

NEWTOWN BOROUGH
BUCKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 806

AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF NEWTOWN AT PART II [GENERAL LEGISLATION] CREATING CHAPTER 340 [MOBILE FOOD VENDORS] TO PROVIDE FOR REGULATIONS FOR THE OPERATION OF MOBILE FOOD VENDORS AND AMENDING CHAPTER 550 [ZONING], ARTICLE IV [USE REGULATIONS] TO AMEND SECTION 550-15 [PROHIBITION ON OUTDOOR SALES FROM TEMPORARY VENDING VEHICLES]

CERTIFICATION

I, CRAIG TOTARO, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT I AM THE BOROUGH MANAGER IN THE BOROUGH OF NEWTOWN, BUCKS COUNTY, PA AND THAT ATTACHED HERETO IS A TRUE AND COMPLETE CORRECT COPY OF ORDINANCE NO. 806.

Craig Totaro, Borough Manager
_____, 2025

ENACTED: _____

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WHEREAS, the Newtown Borough Council is duly empowered by the Borough Code, 8 Pa.C.S.A. § 101, *et seq.*, to enact certain regulations relating to the public health, safety and welfare of the residents of Newtown Borough;

WHEREAS, Mobile Food Vendors provide a distinct service and business model to the residents and businesses of Newtown Borough which requires specific regulation and oversight to ensure safe and orderly operation;

WHEREAS, The Borough Code authorizes Borough Council to make, amend and adopt amendments to the Code of the Borough of Newtown, as amended, that are consistent with the Constitution and laws of the Commonwealth that it deems necessary for the proper management and control of the Borough and the best interests of its residents; and

WHEREAS, the Newtown Borough Council has determined that certain amendments to the Code of the Borough of Newtown, as amended, are required for the orderly administration of the laws of Newtown Borough.

NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED by the Newtown Borough Council that the Borough's Code is amended as follows:

SECTION 1. **Creation of Chapter 340.**

The Code of the Borough of Newtown, Part II [General Legislation] is hereby amended to create Chapter 340 [Mobile Food Vendors], as follows:

§ 340-1. Definitions.

HOST

Any resident, business or institution with a physical location in or any organization serving the Borough of Newtown that obtains a permit to allow a Mobile Food Vendor to operate under its supervision.

MOBILE FOOD UNIT

Any motorized or non-motorized vehicle, including but not limited to food trucks, carts, stands, kiosks, any other device designed to be portable and not permanently attached to the ground and ancillary equipment from which food products are intended to be prepared, sold, and/or distributed, including pre-packaged foods.

MOBILE FOOD VENDORS

An individual or organization engaged in the operation of a Mobile Food Unit.

§ 340-2. Scope and Intent.

The provisions of this Chapter apply to Mobile Food Vendors and a Host, as applicable, engaged in the business of cooking, preparing, and distributing food or beverage with or without charge in public and/or private restricted spaces. This Chapter shall not apply to vehicles that dispense food that move from place-to-place and are not stationary in the same location for more than fifteen (15) minutes at a time, such as ice cream trucks.

§ 340-3. General Regulations.

- A. Permits, as provided in this Chapter, shall be required to locate and operate a Mobile Food Unit, as defined in this Chapter, within the Borough of Newtown.
- B. A Mobile Food Vendor or Host shall obtain and maintain insurance as outlined in Section 340-6 of this Chapter.
- C. A Mobile Food Vendor shall only be permitted to operate within the Borough under a Host Permit, as provided herein.

§ 340-4. Permits.

- A. Permits are not transferrable.
- B. Permits shall be conspicuously displayed as viewed by the customer.
- C. Operation of any Mobile Food Unit requires two (2) permits: 1) Host Permit and 2) Mobile Food Unit Permit.
- D. Host Permit.

