

**MONTGOMERY TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 21-319

AN ORDINANCE OF MONTGOMERY TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, CREATING A NEW CHAPTER 140, MOBILE FOOD VENDORS, OF THE MONTGOMERY TOWNSHIP CODE OF ORDINANCES - REGULATING THE OPERATION OF MOBILE FOOD VENDORS AND REQUIRING A PERMIT FOR THEIR OPERATION IN THE TOWNSHIP; REPEALING ALL INCONSISTENT ORDINANCES, OR PARTS THEREOF; AND PROVIDING A SEVERABILITY CLAUSE AND EFFECTIVE DATE

WHEREAS, the number of mobile food vendors who wish to conduct business in the Township has grown significantly, presenting both opportunities and challenges for local government; and

WHEREAS, the Montgomery Township Code of Ordinances does not regulate the operation of mobile food vendors operating within the Township; and

WHEREAS, it is appropriate to establish reasonable guidelines and regulations to govern mobile food vending in Montgomery Township in an effort to provide opportunities for mobile food vendors to operate within the Township; and

WHEREAS, the Township further finds that such regulations are necessary to protect the public health, safety, and welfare of residents, business owners and visitors in the Township.

NOW THEREFORE, IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Montgomery Township as follows:

- I. Part II, General Legislation of the Code of Ordinances of Montgomery Township is hereby amended as follows:**

**Chapter 140
Montgomery Township Mobile Food Vendor Ordinance**

§140.1 – Definitions.

Mobile Food Unit – Any motorized or nonmotorized vehicle, including but not limited to 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 and or sold or distributed. Such use also includes the distribution of pre-packaged foods.

Mobile Food Vending – Vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a retail food establishment.

§140.2 - Scope.

- A. The provisions of this ordinance apply to mobile food vendors engaged in the business of cooking, preparing, and distributing food or beverage with or without charge upon or in public and private restricted spaces.
- B. This ordinance does not apply to vehicles that dispense food and that move from place to place and are stationary in the same location for no more than 15 minutes at a time.
- C. Mobile food vendors shall only be permitted in the HLI II-Highway Limited Industrial II District and the RS-Regional Shopping Center District.
- D. Mobile food vendors are permitted to operate on active private residential property for a private event for a duration of four hours or less.

§140.3 – Permit required.

- A. It is unlawful for any person to operate within the Township a mobile food unit, as defined in this chapter, without having obtained a permit from the Township for that purpose.
- B. No person shall then sell or offer food products at any location until the food vendor has obtained a permit for that purpose.
- C. All permits shall be prominently displayed on the mobile food vending unit.
- D. Vendors operating under a special event permit issued by the Township are exempt from the permit requirement.

§140.4 – General Permit.

- A. Permits shall only be issued for mobile food vendors to operate in the HLI II-Highway Limited Industrial II District and the RS-Regional Shopping Center District or to operate on active private residential property as a caterer for a private event.
- B. Permits shall be issued for a period of time not to exceed one month.
- C. Permits are required to be renewed prior to the expiration date.
- D. Permits are not transferrable.

§140.5 – Application for Permit.

- A. Any vendor desiring to engage in mobile food vending in Montgomery Township shall submit a completed application to Montgomery Township Code Enforcement and receive a general permit issued by the Township.

- B. The applicant shall truthfully state, in full, all information requested on the application for permit issued by the Township. The application for a permit shall be accompanied by a fee as defined in this chapter.
- C. The owner of the mobile food unit must obtain and maintain insurance as outlined in Section 140.6 below. Each mobile food vendor must supply the Township with proof of insurance in the form of a certificate of insurance which names the Township as an additional insured party. Proof of insurance must be attached to the application for permit.
- D. The owner of the mobile food unit shall obtain written permission from the property owner in HLI II-Highway Limited Industrial II District and the RS-Regional Shopping Center District on which their mobile food unit will operate. This written permission must be attached to the application as an exhibit.

§140.6 – Insurance requirements for mobile food vendors.

