

**MIDDLETOWN BOROUGH
ORDINANCE NO. 2024-1410**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF MIDDLETOWN, AND HEREBY ADDING, PART 2, CHAPTER 180 (MOBILE FOOD FACILITIES) SECTIONS 180-1 THROUGH 180-9, TO PERMIT THE OPERATION OF MOBILE FOOD FACILITIES WITHIN THE BOROUGH, SUBJECT TO STANDARDS OF OPERATION, LICENSING, INSPECTION, AND REGULATIONS RELATING TO MOBILE FOOD FACILITIES.

WHEREAS, the Borough of Middletown (“Borough”) recognizes the community and economic development in the Borough and desires to offer a variety of food retail establishments to community members, local businesses, and patrons of local businesses; and

WHEREAS, the Borough desires to amend its Code of Ordinances to provide for the operation of Mobile Food Facilities within the Borough.

WHEREAS, the Borough Council has determined that the public health, welfare and safety would be enhanced by permitting the operation of Mobile Food Facilities, subject to certain standards and regulations designated hereinafter.

NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED, by the authority of the Borough Council of the Borough of Middletown, Dauphin County, Pennsylvania, that the Code of Ordinances of the Borough of Middletown, shall be amended by adding Part 2, Chapter 180 (Mobile Food Facilities), Sections 180-1 thru 180-9, relating to Mobile Food Facilities, respectively, as follows:

SECTION 1. Section 180-1, Definitions, shall be added, as follows:

MOBILE FOOD FACILITY

A mobile truck, cart, trailer or other vehicle from which food or beverage is distributed or sold.

SPECIAL EVENT

A one-time or infrequently (1 per month maximum) occurring event outside normal programs or activities of the sponsoring or organizing body. A Special Event provides guests a leisure, social or cultural experience outside the normal range of choices. Special Events may include but are not limited to Municipal Festivals, School District Events, events of non-profit organizations and public block parties. Week-long carnivals and private events not open to the public are not considered Special Events.

SECTION 2. Section 180-2, Standards for Operation of Mobile Food Facilities, shall be added, as follows:

Standards for Operation of Mobile Food Facilities. Proprietors shall not operate a Mobile Food Facility within the Borough, except in a clean and sanitary manner and all foods and beverages

shall be clean, wholesome, free from spoilage, free from adulteration and safe for human consumption. The Borough Manager is hereby empowered to promulgate rules and regulations in furtherance of this provision with the advice, consent, and approval of Borough Council.

SECTION 3. Section 180-3, License Required for Operation of Mobile Food Facility, shall be added, as follows:

License Required for Operation of Mobile Food Facility. It shall be unlawful for any Proprietor to operate Mobile Food Facility, as defined in § 180-1 hereof, in the Borough of Middletown without having first obtained a license to do so from the Borough Manager of the Borough of Middletown and paying therefore an annual fee in the amount to be fixed from time to time by resolution of Borough Council. Mobile Food Facilities may be licensed by the Borough Manager and the Pennsylvania Department of Agriculture.

SECTION 4. Section 180-4 Inspections Authorized, Revocation of License, shall be added, as follows:

- A. Mobile Food Facilities may be inspected, and food or beverage examined, by licenser as often as may be necessary for cleanliness, sanitation and freedom from adulteration.
- B. If an inspector shall find on the premises of any licensed Mobile Food Facility any violation of any applicable rule or regulation of this Borough or the Commonwealth of Pennsylvania, the Borough Manager shall serve upon the proprietor of such Mobile Food Facility notice setting forth the violation and directing that it be corrected within 10 days. If the proprietor shall fail to correct any such violation, within the time prescribed, the Borough Manager may revoke or suspend the license of the Mobile Food Facility until such time as it is brought into full compliance with all applicable rules and regulations.
- C. Mobile Food Facility proprietors, who provide proof of a current Pennsylvania Department of Agriculture license to operate a Mobile Food Facility, may be exempt from inspection and licensing by the Borough Manager. All other Mobile Food Facilities must be licensed by the Borough Manager, inspected by a designee of the Borough, and are subject to a Food and Beverage License Fee.

