

BOROUGH OF CRESSKILL

ORDINANCE NO. 22-05-1587

AN ORDINANCE BY THE BOROUGH OF CRESSKILL IN THE COUNTY OF BERGEN,
STATE OF NEW JERSEY ESTABLISHING CHAPTER 141 ENTITLED MOBILE FOOD
VENDORS

WHEREAS, the Borough is in the process of reviewing provisions of the Municipal Ordinances;
and

WHEREAS, after consultation with all Borough Departments, the Council is of the opinion that
a Mobile Food Handling Ordinance be Ordained; and

NOW, THEREFORE, BE IT ORDAINED, that the Council does hereby introduce and adopt the
following Ordinance:

§ 141-1 Purpose.

The purposes of this chapter are to properly control mobile food vendors to prevent and
discourage undesirable business practices; to help protect the public from fraud; and to promote
the health, safety, and welfare of the residents of the Borough of Cresskill.

§ 141-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FOOD VENDING VEHICLE

Includes all vehicles and carts from which food, foodstuffs, and/or beverages are offered
for retail sale or delivery to buyers, consumers or other persons on the public sidewalks,
streets, to their premises, and County Roads.

MOBILE FOOD VENDOR

For purposes of this article, a "Mobile Food Vendor" is anyone who sells
nonprepackaged and prepackaged food or beverages and prepackaged food or beverages
from a nonpermanent location to the public-at-large, whether such food or beverages are
prepared on site or purchased at approved locations and transported to the site of the sale
This includes, but is not limited to, anyone who sells such food or beverages from a
vehicle, whether motorized or nonmotorized, such as a truck, van, trailer, or pushcart.

MOBILE RETAIL FOOD ESTABLISHMENTS

Any movable restaurant mobile truck, van, trailer, cart, bicycle or other movable unit,
including hand carried portable containers in or on which food or beverage is transported,
stored or prepared for retail sale or given away at temporary locations. "Mobile retail
food establishments" does not include trucks, vans, trailers, carts, bicycles or other
movable units used solely to deliver food from a stationary location and vehicles transfer,
such as UberEats, GrubHub, DoorDash, et als.

MOTOR VEHICLE

As defined under New Jersey Motor Vehicle Laws, any vehicle propelled or drawn by
mechanical or electrical equipment, such as, but not limited to, passenger cars, trucks,
truck-trailers, semitrailers, campers, motorcycles, minibikes, go-carts, snowmobiles,
amphibious craft on land, dune buggies or racing vehicles.

PERSON

An individual, partnership, corporation, trust, joint venture, association, society, church, congregation or other organization.

SALE

The act of selling, holding out for sale, exchange, transfer, advertising or delivery.

§ 141-3 Licensed required; number limited.

- A. No activity, as defined in this chapter, shall be conducted in the Borough of Cresskill except in compliance with the provisions of this chapter. It shall be unlawful for any person of whatever nature to conduct the activities defined herein unless he/she has been issued a license pursuant to this chapter. The number of licenses shall be established by the Council by Resolution.
- B. The Borough Administrator is granted wide discretion in approving licenses with the goal of insuring diversity of product in their distribution. Preference shall be given to Cresskill residents. The Borough Administrator shall have absolute discretion in approving applications.

§ 141-4 Application for License.

- A. Application for such license shall be made in writing on a form to be provided by the Borough of Cresskill. It shall require that the applicant and every employee shall provide two photographs taken within 30 days of the application of a size approximately 2 1/2 inches by 2 1/2 inches having a light background clearly showing a frontal view of the applicant's face and his employee's face, one of which is to be attached or posted to the application.
- B. Such application for license shall require that the applicant give the following information concerning himself or itself:
 - (1) Name.
 - (2) Specific address for the past five years.
 - (3) Date and place of birth and citizenship.
 - (4) Arrests or convictions at any time of any crime, or for disorderly conduct, or of violations of any municipal ordinance or regulation.
 - (5) Names and addresses of employers for the last five years and respective date of employment.
 - (6) Proposed origin of the food to be sold.
 - (7) Description of all items to be sold.

§ 141-5 Reapplication and Recertification.

- A. Each applicant and licensee shall prior to each year, between October 31 and January 1, reapply for the license by personally appearing at the Borough Health Department to recertify to the information contained in such person's application. Where an applicant fails to appear and recertify, such person's name shall be removed from the lists of pending applications.
- B. All mobile food vendors are required to obtain an annual mobile food vendor license from the Bergen County Department of Health, along with any other approvals required by this chapter, or any other provision of the Borough Ordinance, before commencing the sale of any food or beverage within the Borough of Cresskill. All issued Licenses are for specified dates as permitted in this Ordinance.

§ 141-6 Investigation.

Applications shall be made to, and licenses issued by the Borough Administrator of the Borough of Cresskill or his/her designee shall be made after investigation by the Borough of Cresskill Police Department.