- (1) A Host shall obtain a permit for Mobile Food Vendors to operate under its supervision.
- (2) A Host Permit is only valid for the operation of Mobile Food Units on the premises of the Host Permit holder.
- (3) A Host shall be responsible for ensuring that all requirements of this Chapter are fulfilled.
- (4) Host Permits shall be issued for each event and shall only be valid for one (1) day.
- (5) Three (3) types of Host Permit shall be available:
 - (a) Resident Host Permit
 - i. A Resident Host Permit is only available to the property owner of a residential property or as authorized by the express written permission of the property owner.
 - ii. A Mobile Food Unit shall be permitted to operate under a Resident Host Permit on private residential property located in any Zoning District for a private event.
 - iii. A Mobile Food Unit shall only operate for a duration of five (5) hours or less, exclusive of set-up and breakdown which shall be limited to one (1) hour before and after operation.
 - iv. A Mobile Food Unit may operate between the hours of 10:00 AM and 9:00 PM, exclusive of set-up and breakdown which shall be limited to one (1) hour before and after operation.
 - v. All Mobile Food Units shall be removed from the premises no later than 10:00 PM.
 - vi. No more than one (1) Mobile Food Unit shall be permitted to operate at any one (1) time under a Resident Host Permit.
 - vii. No more than two (2) Resident Host Permits shall be issued for events on any one (1) property per calendar year.
 - (b) Business Host Permit
 - i. A Business Host Permit is only available to the property owner of an eligible non-residential property or as

authorized by the express written permission of the property owner.

- ii. Mobile Food Units shall be permitted to operate under a Business Host Permit on private non-residential property in the TC Town Center, V-1 Village Conservation, V-2 Village Gateway, B-1 Business Gateway, and B-2 Business/Mixed Use Zoning Districts.
- iii. A Mobile Food Unit shall only operate for a duration of five (5) hours or less, exclusive of set-up and breakdown which shall be limited to one (1) hour before and after operation.
- iv. Mobile Food Units may operate between the hours of 9:00 AM and 9:00 PM, exclusive of set-up and breakdown which shall be limited to one (1) hour before and after operation.
- v. All Mobile Food Units shall be removed from the premises no later than 10:00 PM, unless written permission has been obtained from the property owner to permit overnight parking for no more than one (1) night.
- vi. No more than four (4) Mobile Food Units shall be permitted to operate at any one (1) time under a Business Host Permit.
- vii. No more than four (4) Business Host Permits shall be issued for events for any one (1) business per calendar year.

(c) Special Event Host Permit

- i. A Special Event Host Permit shall only be issued in conjunction with a Special Event Permit approved by Borough Council pursuant to Chapter 462, Special Events.
- ii. Mobile Food Units shall be permitted to operate under a Special Event Host Permit on private property or within an approved area temporarily closed to vehicular access that is within the limits of the approved Special Event.
- iii. Mobile Food Units may operate between the hours of 8:00 AM and 9:00 PM, exclusive of set-up and breakdown which shall be limited to one (1) hour before and after operation.

- iv. All Mobile Food Units shall be removed from the premises within one (1) hour following the conclusion of the event but no later than 10:00 PM.
- v. No more than four (4) Mobile Food Units shall be permitted to operate at any one (1) time under a Special Event Host Permit.

E. Mobile Food Unit Permit.

- (a) A Mobile Food Unit Permit permits a Mobile Food Vendor to operate a Mobile Food Unit as provided in this Chapter.
- (b) The permit holder shall be responsible for ensuring that all requirements of this Chapter are fulfilled.
- (c) Mobile Food Unit Permits shall be valid for one (1) year from the date of issuance.
- (d) Two (2) types of Mobile Food Unit Permits shall be available:
 - i. Food Truck. A Mobile Food Unit – Food Truck Permit is required for all mobile food units capable of on-site food preparation, including Mobile Food Facility Types 3 and 4, as defined by the Commonwealth of Pennsylvania Department of Agriculture.
 - ii. Food Cart. A Mobile Food Unit – Food Cart Permit is required for all mobile food units offering prepackaged or dispensed food and beverage, including Mobile Food Facility Types 1 and 2, as defined by the Commonwealth of Pennsylvania Department of Agriculture.
- (e) All Mobile Food Units shall be inspected by the Fire Department prior to issuance of a Mobile Food Unit Permit.
- (f) All Mobile Food Units shall provide documentation of certification by the Bucks County Department of Health.

