

Borough of Carlisle

ORDINANCE NO. 2346

AN ORDINANCE OF THE BOROUGH OF CARLISLE, CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING THE CODE OF THE BOROUGH OF CARLISLE TO ALLOW FOR MOBILE FOOD VENDING IN THE C-1 CENTRAL BUSINESS DISTRICT AND IN BOROUGH PARKS.

BE IT HEREBY ENACTED AND ORDAINED and it is hereby enacted and ordained by the Borough Council of the Borough of Carlisle as follows:

SECTION 1: The Code of the Borough of Carlisle is hereby amended to include the following new Chapter:

CHAPTER 158

MOBILE FOOD VENDING

§ 158-1. LEGISLATIVE BACKGROUND.

This Chapter is enacted by Borough Council in an effort to evaluate the benefit to the Carlisle community and visitors to the Borough of Carlisle of allowing mobile food vending in the Borough's Central Business District. It is further enacted to provide for mobile food vending in public parks of the Borough. The uses permitted in this Chapter are to be distinguished from those already permitted and regulated in the General Industrial zoning district through §255-96(27).

Although it is intended that this Chapter be enacted on a temporary basis, Borough Council reserves the right to terminate, modify or continue indefinitely the provisions of this Chapter.

§ 158-2. DEFINITIONS.

The following words and phrases when used in this Chapter shall have the meanings ascribed to them in this Section:

BOROUGH COUNCIL or COUNCIL – the Borough Council of the Borough of Carlisle.

BOROUGH – The Borough of Carlisle.

FIRE OFFICIAL – The Fire Chief for the Borough of Carlisle and the deputy fire chiefs of Union Fire Company No. 1 and Cumberland Goodwill Fire Rescue EMS.

VENDING AREA – Mobile food vending units are permitted to be operated when located on private property within the C-1 Central Business District of the Borough provided a permit is issued by the Borough in accordance with the requirements of this Chapter and the owner(s) of the private property signs the permit application noting the owner’s consent to the use of the private property.

MOBILE FOOD VENDING - The sale of food through a mobile vending unit.

MOBILE FOOD VENDOR or FOOD VENDOR - A person that operates a mobile vending unit under a permit issued by the Borough and who is at least 18 years of age.

MOBILE VENDING UNIT or VENDING UNIT - A movable retail food facility, such as a stand, cart, vehicle, box or similar structure, designed and used specifically for purposes of storing, preparing, processing, distributing or selling food. For purposes of this Chapter the following types of mobile vending units will be permitted to be utilized in a vending area:

Type 1.: This mobile vending unit provides only non-temperature controlled foods that are prepackaged with no preparation or assembly being required. Examples of foods and drinks provided are bottled or canned drinks, chips, candy and cookies.

Type 2. This mobile vending unit provides commercially processed packaged food in its original package. These types of foods are can be stored in temperature controlled areas on the unit and consist of packaged ice cream, single-serving packaged snacks, packaged milk and similar items.

Type 3. This mobile unit provides unpackaged food involving food preparation without a cooking step, food preparation for same day service involving a cooking step and the reheating of commercially processed food. Examples include hot dogs, grilled sandwiches, salads, shaved ice and kettle corn.

Type 4. A Type 4 vending unit is similar to a Type 3 vending unit, but provides what is called a “full menu” and constitutes what the Pennsylvania Department of Agriculture calls a “kitchen on wheels” where any food product can be prepared.

A Type 4 vending unit may provide foods provided by a Type 3, Type 2 and Type 1 unit. A Type 2 unit may also provide foods provided by a Type 1 unit and a Type 3 unit may also provide foods provided by a Type 1 and Type 2 unit.

PERSON – A natural person, firm, partnership, limited partnership, limited liability partnership, limited liability corporation, association, corporation, trust or other legal entity.

PRIVATE PROPERTY – Any real property that is privately owned. Private property shall not include any sidewalks, streets, alleys or avenues, whether public or private, that adjoin private property.

§ 158-3. PERMIT REQUIREMENTS.

