

LEGAL NOTICE

TOWNSHIP OF PARSIPPANY-TROY HILLS MUNICIPAL ORDINANCES

NOTICE OF INTRODUCTION

NOTICE IS HEREBY GIVEN, that the following Ordinance was submitted in writing at a Meeting of the Township Council of the Township of Parsippany-Troy Hills, in the County of Morris and State of New Jersey, held on **April 19, 2016** introduced and passed on first reading and the governing body will further consider the same for second reading and final passage thereof at a Meeting to be held on **May 17, 2016** at 7:30 p.m., prevailing time, or as soon thereafter as the matter may be reached, at the Municipal Building in said Township at which time and place a Public Hearing will be held thereon by the governing body, and all persons and citizens in interest shall have an opportunity to be heard concerning same. A copy of this ordinance has been posted on the Bulletin Board in the Municipal Building. During the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's Office in said Municipal Building to the members of the general public who shall request the same.

KHALED MADIN
Township Clerk

TOWNSHIP OF PARSIPPANY-TROY HILLS MORRIS COUNTY, NEW JERSEY

ORDINANCE NO. 2016:10

AN ORDINANCE OF THE TOWNSHIP OF PARSIPPANY-TROY HILLS, COUNTY OF MORRIS, NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTERS 180, FOOD ESTABLISHMENTS, RETAIL; 296, PEDDLING AND SOLICITING; AND A445 FEES COMPILATION OF THE CODE OF THE TOWNSHIP OF PARSIPPANY- TROY HILLS

WHEREAS, the Township of Parsippany-Troy Hills (the "Township") wishes to update its Ordinance regarding the licensing of mobile and temporary food establishments; and

WHEREAS, the Township Council finds that the establishment and maintenance of mobile and temporary food vendors will help to foster business and provide convenience for residents, businesses, and visitors within the Township; and

WHEREAS, the proper regulation of such establishments is required in the interests of health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Parsippany-Troy Hills, Morris County, as follows:

SECTION 1. Chapter 180, Food Establishments, Retail, Section 180-2, License; fee, Subsection 180-2(I), Miscellaneous establishments, of the Township Code is hereby amended as follows:

- (1) Class 1 Itinerant Restaurants, as defined in Section 180-3(C)(1) shall be charged a non-refundable license fee of \$400, which shall accompany the application.
- (2) Class 2 Itinerant Restaurants, as defined in Section 180-3(C)(2) shall be charged a non-refundable license fee of \$400, which shall accompany the application.
- (3) Class 3 Itinerant Restaurants, as defined in Section 180-3(C)(3) shall be charged a non-refundable license fee of \$150, which shall accompany the application.

SECTION 2. Chapter 180, Food Establishments, Retail, Section 180-3, Itinerant Restaurants, of the Township Code is hereby created as follows:

- A. For purposes of this chapter, the following terms shall have the meanings indicated:

ITINERANT RESTAURANT

Any temporary establishment, motorized vehicle, or pushcart with food and/or food stuffs either pre-prepared or packaged, or to be prepared or cooked prior to sale, including hot food stuffs, sandwiches, and beverages for sale to buyers, consumers or other persons on private property or public streets.

- B. License required. It shall be unlawful for any temporary establishment, motorized vehicle, or pushcart that transports prepared food and/or food stuffs to be prepared or cooked prior to sale and/or beverages, to sell food or beverages within the Township without first obtaining an Itinerant Restaurant license.
- C. Classes of licenses. Licenses for Itinerant Restaurants shall be divided into the following classes:
- (1) Class 1: Licenses for itinerant restaurants dealing only with prepackaged or wrapped foods, such as but not limited to soft drinks, candy, snacks, etc., which are packaged, wrapped, manufactured or processed outside of such establishments.
 - (2) Class 2: License for itinerant restaurants where food is cooked and prepared on site, regardless of whether they also offer prepackaged foods.

- (3) Class 3: License for itinerant restaurants who sell frozen dairy products and frozen snacks.

D. Zones of operation. Licenses for itinerant restaurants shall be restricted to the following zones:

- (1) Class 1: The holder of a Class 1 license may sell food and/or beverages as specified in this Section in any commercial or business zone for as long as three (3) hours in the forenoon and three (3) hours in the afternoon of any twenty-four (24) hour period, subject to the hours of operation specified in this Section.
- (2) Class 2: The holder of a Class 2 licensee may sell food and/or beverages as specified in this Section in any commercial or business zone for as long as three (3) hours in the forenoon and three (3) hours in the afternoon of any twenty-four (24) hour period, subject to the hours of operation specified in this Section.
- (4) Class 3: The holder of a Class 3 licensee may sell frozen dairy products and frozen snacks, as specified in this Section, in any zone, provided that no sale stop shall be in excess of ten (10) minutes in duration in any residential zone, nor in excess of thirty (30) minutes in any other zone, subject to the hours of operation specified in this Section.
- (4) The limitations set forth in this section shall not apply to operation by a licensee at any pre-scheduled party, fair, carnival, festival or other public or private gathering that is otherwise permitted by and operated in compliance with all applicable statutes, regulations, ordinances, and codes.