F. Application for Permit.

- (1) A Host or Mobile Food Vendor desiring to provide for the operation of or operate a Mobile Food Unit in the Borough of Newtown shall submit complete and truthfully-stated applications.
- (2) All applications shall be accompanied by any fee, as established by resolution of the Newtown Borough Council.

(3) All Host Permit applications shall include a site plan showing the proposed location of operation.

(a) All site plans shall provide for the following:

- i. All site plans shall be drawn to scale.
- ii. The proposed area of operation shall be an all-weather surface, unless otherwise approved by the Borough Engineer.
- iii. The proposed area of operation, all walkways, buildings, hydrants, accessible routes, fire lanes, and regulatory signage shall be shown on the site plan.
- iv. The proposed area of operation shall not block any regulatory signage.
- v. The proposed area of operation shall not interfere with any areas of clear sight distance.
- vi. The proposed location of trash receptacles, as required by § 340-5.A shall be shown.
- vii. If the use of a generator that is not integrated into the Mobile Food Unit is proposed, the proposed location of the generator shall be shown.

(b) All site plans shall be to the satisfaction of the Code Enforcement Officer and Fire Marshal.

(4) All applications must include proof of insurance in the form of a certificate of insurance which names the Borough of Newtown as an additional insured party, as required by this Chapter.

(5) All Host Permit applications shall include written permission from the property owner on which the Mobile Food Vendor intends to operate a Mobile Food Unit.

G. Other licenses or permits. A permit obtained under this Chapter shall not relieve any Mobile Food Vendor of the responsibility of obtaining any other permit or authorization required by any other resolution, ordinance, statute, or administrative rule, including outside agency permits.

§ 340-5. Performance Regulations.

A. Mobile Food Vendors are responsible for providing receptacles for trash and recycling within five feet (5') of their operating location. Mobile Food

Vendors and/or Host shall be responsible for servicing such receptacles. No waste of any kind shall be disposed of into public trash receptacles, into the storm or sanitary sewers, or into any tree well or other landscaping or landscaped area. Any costs incurred by the Borough by the Mobile Food Vendor or Host's failure to service such receptacles or properly dispose of refuse shall be assessed to the responsible party.

- B. Mobile Food Vendors may not sell or offer for sale any product or service:
 - (1) Within fifteen feet (15') of a fire hydrant.
 - (2) Within five feet (5') of any building.
- C. Mobile Food Units may not block any regulatory signage.
- D. Mobile Food Units may not interfere with any areas of clear sight distance.
- E. Mobile Food Units may not block any vehicular or pedestrian passageways or areas of ingress/egress.
- F. All noise must comply with the provisions of Chapter 349. All generators used on any Mobile Food Vendor shall be rated for a decibel level that does not exceed the limits of Chapter 349 for the proposed times of operation.
- G. Mobile Food Units shall not be permitted to park on any street or in a public parking lot overnight.
- H. Mobile Food Units shall provide operational and regularly-inspected fire suppression equipment to the satisfaction of the Fire Marshal.

§ 340-6. Insurance Requirements.

- A. Mobile Food Vendors shall purchase and maintain the following insurance coverages at not less than the limits specified below or required by law, whichever is greater:
 - (1) Commercial general liability insurance or its equivalent for bodily injury, personal injury and property damage including loss of use, with minimum limits of:
 - \$1,000,000 each occurrence;
 - \$1,000,000 personal and advertising injury;
 - \$1,000,000 general aggregate; and
 - \$1,000,000 products/completed operations aggregate.