A. No person may operate a food vending unit in a vending area except with a permit issued by the Borough.

B. The following, among other information, shall be provided with each application for a mobile food vendor permit:

1. Name, age, address, cell phone number and telephone number of the vending unit operator.
2. Make, model, and food vending unit type.
3. Vending unit owner's name, address, cell phone number and telephone number.
4. Copy of the current license from the Pennsylvania Department of Agriculture (the "license"), and for Type 1 units, proof of inspection.
5. Proof of valid insurance policy that provides minimum liability coverage of \$1,000,000 with the Borough named as additional insured.
6. Confirmation that the mobile vending unit is equipped with necessary fire extinguishers and equipment as required in §158-6, I through Z, as applicable, and that vending unit operators are trained in the proper use of fire extinguishers and fire extinguishing systems.
7. Confirmation from the vending unit owner or operator acknowledging that he or she understands and will be bound by the requirements and restrictions in this Chapter.
8. Signature of the owner of the private property consenting to the use of of the private property by the mobile vending unit. By signing the permit application, the property owner is consenting to the Borough staff, Borough police officer or Fire Official entering on to the Vending area during permitted hours of operation or thereafter if operation improperly continues after permitted hours, to take such actions that may be taken as noted in this Chapter and that may be necessary to ensure compliance with the provisions of this Chapter and law.

C. Payment of a permit fee established by Borough Council. This permit fee may be established or changed by Borough Council from time to time by resolution.

§158-4. LIMITATIONS ON PERMITS.

A. The Borough will issue no more than four permits for operation during the times noted in Paragraph B, below. Provided the vending area can reasonably accommodate more than one vending unit, as determined in the discretion of the Borough, more than one permit may be issued for the same vending area. All such permits shall be issued on a first come, first serve basis.

B. Permits shall be issued only for operating vending units during the hours of 10:00 p.m. through 2:30 a.m. Friday evening to Saturday morning and 10:00 p.m. through 2:30 a.m. Saturday evening through Sunday morning. Permits may be issued to a food vendor to operate only during one of these time periods or both of these time periods in the same weekend. A single permit will not be issued allowing operation by the same food vendor in consecutive weekends, but the same food vendor may make a separate application each week to operate during consecutive weekends.

C. Permits may be revoked by the Borough at any time for cause or no reason. If a permit is revoked other than due to an emergency or violation of a requirement of this Chapter, reasonable notice will be given to the operator or owner of the vending unit of revocation and the permit fee will be refunded in part.

D. Permits are not transferrable or assignable.

§158-5. VENDING LOCATIONS WITHIN THE VENDING AREA.

A. Operation of a food vending unit shall be within the vending area approved in the permit issued by the Borough.

B. All vending units shall be located on private property at a location that does not impede or interfere with pedestrian use of the sidewalk or the operation of vehicles on private or public streets, alleys or avenues. No vending unit shall block adequate sight distance for vehicles or pedestrians at intersections.

C. The specific location of the vending unit in a vending area may be subject to change at the discretion of Borough staff or a Borough police officer when deemed appropriate.

§158-6. OPERATION REQUIREMENTS.

Mobile food vendors as well as owners of a mobile food unit being operated, shall be subject to the following requirements:

A. Food service may only be provided to walk-up customers. No service shall be provided to persons in or on motor vehicles or from the cartway of the street or bike lane.

B. The placement of tables, chairs or the creation of customer seating areas or the use of any other items not permanently attached to and a part of the vending unit is prohibited. Only trash receptacles provided by the food vendor are permitted.

C. Food vendors shall provide for adequate waste collection for customers. All trash, litter, debris, liquid waste and grease must be collected, removed from the vending area and properly disposed of by the food vendor or private property owner. Use of public trash receptacles, storm drains, tree pits, sidewalk, street or any other public facilities by the vendor for disposal of trash or liquid is prohibited.

D. Signs are prohibited except signs that are affixed to the vending unit.

E. Broadcasted music, announcements and public address systems are prohibited.

F. The food vendor's license and permit, if not displayed, shall be available for inspection by Borough staff or a Borough police officer at request during operation.

G. The sale of items from the vending unit other than consumable food and/or drink is prohibited.

H. Food vendors must operate in a safe, sanitary and non-offensive manner.

I. All mobile vending units capable of cooking or heating food shall be equipped with a 2A10BC rated fire extinguisher mounted in an accessible and conspicuous location where food is heated or cooked.

J. All mobile vending units equipped with a portable or integrated generator shall have a 3A40BC rated fire extinguisher in addition to any other required extinguishers.

K. All mobile vending units required to have a hood suppression system shall be equipped with a Class K fire extinguisher.

L. All required fire extinguishers shall be serviced and inspected annually in accordance with the requirements of the latest edition of NFPA 10.

M. All mobile food vehicles that contain cooking equipment that is capable of creating grease laden vapors shall be equipped with Type 1 commercial hood in accordance with the requirements of the most recent edition of NFPA 96.