- A. The owner of the mobile food unit shall purchase and maintain the following insurance coverages at not less than the limits specified below or required by law, whichever is greater:
 - a. 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:

- 1. Liability arising from premises and operations;
 - 2. Liability arising from the actions of independent contractors; and
 - 3. Contractual liability including protection for the Mobile Vendor from bodily injury and property damage claims arising out of liability assumed under this contract.
- B. 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:
 - 1. Liability arising out of the ownership, maintenance or use of any auto (if no owned autos, then hired and non-owned autos); and
 - 2. Automobile contractual liability
 - C. 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

standard "other states" coverage; employers liability insurance or its equivalent with minimum limits of:

- \$1,000,000 each accident for bodily injury by accident;
- \$1,000,000 each employee for bodily injury by disease; and
- \$1,000,000 policy limit for bodily injury by disease.

D. Umbrella excess liability or excess liability insurance or its equivalent with minimum limits of:

- \$1,000,000 per occurrence;
- \$1,000,000 aggregate for other than products/completed operations and auto liability; and
- \$1,000,000 products/completed operations aggregate

and including all of the following coverages on the applicable schedule of underlying insurance:

1. Commercial general liability;
2. Business auto liability; and
3. Employers liability.

E. The Township and Delaware Valley Property and Liability Trust (DVPLT) and their members, elected officials, trustees, officers and employees shall be named as additional insureds on the Service Provider's commercial general liability insurance and umbrella or excess liability insurance with respect to liability arising out of the services provided under this Contract by Service Provider.

F. Insurance or self-insurance provided to the Township and DVPLT and their members, elected officials, trustees, officers and employees under any Service Provider'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 Service Provider's liability insurance policies required herein.)

G. Insurance or self-insurance provided to the Township and DVPLT 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 Montgomery Township and DVPLT and their members, trustees, officers and employees shall be excess of and non-contributory with insurance or self-insurance provided to the Township and DVPLT and their members, trustees, officers and employees as specified herein.

§140.7 – Indemnification

To the fullest extent permitted by law, Service Provider agrees to defend, indemnify, pay on behalf of, and save harmless Montgomery Township, 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 Vendors for activities associated with mobile food vending in the Township. The Service Provider's obligation to defend and indemnify shall survive the termination of the permit.

§140.8 – Fees and Deposit.

An application for permit shall be accompanied by a fee in the amount established by resolution by the Montgomery Township Board of Supervisors. The Applicant will also be required to submit an amount determined by the Township as a deposit to be held in escrow during the duration of the permit to ensure proper cleanup of the location by the permit holder. The deposit will be returned to the Applicant by request upon expiration of the permit upon Township approval. Permits may be renewed monthly.

§140.9 – Other licenses or permits.

A permit obtained under this chapter shall not relieve any vendor of the responsibility of obtaining any other permit or authorization required by any other resolution, ordinance, statute or administrative rule.

§140.10 – Mobile food vendor restrictions.

- A. Mobile food vendors are responsible for providing receptacles for trash within five feet of their operation.
- B. A mobile food vendor may not sell or offer for sale any products or services:
 - 1) Within 15 feet from a fire hydrant.
- C. All sales by mobile food vendors shall cease to operate no later than 11:00 p.m. each day. Mobile food units shall be removed from public property no later than 11:00 p.m. each day.
- D. All mobile food vendors shall be limited to a block of four hours total per day to operate.

§140.11 – Enforcement and Penalty

Any person who violates any provision of this chapter shall be guilty of a summary offense; and for every such violation, upon conviction, shall be sentenced to pay a fine of not less than \$250.00, nor more than \$1,000.00, and the cost of prosecution.

II. Severability.

The terms, conditions and provisions of this Chapter are hereby declared to be severable, and should any portion, part or provision of this Chapter be found by a court of competent jurisdiction

to be invalid, unenforceable or unconstitutional, the Montgomery Township Board of Supervisors hereby declares its intent that the Chapter shall have been repealed without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Chapter.

III. Repealer.

Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.

IV. Effective Date.

This Ordinance shall be effective immediately enactment.

ORDAINED AND ENACTED by the Board of Supervisors of Montgomery Township on this 26th day of April, 2021.

Attest:

**MONTGOMERY TOWNSHIP
BOARD OF SUPERVISORS**


Carolyn McCreary, Secretary


Tanya, C. Bamford, Chair