- A. Applicants and any additional drivers shall be fingerprinted at their own expense.
- B. Applicants shall supply their social security number and a certified motor vehicle abstract.
- C. Applicant shall provide a certified certificate of disposition for any criminal or quasicriminal matters that an applicant may have.
- D. Each applicant shall present proof that he or she is a citizen of the United States or a legal resident eligible to hold gainful employment in the United States.
- E. Both the applicant and any additional driver/operator must have a valid food handler/food manager certificate prior to the issuance of a license pursuant to this chapter.
- F. A description of the vehicle to be used, if a motor vehicle or vehicular trailer is to be used, including:
 - (1) The name and address of the owner of the vehicle as registered with the Director of the Division of Motor Vehicles;
 - (2) A description of the vehicle, giving the name of the manufacturer, serial number and any other insignia appearing thereon;
 - (3) Proof of liability insurance for the vehicle in the amount of \$200,000 or greater.

§ 141-7 Contents, display and transfer of license.

- A. Each license issued by the Borough Administrator or his/her designee shall set forth the specific food and beverage authorized to be sold, the name of each employee or agent and the expiration date of the license.
- B. No person shall engage in any activity, except those permitted under the license and at the locations specified therein. Upon granting of the license hereinabove mentioned, each licensee shall be required to prominently display said license on the vehicle employed to transact his business, in addition to a sign, in letters of at least two inches in length, printed clearly and distinctly with the name of the licensee.
- C. No license may be transferred from one person or entity to another, and each person or entity must be licensed individually and separately.

§ 141-8 Prohibited acts.

Every licensee shall be subject to the supervision of the Borough of Cresskill and its designated agencies in all provisions of this chapter, as well as the

- A. No licensee shall:
 - (1) Engage in a business in the Borough
 - (a) excepting for Food Vending Truck designated days, which shall be set by the Department of Recreation in conjunction with Council, to be scheduled in conjunction with Municipal Recreational Events.
- B. All mobile food trucks shall be properly labeled with required commercial lettering, and commercial vehicle registration.
- C. Frozen Food Trucks shall be exempt from this Ordinance, and shall obtain solicitation licenses.

§ 141-9 Use of public roads, designated locations for use.

- A. No licensee shall park a vehicle overnight on any location within the Borough of Cresskill. If the licensee parks a vehicle overnight on private property for the purpose of continuing the business each day at the same location, then such licensee shall comply with all regulations, rules, statutes, and ordinances pertaining to permanent retail food establishments.
- B. No licensee shall have a permanent location within or upon a public road or right-of-way by reason of prior use.
- C. The Borough Administrator, in conjunction with the Department of Recreation shall designate and assign the parking location from which the mobile food vending service will be conducted for each licensee, on designated food truck event days.

§ 141-10 Enforcement.

Every licensee shall be subject to the supervision of the Borough of Cresskill and its designated agencies in all provisions of this chapter, as well as the rules and regulations promulgated hereby, and all orders and regulations promulgated by the Borough shall be enforced by such person or persons as the Borough, by resolution or ordinance, may designate from time to time or who, by New Jersey statute, may have the duty to so regulate.

§ 141-11 General regulations.

In addition to requirements herein set forth, the following regulations must be complied with by all mobile food vendors:

- A. Due to the nature, location and variety of conditions surrounding the operation of such establishments, it is frequently not possible to provide certain physical facilities required for permanent establishments. In order to assure adequate protection of food served by temporary establishments, mobile establishments and agricultural markets which are unable to meet fully the requirements of these regulations, it may be necessary to restrict the types of food sold or the methods by which served, to modify some requirements for procedures and facilities and to impose additional requirements.
- B. The preparation of potentially hazardous foods, such as cream-filled pastries, custards and similar products and meat, poultry and fish in the form of salads, sushi or sandwiches, shall be prohibited, provided that this prohibition shall not apply to hamburgers, frankfurters and other food which, prior to service, requires only limited preparation, such as seasoning and cooking; and provided, however, that potentially hazardous food which is obtained in individual servings is stored in approved facilities which maintain such food at safe temperatures, below 41 ° F and/or above 135° F, and is served directly in the individual, original container in which it was packaged at an approved food-processing establishment, may be distributed or sold.
- C. Ice which will be consumed, or which will come into contact with food shall be contained from a source, meeting standards approved by law in chipped, crushed or cubed form. Such ice shall be obtained in single service, closed, protected containers satisfactory to the Department or health authority and shall be held therein until used.
- D. Wet storage of packed food and beverages shall be prohibited, provided that wet storage of pressurized containers of beverages may be permitted when:
 - (1) The water contains at least 50 parts per million of available chlorine or equivalent; and
 - (2) The iced water is changed frequently enough to keep both the water and container clean.