SECTION 5. Section 180-5, Mobile Food Facility Regulations shall be added as follows:

Mobile Food Facility Regulations. Mobile Food Facilities operating within the Borough must comply with the following requirements:

- A. Mobile Food Facilities are only permitted to operate at Special Events.
- B. Only Borough sponsored Special Events may take place on public streets of the Borough, with the exception of neighborhood block parties. If said block parties are to have Mobile Food Facilities, they must be approved by the Borough Council and may not be held within 300 feet of a restaurant, as defined in Section 260-12 of the Borough code.
- C. If a Mobile Food Facility operates at a Special Event on a public street of the Borough, the proprietor must provide a Certificate of Liability Insurance for the Special Event,

naming the Borough as an additional Insured, with \$1,000,000 coverage for Auto Liability and \$2,000,000 coverage for General Liability.

- D. Any alcohol sales from a Mobile Food Facility must comply with all Pennsylvania Liquor Control Board regulations and be approved by the Borough.
- E. Mobile Food Facilities at carnivals and other events not meeting the definition of Special Events as defined in § 180-1 hereof, may be temporarily permitted to operate, and excepted from the regulations under this Chapter, by the Borough Council, upon written request.

SECTION 6. SEVERABILITY. Section 180-6, shall be added as follows: If any section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance is declared by any reason to be illegal, unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of this Ordinance or Chapter 180 of the Middletown Borough Code as a whole, or any other section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of this Ordinance or Chapter of the Middletown Borough Code. Borough Council hereby declares that it would have adopted this Ordinance and each section, subsection, phrase and word thereof, irrespective of the fact that any one or more of those sections, subsections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases or words may be declared illegal, unconstitutional or invalid.

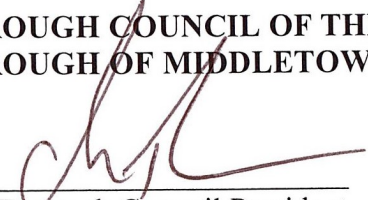
SECTION 7. ENFORCEMENT. Section 180-7, shall be added as follows: The provisions of this section shall be enforced by any official designated, in writing, by the Borough Manager.

SECTION 8. REPEALER. Section 180-8, shall be added as follows: All ordinances or parts of ordinances that are inconsistent herewith shall be and the same expressly are repealed.

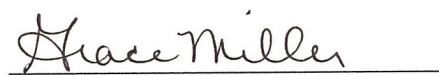
SECTION 9. EFFECTIVE DATE. Section 180-9, shall be added as follows: This Ordinance shall become effective immediately upon its adoption.

BE IT DULY ORDAINED AND ENACTED into law this 2nd day of January 2024, by the Borough of Middletown, Dauphin County, Pennsylvania, in lawful session duly assembled.

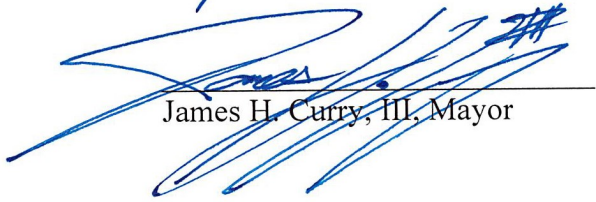
**BOROUGH COUNCIL OF THE
BOROUGH OF MIDDLETOWN**

BY: 
Borough Council President

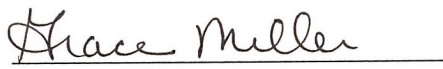
ATTEST:


Grace Miller
Borough Secretary

AND NOW THIS 2nd day of January, 2024, the foregoing Ordinance is approved.


James H. Curry, III, Mayor

I hereby certify the foregoing Ordinance was advertised in the Patriot News on December 19, 2023, a newspaper of general circulation in the municipality and was duly enacted and approved as set forth at the regular meeting of the municipality's governing body held on January 2, 2024.


Grace Miller
Borough Secretary