This insurance shall include coverage for all of the following:

- (a) Liability arising from premises and operations;
 - (b) Liability arising from the actions of independent contractors; and
 - (c) Contractual liability including protection for the Mobile Food Vendor from bodily injury and property damage claims arising out of liability assumed under this contract.
 - (2) Business auto liability insurance or its equivalent with a minimum limit of \$1,000,000 per accident and including coverage for all of the following:
 - (a) Liability arising out of the ownership, maintenance or use of any auto (if no owned autos, then hired and non-owned autos); and
 - (b) Automobile contractual liability.
 - (3) If the Mobile Food Vendor has any employees, workers compensation insurance or its equivalent with statutory benefits as required by any state or Federal law, including 3 standard "other states" coverage; employers liability insurance or its equivalent with minimums as required by Pennsylvania law.
- B. Newtown Borough and the Borough's insurer and their members, elected officials, trustees, officers and employees shall be named as additional insureds on the Mobile Food Vendor's commercial general liability insurance and umbrella or excess liability insurance with respect to liability arising out of the services provided under any permit issued by the Borough.
- C. Insurance or self-insurance provided to Newtown Borough and the Borough's insurer and their members, elected officials, trustees, officers and employees under any Mobile Food Vendor's liability insurance or self-insurance required herein shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of insurance or self-insurance. (Any cross suits or cross liability exclusion shall be deleted from the Mobile Food Vendor's liability insurance policies required herein.)
- D. Insurance or self-insurance provided to Newtown Borough and the Borough's insurer and their members, elected officials, trustees, officers and employees as specified herein shall be primary, and any other insurance, self-insurance, coverage or indemnity available to Newtown Borough and the Borough's insurer and their members, trustees, officers and employees shall be excess of and non-contributory with insurance or self-insurance provided to Borough and the Borough's insurer and their members, trustees, officers and employees as specified herein.

- E. A Host is permitted to maintain the required insurances on behalf of a Mobile Food Vendor operating under a Host Permit provided the Host names the Mobile Food Vendor as an additional insured, in addition to the Borough and the Borough's insurer, and fulfills all other requirements of this section.

§ 340-7. Indemnification.

To the fullest extent permitted by law, by application for a permit under this Chapter, a Mobile Food Vendor agrees to defend, indemnify, pay on behalf of, and save harmless Newtown Borough, their trustees, elected officials, officers and employees against any and all claims, liability, demands, suits or loss, including attorneys' fees and all other costs connected therewith, arising out of or connected to the services provided by Mobile Food Vendors for activities associated with their operation in the Borough. The Mobile Food Vendor's obligation to defend and indemnify shall survive the termination of the permit.

§ 340-8. Enforcement and Penalty.

- A. Any person who violates any provision of this section shall be guilty of a summary offense.
- B. Upon issuance of a citation for a violation, the permit under which the Mobile Food Vendor operates shall be suspended and all operations shall cease.
- C. For every such violation, upon conviction, the violating party shall be sentenced to pay a fine of not less than \$250 nor more than \$1,000, and the costs of prosecution, and, in default of payment of fine and costs, to undergo imprisonment for not more than ninety (90) days.
- D. Upon conviction or guilty plea, a permit shall not be issued to the same entity for a period of one (1) year.

SECTION 2. Amendment to Chapter 550 [Zoning], Article IV [Use Regulations], Section 15 [Prohibition on Outdoor Sales from Temporary Vending Vehicles] to remove any prohibition on Mobile Food Vendors.

The Code of the Borough of Newtown, Part II [General Legislation], Chapter 550 [Zoning], Article IV [Use Regulations], Section 15 [Prohibition on Outdoor Sales from Temporary Vending Vehicles] is hereby restated and amended to add the underlined language (example) as follows:

There shall be no selling or offering for sale of any goods, wares or merchandise outside an enclosed building from temporary vending vehicles, such as carts, or otherwise moveable stands, except as may be otherwise permitted by this

chapter or as otherwise provided by Chapter 340. Sales or distribution of items from other types of vending machines are subject to the vending machine regulations of this chapter.

SECTION 3. Repeal and Ratification.

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed. Any other terms and provisions of the Borough's Code unaffected by this Ordinance are hereby reaffirmed and ratified.

SECTION 4. Severability.

Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and affect, and for this reason the provisions of this Ordinance shall be severable.

SECTION 5. Effective Date.

This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED this _____ day of _____ 2025, by the Newtown Borough Council.

**BOROUGH OF NEWTOWN
BUCKS COUNTY, PENNSYLVANIA**

John Burke, *Mayor*

Emily Heinz, *President*

Attest:

Judy S. Musto
Borough Secretary