E. Hours of operation. Licenses for itinerant restaurants shall be restricted to the following hours of operation:

- (1) Class 1: The holder of a Class 1 license may operate from 8:00 a.m. through 6:00 p.m., Monday through Friday, year-round.
- (2) Class 2: The holder of a Class 2 license may operate from 8:00 a.m. through 6:00 p.m., Monday through Friday, year-round.
- (3) Class 3: The holder of a Class 3 license may operate from 11:00 a.m. through dusk, but not later than 8:00 p.m., May 14th through and including September 16th.
- (4) The limitations set forth in this section shall not apply to operation by a licensee at any pre-scheduled party, fair, carnival, festival or other public or private gathering that is otherwise permitted by and operated in compliance with all applicable statutes, regulations, ordinances, and codes.

- F. Loitering prohibited. No license holder operating from a mobile food truck or other conveyance shall remain in one location for longer than the hours of operation specified in this Section plus a reasonable time to set up and take down.
- G. Parking on public streets. When parked on a time regulated public street, an itinerant restaurant operator must obey all existing parking ordinances and when moved, operator must comply with all State and motor vehicle laws. All licensees operating an itinerant restaurant must comply with the guidelines for Parking of Certain Trucks, Vehicles, and Trailers pursuant to Section 405-17 of the Township Code.
- H. License fee and application. All applicants shall pay the license fee to the Township Clerk at the time of filing of the application. All applicants in each class shall file with the Township Clerk a sworn written application on forms to be furnished by the Township Clerk, which shall give the following information:
- (1) The complete identity of the applicant, including full name, date of birth, driver's license number and social security number.
 - (2) The permanent home address and full local address of the applicant any of the applicant's employees who may be vending. The applicant and all employees shall be required to submit to a background check.
 - (3) The full name, address and telephone number of the business under which the applicant and his employees will be selling, and copies of the business' Articles of Incorporation or Certificate of Formation, New Jersey Business Registration Certificate, and Sales Tax Authority Certificate.
 - (4) A brief statement describing the name of the business and the food stuffs to be sold or distributed, the days of the week, and hours of the day during which the licensed activity will be conducted, and whether the licensee will operate from a mobile food truck or conveyance, or from a fixed location, in which case the applicant shall specify the location and provide an approval from the Township Zoning Officer to operate an itinerant restaurant at that location.
 - (5) A description of the vehicle, its VIN number, and its license plate number.
 - (6) A photograph of the applicant which clearly shows the head and shoulders of the applicant, without any head or face covering except for prescription eyeglasses, and shall be a minimum of one and one-half by one and on-half (1 1/2" x 1 1/2") inches. The photograph shall be taken no more than sixty (60) days immediately prior to the date of the application.

- (7) A statement as to whether the applicant and/or any employee who will be operating the itinerant restaurant pursuant to this license has been convicted of any crime, including felonies, misdemeanors or violations of any municipal ordinance, other than traffic offenses. The statement must also include the nature of such offense and the punishment and/or penalty imposed.
 - (8) Applicable evidence regarding good character and business responsibility of the applicant, with sufficient detail so that an investigator may properly evaluate the same.
 - (9) A certificate from a licensed and practicing physician of the State of New Jersey, authorizing that the applicant and/or employee handling food to be consumed by the public, has been examined within sixty (60) days prior to the filing of the application; and that, in the physician's opinion, the applicant and/or employee is of sound physical condition and not subject to any contagious disease, illness, or sickness which might make him unfit to sell or dispense any food or drink.
 - (10) Proof of citizenship of the United States or compliance with all requirements of the Immigration and Naturalization Laws for holding gainful employment in the United States for the applicant and each of his employees.
 - (11) Proof of insurance covering the applicant's operations underwritten by an insurance company licensed to do business in the State of New Jersey. The Township and its agents and employees shall be indemnified and held harmless from any and all claims and demands, losses, attorney's fees, and expenses arising from the permission granted, and shall be named as an additional insured. The issuing company shall notify the Township within ten (10) days of the cancellation of any of the policies. The applicant shall provide proof of paid-up insurance, coverage, or appropriate monthly, quarterly, or semi-annual proof in the case of not having paid the policy for a full year.
- I. Investigation by the Township Police Department required for all licensees. Each application shall be referred to the Chief of Police, who shall cause an investigation to be made of the applicant's business responsibility, moral character and ability to properly conduct the licensed activity as deemed necessary by the Police Department for the protection of the public. The investigation shall include a criminal background check and fingerprinting, unless the applicant has been fingerprinted in connection with the issuance of a license by the Township within the past five years. In addition to the licensing/permit fee, the applicant shall be responsible to pay the cost of the criminal background check. The Police Department shall communicate its finding in writing to the Township Clerk not more than 30 days after the Police Department receives the results of the criminal background check based on fingerprinting. An applicant shall be