N. All Type 1 hood systems shall be equipped with an approved hood suppression system meeting the requirements of the latest edition of NFPA 96.

O. Hood suppression systems shall be serviced and inspected every six (6) months.

P. All appliances capable of producing grease laden vapors shall be located completely under the kitchen exhaust hood with no portion of the appliance extending beyond the outer edge of the hood.

Q. All cooking appliances shall be listed by Underwriters Laboratories or NSF International for mobile applications, for the appropriate fuel and be clearly marked with the appropriate certification sticker(s).

R. All deep-fat fryers shall be equipped with a lid over the oil vat that can be secured to prevent spillage of cooking oil/fat during transit. This lid shall be secured at all times the vehicle is in motion.

S. All deep-fat fryers shall be equipped with an 8" high steel baffle between the fryer and surface flames of any adjacent appliances.

T. No more than two (2) 100lb LPG/LNG tanks shall be permitted on any mobile vending unit.

U. Generator and LPG/LNG storage compartments shall be located on the exterior of the vehicle and shall be vented to the exterior and shall not allow any venting to the interior of the vehicle.

V. LPG/LNG cylinders shall be mounted so that safety release valves are directed away from the vehicle.

W. When LPG/LNG cylinders and/or compartments are located on the rear of the vehicle, the bumper shall extend beyond the cylinders or compartment to provide added impact protection.

X. The storage of LPG/LNG cylinders inside of the vehicle is expressly forbidden.

Y. Any hose(s) used to pipe LPG/LNG shall be UL or FM listed specifically for LPG service and all couplings, fittings, and other devices shall meet the requirements for LPG/LNG service as outlined in the most current edition of the International Fuel Gas Code.

Z. A conspicuous NO SMOKING sign shall be posted adjacent to LPG/LNG cylinders.

A.A. No food vending unit may be operated within 10 feet of any building, structure or other vehicle.

§158-7. OPERATION OF FOOD VENDING UNITS IN BOROUGH PARKS.

A. Permit Requirement. No person may operate a food vending unit in a public park of the Borough except with a permit issued by the Borough after approval by the Director of Parks and Recreation (the "Director") or her or his designee. The operation of a food vending unit in a Borough park must be in conjunction with a scheduled public event or other activity for which the sale of food through a mobile vending unit is an appropriate accompaniment.

B. Type 1, Type 2, Type 3 and Type 4 mobile vending units shall be permitted to operate in Borough Parks when properly permitted.

C. Each application for a mobile vendor permit for operation in a Borough park shall include the information required in §158-3.B and include a specific location, date, time and

description of the event at which the operator of the vending unit proposes to operate. Such an application must be submitted at least 10 days prior to the date of the event and must include the permit fee required by §158-3.C.

D. The issuance of permit for a mobile vendor permit, the number of such permits, the number and types of vending units and the location where a vending unit may be operated and for what length of time in a Borough park is solely within the discretion of the Director or her or his designee.

E. The issuance of a permit to operate a food vending unit in a Borough park is subject to the following requirements:

1. §158-4.C concerning revocation of permits.
2. §158-4.D concerning non-transferability or assignment of permits.
3. §158-5.C, with the location being subject to change at the discretion of the Director, a Borough police officer or a Fire Official when deemed appropriate.
4. §158-6.A through AA.
5. The mobile vending unit may not use water available for use by the public at the park for purposes of food preparation or cleaning.

§158-8. DENIAL OR REVOCATION OF PERMIT.

A. A permit shall be denied or revoked if:

1. The application submitted has not been fully completed and executed and all information required by this Chapter not provided.
2. The application contains a material falsehood or misrepresentation.
3. Either the applicant or the person on whose behalf the application was submitted has on a prior occasion had a permit revoked due to a violation of any requirement of this Chapter.
4. The food vendor or owner of the vending unit is in violation of any provision of this Chapter as determined by Borough staff, the Chief of Police or Fire Official.
5. In accordance with §158-4.C.

B. Notice of the denial or revocation shall be given to the applicant or the person to whom the permit was issued.

§158-9. APPEALS.

Any person aggrieved by the denial of a permit application or the revocation of a permit shall have the right to appeal the denial or revocation by sending a letter to the Borough Manager or Assistant Borough Manager requesting that the Manager or Assistant Borough Manager hear an appeal on the decision to deny an application for a permit or revoke a permit.