- E. Food contact surfaces of food preparation equipment such as grills, stoves and worktables shall be protected from contamination by dust, customers, insects or any other source. Where necessary, effective shields shall be provided.
- F. Equipment shall be installed in such a manner that the establishment can be kept clean and food will not become contaminated.
- G. An adequate supply of water for cleaning and handwashing shall be maintained in the Truck, and auxiliary heating facilities, capable of producing an ample supply of hot water for such purposes, shall be provided.
- H. Liquid waste which is not discharged into a sewerage system shall be disposed of in such a manner as not to create a public health hazard or nuisance condition.
- I. Adequate facilities shall be provided for employee handwashing. Such facilities may consist of a pan, sink, water, soap and individual paper towels. Handwashing facilities shall be provided for employee handwashing for mobile retail food service establishments where food products are directly handled and fabricated.
- J. Floors shall be of tight sealed wood or other cleanable material, provided that the Department or health authority may accept dirt or gravel-covered floors, when graded to preclude the accumulation of liquids and covered with removable, cleanable, wooden platforms or duckboards.
- K. Walls and ceilings shall be so constructed as to minimize the entrance of flies and dust. Temporary construction may be accepted. Ceilings may be of sealed wood, canvas or other materials which protect the interior of the establishment from the elements, and walls may be of such materials or of sixteen-mesh screening or equivalent. When flies are prevalent, counter- service openings shall either be equipped with self-closing, fly-tight doors or the opening shall be so limited that the fans employed will effectively prevent the entrance of flies.
- L. Any other requirement deemed necessary by the health authority to protect the public health in view of the particular nature of the food service operation shall be met.

§ 141-12 Violations and penalties.

- A. Any person, firm, corporation, partnership or other entity violating any provisions of this chapter or any rules and regulations promulgated by the Borough pursuant hereto shall be punished by one or more of the following: a fine not less than \$500.00 nor more than \$2,000; imprisonment for a term not exceeding 90 days; and/or a period of community service not exceeding 90 days, in the discretion of the judge before whom such conviction shall be heard. Each and every violation and nonconformance with this chapter on each day that any provision of this chapter shall have been violated shall be construed as a separate and distinct violation hereof.
- B. If an unsanitary condition exists or if the Health Official has reasonable cause to suspect that any food truck or any employee thereof is or may be a source of foodborne infection, the Health Official is authorized to require the immediate closure of the food establishment until the unsanitary condition has been eliminated and/or cause the immediate exclusion of the employee from the food establishment until the employee no longer poses a threat of foodborne infection.
- C. In addition to the penalties set forth herein, if any person operating a food vending vehicle violates any provisions of this chapter, or the applicable provisions of Title 8, Chapter 24, of the New Jersey State Administrative Code, the vehicle shall be deemed a public safety hazard. Accordingly, in the instance of such violation, the vehicle in question may be impounded (and, in the instance of an unlicensed operator, shall be impounded) by either the Cresskill Police Department or the Cresskill Board of Health

with police assistance. In the event that any such vehicle is impounded, the vehicle or truck may be redeemed by the licensed person upon payment of the cost of impounding and the storage charges established by the Borough of Cresskill. The said storage charge and cost of impounding shall be the same as are established for the impounding of motor vehicles.

§ 141-13 Transfer of license prohibited.

No license issued under this chapter shall be transferable from one person to another.

§ 141-14 Annual fee.

- A. The daily fee for the license for all food vending vehicles, including but not limited to those selling prepackaged (or wrapped) foods, such as but not limited to soft drinks, snacks, which are packaged (wrapped), manufactured or processed at an approved licensed facility (outside of such establishments), shall be increased annually by Resolution, payable to the Borough of Cresskill before the issuance of a license. The Borough shall issue no more than twelve (12) licenses per year for licensees authorized to transact business only on food vendor truck days. The daily fee per license shall be \$300.00.
- B. Food Vendor Truck Days shall be scheduled annually by the Department of Recreation and may be amended as required by the Council or Department of Recreation.

§ 141-15 Rights conferred by license; transferability; term.

- A. The license issued shall not authorize any person, except the person designated therein, to engage in business thereunder. The license shall not be transferable from person to person. A separate background investigation shall be conducted for each food handler and every agent or representative working for the licensee.
- B. Licenses issued under this chapter shall be valid only for the term of the day of the event.

§ 141-16 Compliance with food laws.

All products offered for sale must comply with regulations under N.J.A.C. Title 8, Chapter 24.

§ 141-17 Suspension or revocation of license; hearing.

- A. In addition to the penalty prescribed herein, any license issued under this chapter may be revoked by the Borough for the violation of any provision hereof upon notice and hearing. A license may be suspended for a period of up to one year. No part of the license fee shall be returned upon revocation or suspension of the license.

SECTION II

All other Ordinances of the Borough, or parts thereof, which are in conflict with this Ordinance, are hereby repealed to the extent of such conflict.

SECTION III

If any section, subsection, paragraph, subdivision, or sentence of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such decision shall apply only to the section, subsection, paragraph, subdivision, sentence, clause, phrase or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

SECTION IV

This Ordinance shall take effect immediately upon final passage and publication according to law.