTION 1.

Chapter 59A. Mobile Retail Food Vendors

§ 59A-1: Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Mobile Retail Food Vendor: Any movable restaurant or retail food establishment in or on which food and beverage are transported, stored, or prepared for retail sale or given away at temporary locations. Only the following mobile units shall be authorized to obtain an annual mobile retail food license to stop and stand on any property or public rights-of-way and/or within the Township limits, none of which trucks shall exceed 35 feet in length and may not be stopped and provide service within 50 feet of a public road or 25 feet from the nearest building:

- A. Mobile Retail Motorized Food Vendor:** A food establishment that is located upon a motorized vehicle where food or beverage is cooked, prepared and served for individual portion service. Such food vendors comply with this Chapter and all requirements of this Chapter, as well as any other applicable section of this Code. Shall also be known as “Mobile Retail Food Vendors”.
- B. Mobile Retail Nonmotorized Food Vendor:** Movable, nonmotorized unit (e.g. pushcart) where food or beverage is being transported, stored, or prepared for retail sale or given away at temporary locations.
- C. Mobile Retail Pre-Packaged Food Vendors:** A food establishment that is located upon a motorized or nonmotorized vehicle where pre-packaged food or beverage is served for individual portion service shall be exempt from the regulations of this Chapter.

§ 59A-2: Hours of Operation.

Weekdays: Sunday through Saturday, mobile retail food vendors shall operate between the hours of 7:00 a.m. and dusk.

§ 59A-3: Operation.

- A.** Any mobile retail food vendor being operated without a valid mobile retail food vendor license and/or permit shall be deemed a public safety hazard and may be ticketed and impounded.
- B.** Mobile vendor licensees shall be required to display the mobile retail vendor license and/or permit prominently when located in a permitted location. Being the lawful holder of a Township of Andover mobile vendor license and/or permit shall not be a valid defense to a citation for failure to prominently display the license in violation of this Chapter.

§ 59A-4: Enforcement. Unless otherwise specified herein, this Chapter shall be enforced by any Code Official, the Andover Township Police Department, and/or the Health Officer.

§ 59A-5: License required; number of licenses issued.

- A.** It shall be unlawful for any person or business to operate as a mobile food vendor on any property within the Township of Andover without first obtaining a license granted by the Township.
- B.** The Township Clerk shall keep a record of all licenses issued and any complaints received concerning each mobile food vendor.

§ 59A-6: Application for license.

All applicants attempting to apply or renew a license shall:

- A.** Complete the application or reapplication with the Township Clerk;

- B. Pay the applicable license fee as provided in §59A-7; and
- C. Provide all of the following:
 - (1) Certificate of registration issued by the New Jersey Division of Taxation.
 - (2) Proof of ownership or rental of an approved vehicle.
 - (3) Proof of motor vehicle insurance as per N.J.S.A. §39:6B-1 if the mobile food vendor operates from a motor vehicle, in addition to proof of general liability insurance providing a minimum of \$1,000,000 of coverage.
 - (4) A satisfactory motor vehicle inspection report issued no more than 30 days prior to a license being issued or renewed.
 - (5) The make and model of vehicle, state license plate number, driver's identification number, and a copy of the state registration.
 - (6) An abstract of the applicant's driving record.
 - (7) Two forms of photo identification.
 - (8) A copy of a current Andover Township mobile food vendor's license.
 - (9) Three professional references not related to the applicant.
 - (10) If the applicant is a corporation, the state in which its charter is registered and the registered agent's name and address in this state.
 - (11) The number and nature of any arrests or convictions against the applicant, officers, partners or any salespeople to be employed.

§ 59A-7: License fees.

Mobile retail motorized and nonmotorized food vendor license. The application fee for a license or any renewal of a license granted by the Township shall be \$500. The term shall be one year from July 1-June 30.

§ 59A-8. Supplemental regulations.

- A. Mobile retail food vendors shall not exceed 35 feet; This number may be increased upon special written request, at the discretion of the Chief of Police.
- B. Mobile retail food vendors may not be stopped and provide service within 50 feet of a public road and 25 feet from the nearest building.
- C. Mobile retail food vendors shall not be permitted to have signage, or provide or allow for any dining area, including but not limited to tables, chairs, booths, bar stools, benches and standup counters.

- D. The Township reserves the right to temporarily move any mobile retail food vendor to a nearby location for emergency purposes as determined in the sole discretion of the Township.
- E. All licensees and permits shall comply with all applicable state statutes, all applicable Township of Andover ordinances, and any other law or regulation which may be applicable under given circumstances.
- F. Mobile retail food vendors, if requested by Andover Township, shall provide an on-vehicle GPS-based system that transmits standard GPS latitude and longitude coordinates in a format/protocol compatible with the Township's tracking systems/maps, and shall make this data openly available to the public and the Township of Andover for tracking and enforcement purposes.
- G. The mobile retail food vendor shall obtain all necessary licensure, including but not limited to, the Andover Township Fire Official and Township Health Department.

§ 59A-9: Violations and Penalties.

Unless otherwise specified herein, any person violating any provision of this Chapter shall, upon conviction thereof before the Municipal Court, be subject to a fine and/or imprisonment determined by the sound discretion of the Municipal Judge. In addition, violation of the aforesaid penalties, and violation to the provisions of this Chapter, may subject the license to suspension or revocation.

§ 59A-10: Appeal.

Any person aggrieved by reason of the denial of an application or suspension or revocation of a license shall have the right of appeal to the Township Committee. Such appeal shall be taken by filing with the Township of Andover Township Committee, within fourteen (14) days after notice of the action complained of has been mailed to the applicant's or licensee's last known address, a written statement setting forth fully the grounds for a hearing on such appeal. Notice of such hearing shall be served personally upon the applicant or licensee or mailed to the applicant or licensee at the address given on the license application form at least five (5) days prior to the date set for the hearing. The decision and order of the Township Committee on such appeal shall be final and conclusive.

§ 59A-11: Special Events.

In the instance of a special event which shall be defined as an event authorized, sponsored, or approved by the Township Andover, the Township Administrator may authorize a retail food vendor to participate in that event and temporarily suspend these regulations.

SECTION 2.

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 3.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

NOTICE OF PENDING ORDINANCE

PUBLIC NOTICE is hereby given that the foregoing Ordinance was introduced and passed at first reading at a Regular Meeting of the Township Committee of the Township of Andover held on June 17, 2021. A public hearing regarding same will be held at a meeting scheduled for July 15, 2021, beginning at 7:00PM to be held in person at the Municipal Building, 134 Newton-Sparta Road, Newton, NJ 07860.

All persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same. A full copy of the ordinance is available on the Township's official website www.andovertwp.org, or may be obtained in print from the Municipal Clerk's office during regular business hours.

Patricia L. Bussow, RMC
Administrator/Municipal Clerk

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NOTICE OF FINAL ADOPTION

PUBLIC NOTICE is hereby given that the foregoing Ordinance was adopted at a public hearing held at a Regular Meeting of the Township Committee of the Township of Andover on July 17, 2021. Said meeting was held at the Municipal Building, 134 Newton Sparta Road, Newton, NJ 07860, at which time all persons were given the opportunity to be heard concerning same. This Ordinance shall take effect immediately upon publication, as required by law.

Patricia L. Bussow, RMC
Administrator/Municipal Clerk