The letter must be sent by certified mail or hand delivered to the Office of the Borough Manager within ten (10) days from the date on which the applicant received notice of the denial or revocation. The Borough Manager or Assistant Borough Manager shall render a decision on the appeal, in writing, within ten (10) days of receipt of the appeal. The applicant may appeal the Borough Manager's or Assistant Borough Manager's decision to the Court of Common Pleas of Cumberland County within 30 days of the written decision if not satisfied with the decision rendered.

§158-10. VIOLATIONS AND PENALTIES.

In addition to revocation of any permit issued as noted in §158-8, any person who or which shall violate any provision of this Chapter shall upon conviction pay a fine of not more than \$1,000 and costs of prosecution and reasonable attorney's fees, and in default of such payment, be sentenced to imprisonment to the extent allowed by law for the punishment of a summary offense. Each day that a violation of this Chapter occurs shall be considered a separate offense.

The provisions of this Chapter shall be enforced by the Codes Enforcement Officer or his or her designee and any police officer of the Borough of Carlisle Police Department or a Fire Official.

§158-11. SPECIAL EVENTS PERMITS.

The requirements of this Chapter shall not apply to any food vending activities permitted through the issuance of a special event permit by Borough Council pursuant to §244-5.C.

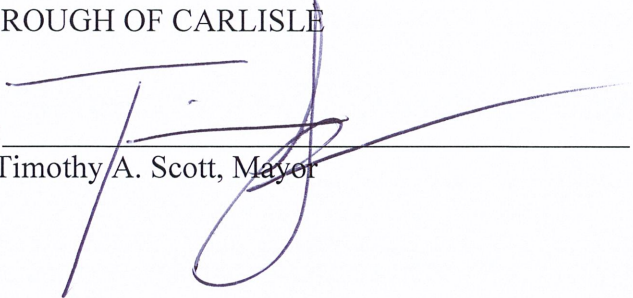
SECTION 2: Except only as amended, modified and changed by this Ordinance, the Code of the Borough of Carlisle as amended shall remain in all other respects in full force and effect.

SECTION 3: The provisions of this Ordinance shall be severable. If any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the remaining provisions of this Ordinance or of the Code of the Borough of Carlisle.

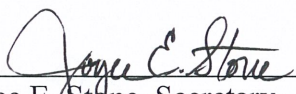
SECTION 4: This Ordinance shall become effective immediately.

DULY ENACTED AND ORDAINED this 10th day of October, 2019 by the
Borough Council of the Borough of Carlisle in public session duly assembled.

BOROUGH OF CARLISLE

By: 
Timothy A. Scott, Mayor

ATTEST:


Joyce E. Stone, Secretary

(Borough Seal)

CARLISLE BOROUGH

RESOLUTION NO. 10-10-2019-01

**A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH
OF CARLISLE ESTABLISHING FEES FOR MOBILE FOOD VENDING
PERMITS ISSUED UNDER CHAPTER 158 OF THE CODE OF THE
BOROUGH OF CARLISLE.**

WHEREAS, on October 10, 2019, Borough Council enacted an Ordinance establishing Chapter 158 in the Code of the Borough of Carlisle providing for mobile food vending in the C-1 Central Business District and Borough parks; and

WHEREAS, pursuant to §158-3.C of the Ordinance, the permit fee for a permit to operate a food vending unit in the C-1 Central Business District or a Borough park may be established or changed by Borough Council from time to time by Resolution.

NOW THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Carlisle as follows:

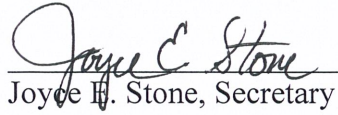
SECTION 1. The fee for the issuance of a mobile food vending permit for mobile food vending in the C-1 Central Business District or a Borough park in accordance with the requirements of Chapter 158 of the Code of the Borough of Carlisle shall be \$50.00, which permit fee shall authorize the mobile vending unit to operate on the date(s) and for the length of time designated in the issued permit.

SECTION 2. Borough Council may from time to time amend the fee for a mobile food vending permit issued under Chapter 158 by Resolution duly enacted.

RESOLVED, this 10th day of October, 2019.

ATTEST:

BOROUGH OF CARLISLE


Joyce E. Stone, Secretary

By: 
Timothy A. Scott, Mayor

(Borough Seal)

MOBILE FOOD VENDING PERMIT APPLICATION

- a. Please read Ordinance # 2346 so that you are fully aware of the ***requirements and responsibilities***.
- b. \$50 fee due at time of application submission.
- c. **Maximum of 4, Permits per each Fri. or Sat. evening time slot** . Permits are not transferrable or assignable.
- d. No food vending unit (FVU) shall operate within 10 ft. of any building, structure or other FVU.
- e. Hours - 10 pm to 2:30 am (F-Sat) **and/or** 10 pm to 2:30 am (Sat-Sun).
- f. One permit per Vendor, per **(Fri. and/or Sat. evening)**, per each location.