denied a license if the applicant's criminal history record background check reveals a record of conviction of any of the following crimes:

- (1) In New Jersey or elsewhere any crime as follows: aggravated assault, arson, burglary, escape, extortion, homicide, kidnapping robbery, aggravated sexual assault, sexual assault or endangering the welfare of a child pursuant to N.J.S.A. 2C:24-4, whether or not armed with or having in possession any weapon enumerated in subsection r. of N.J.S.A. 2C:39-3, N.J.S.A. 2C:39-4 or N.J.S.A. 2C:39-9, or other than a disorderly persons or petty disorderly persons offense for the unlawful use, possession or sale of a controlled dangerous substance as defined in N.J.S.A. 2C:35-2.
 - (2) In any other state, territory, commonwealth or other jurisdiction of the United States, or any country in the world, as a result of a conviction in a court of competent jurisdiction, a crime which in that other jurisdiction or country is comparable to one of the crimes enumerated in Subsection I(1) of this section.
- J. Inspection by Township Health Officer required for all licenses. Prior to the issuance of a license pursuant to this Section, the Township Health Officer shall make an inspection of the premises, mobile food truck, or other conveyance, to ensure compliance with all applicable health codes, as well as any other applicable statute, regulation, ordinance, or code. Within ten (10) days of completing an inspection pursuant to this Section, the Township Health Officer shall issue a written report to the Township Clerk stating whether the premises, mobile food truck, or other conveyance can be used as an itinerant restaurant and whether the applicant has taken all necessary steps to ensure the public health, safety and welfare.
- K. Inspection by Township Fire Official required for Class 2 licenses. Prior to the issuance of a Class 2 license pursuant to this Section, the Township Fire Official shall make an inspection of the premises, mobile food truck, or other conveyance, to ensure compliance with all applicable fire prevention codes, as well as any other applicable statute, regulation, ordinance, or code. Within ten (10) days of completing an inspection pursuant to this Section, the Township Fire Official shall issue a written report to the Township Clerk stating whether the premises, mobile food truck, or other conveyance can be used as an itinerant restaurant and whether the applicant has taken all necessary steps to ensure the public health, safety and welfare.
- L. Issuance, term and renewal of licenses. Licenses pursuant to this Section shall be issued by Resolution of the Township Council. All licenses issued pursuant to this Section shall have a term of one (1) year and shall be renewed annually by submitting the documents and fees required for the issuance of a new license as specified in this Section.
- M. Denials, violations, suspensions, and hearings.

- (1) Denial of application. Where it is found that an applicant has failed to comply with any requirement of this Section, is found to have violated any statute, regulation, law or code pertaining to his operation, or is found to lack sufficient character to hold a license, or if the investigation reveals that the applicant's character, ability or business responsibility is unsatisfactory, or for convictions of disorderly persons or petty disorderly persons offenses involving moral turpitude, or if applicant's products, services or activities are not free from fraud, the application shall be denied and the applicant so notified in writing by the Township Clerk.
- (2) Suspension of license. Where it is found that a licensee has violated any health or fire code, or is engaging in any conduct which may present a danger to the public, including non-compliance with lawful orders of any Township official or law enforcement officer, the Township Health Officer, Township Fire Official, or any law enforcement officer is authorized and empowered to immediately suspend any license or permit issued pursuant to this section and order that the licensee cease all operations until such time as the violations are abated. The Township Health Officer, Township Fire Official, or law enforcement officer suspending the license shall present written charges to the Township Clerk describing the reasons for the suspension.
- (3) Revocation of license. Where it is found that a licensee has repeatedly violated any health or fire code, or is engaging in any conduct which presents a clear and present danger to the public, the Township Health Officer, Township Fire Official, or any law enforcement officer is authorized and empowered to immediately revoke any license or permit issued pursuant to this section and order the licensee to cease all operations. The Township Health Officer, Township Fire Official, or law enforcement officer revoking the license shall present written charges to the Township Clerk describing the reasons for the revocation.
- (4) Hearings. An applicant whose application has been so denied, or a licensee whose license has been so suspended or revoked, may request a hearing before the Township Council by submitting a written request to the Township Clerk. Upon receipt of a written request for a hearing, the Township Clerk shall list the hearing on the agenda Township Council's next scheduled meeting. The decision of the Township Council shall be final and binding.