A LOCATION:

- A1 On private property, within the C1 - Central Business District Zone. ***Provide: (a) address; (b) attached notarized authorization from subject property owner; (c) attach an aerial photograph identifying (circle) precise location.***

Sign & date "D1"

*** Submit to Community Development ***

- A2 Within a Borough public park. ***Provide park name, address and event description:***

*** Submit to Parks & Recreation ***

B TYPE OF MOBILE VENDING UNIT - Please select one:

Yes N/A

B1	Type 1 - For <i>non-temperature controlled foods that are prepackaged with no preparation or assembly being required.</i> E.g. foods and drinks provided are bottled or canned drinks, chips, candy and cookies.	Provide copy of current PA Dept. of Agriculture <u>proof of inspection.</u>		
B2	Type 2 -For commercially <i>processed packaged food in its original package.</i> Foods stored in temperature controlled areas - e.g. packaged ice cream, single serve snacks, packaged milk and similar items.	Provide copy of current PA Dept. of Agriculture <u>license</u>		
B3	Type 3 - For unpackaged food involving preparation without a cooking step, for <i>same day service involving reheating of commercially processed food.</i> E.g. hot dogs, grilled sandwiches, salads, shaved ice, kettle corn.	Provide copy of current PA Dept. of Agriculture <u>license</u>		
B4	Type 4 - Similar to Type 3, but provides "full menu", aka "kitchen on wheels" (PA Dept. of Agriculture) where any food product can be prepared.	Provide copy of current PA Dept. of Agriculture <u>license</u>		

A higher order # may also serve food listed in lower number #

C VENDOR:

If FVU Owner is different than vendor, also provide C1-C4 information or owner below (age not required)

C1 Name, and age:

C2 Address:

C3 City, and ZIP:

C4 cell / phone number:

C5 Make / model of vending unit type:

- C6 Provide copy of current certificate of insurance that provides minimum liability coverage of \$1,000,000 with the Borough named as additional insured.

		Yes	No
C7	Confirm that unit is equipped with necessary fire extinguisher / equipment as per §158-6, and that vending unit operator is trained in the proper use of same.		
C8	Provide trash receptacle(s) for vending unit.		
C9	Unit for cooking / heating of food shall be equipped with a 2A10BC rated fire extinguisher.		
C10	Unit with a portable or integrated generator shall have a 3A40BC rated fire extinguisher.		
C11	Unit with a cooking hood, capable of creating grease / vapors, shall have a fire suppression system shall be equipped with a Class K fire extinguisher.		
C12	Units with fryers shall be equipped with a lid over the oil vat that can be secured to prevent spillage of cooking oil/fat during transit. Fryers shall be equipped with an 8" high steel baffle between the fryer and any surface flames.		

D PERMIT AFFIRMATION:

By signing this application, property owner agrees to the use of the owner's property by a FVU and consents that Borough staff, Fire or Police official may enter the property / vending area to inspect, investigate, and take such corrective action as provided by Ordinance, and associated law.

- D1 I, (Print Name) _____, being the **lawful property owner** for (address) _____, do affirm, under the penalty of perjury and making false statements to authorities of 18 Pa.C.S. §§4903, 4904, that (a) the above information and statements are accurate, correct and true; and (b) I have read Ord. # 2346, and I am fully aware, acknowledge, recognize, and understand that I am responsible for the proper care and safe maintenance and operation of the above noted Mobile Vending Unit, and that any violation may result in a revocation of this permit.

Signature

Date

- D2 I, (Print Name) _____, being the **designated Mobile Food Vendor** for _____, do affirm, under the penalty of perjury and making false statements to authorities of 18 Pa.C.S. §§4903, 4904, that (a) the above information and statements are accurate, correct and true; and (b) I have read Ord. # 2346, and I am fully aware, acknowledge, recognize, and understand that I am responsible for the proper care and safe maintenance and operation of the above noted Mobile Vending Unit, and that any violation may result in a revocation of this permit.

Signature

Date

*** Below Section For Staff Approval ***

Date received:			
Fee paid:			
All supporting documents included:			
Date application deemed complete:			
Permit assigned to:			