SECTION 3. Chapter A445, Fees Compilation, Section A445-58, Retail food-handling establishments, of the Township Code, is hereby amended as follows:

I. Miscellaneous establishments:

- (1) Class 1 Itinerant Restaurants, as defined in Section 180-3(C)(1) shall be charged a non-refundable license fee of \$400, which shall accompany the application.
- (2) Class 2 Itinerant Restaurants, as defined in Section 180-3(C)(2) shall be charged a non-refundable license fee of \$400, which shall accompany the application.
- (3) Class 3 Itinerant Restaurants, as defined in Section 180-3(C)(3) shall be charged a non-refundable license fee of \$150, which shall accompany the application.

SECTION 4. Chapter 296, Peddling and soliciting, Section 296-2, Definitions, of the Township Code, is hereby repealed and replaced as follows:

CHARITABLE

Includes religious, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, and/or fraternal.

PERSON

Any and all individuals who engage in the activity of mobile vending or solicitation, including those individuals who are the agent, servant, and/or employee of any firm, corporation, association, partnership, or any other form of for-profit organization.

SOLICITOR

Any person traveling by foot or by car, van, truck, or motorized vehicle from location to location, house to house, or any person temporarily remaining in one place in or upon any sidewalk, street or other public place within the Township, and who while so traveling or temporarily remaining in one place carries, conveys, transports, sells, takes orders, displays, demonstrates, or attempts to do any of the above with respect to goods, services, wares, dry goods, merchandise, publications, books, appliances, home improvements or personal property of any nature whatsoever. This shall include persons who engage in the above-described activity:

- A. Whether or not said person carries or exposes for sale samples of the object for sale;
- B. And enter into sales contracts, agreements, leases, or other written agreements which call for future delivery of goods or future performance of services;
- C. Solely to collect advance payment on such sales of goods and services.

SECTION 5. Chapter 296, Peddling and soliciting, Section 296-5, Inspection, of the Township Code, is hereby repealed.

SECTION 6. Chapter 296, Peddling and soliciting, Section 296-6, Use of property within the Township, of the Township Code, is hereby amended as follows:

No mobile vendor or solicitor shall have any exclusive right to any one place upon any sidewalk, or any street, or any other fixed location within the Township, whether such location is on publicly owned or privately owned property. No mobile vendor shall stop or park a vehicle or conveyance used in dispensing and selling goods or wares for longer than the time it takes to conclude a sale or an uninterrupted series of sales, whether the mobile vendor's vehicle or conveyance is located on publicly owned property or privately owned property for which the vendor has filed a written authorization for same from the private property owner within the licensing authority. In no event shall a mobile vendor stop or park a vehicle or conveyance used in dispensing and selling goods or wares after 7:00 p.m. No mobile vendor or solicitor shall be permitted to operate in any congested area where his/her operation might impede or inconvenience the public or otherwise create a safety hazard. The Township Police Department shall be authorized to require mobile vendors or solicitors to move from such an area. For the purposes of this section, the judgment of a police officer exercised in good faith shall be deemed conclusive as to whether the area is congested, the public impeded or inconvenienced or a safety hazard is otherwise created by the location of the mobile vendor or solicitor.

SECTION 7. Chapter 296, Peddling and soliciting, Section 296-7, Exceptions, of the Township Code, is hereby repealed and replaced as follows:

Any individual or group advocating or soliciting on behalf of a charitable or not-for-profit organization, including such activities as religious proselytizing, anonymous political speech or the distribution of political or religious handbills or circulars, shall be exempt from the requirements of this chapter, with the exception of § 296-9, Hours for soliciting, and § 296-13, Citizen's choice, which shall apply.

SECTION 8. Chapter 296, Peddling and soliciting, Section 296-10, Permission of land owner required, of the Township Code, is hereby repealed.

SECTION 9. Chapter 296, Peddling and soliciting, Section 296-11, Zoning ordinances applicable, of the Township Code, is hereby repealed.

SECTION 10. If any section, paragraph, subsection, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

SECTION 11. All ordinances or parts of ordinances of the Township of Parsippany-Troy Hills heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 12. This ordinance shall take effect immediately upon its final passage, approval and publication as provided by law.