

Chapter 108

PEDDLING AND SOLICITING

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[HISTORY: Adopted by the Borough Council of the Borough of Manchester as indicated in article histories. Amendments noted where applicable.]

ARTICLE I General Requirements

[Adopted 12-14-1981 as Sections 3.21 through 3.33 of the 1981 Code]

§ 108-1. Definitions.

- A. As used in this article, the following terms shall have the meanings indicated:

PEDDLER — Any person who shall engage in peddling as hereinabove defined.

PEDDLING — Engaging in peddling, canvassing, soliciting or taking of orders, either by sample or otherwise for any goods, wares or merchandise, upon any of the streets or sidewalks or from house to house, within the Borough of Manchester; provided that the word "peddling" shall not apply to farms selling their own produce; to the sale of goods, wares and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purposes; or to any manufacturer or

producer in the sale of bread and bakery products, meats and meat products, or milk or milk products.

PERSON — Any natural person, association, partnership, firm or corporation.

- B. In this article, the singular shall include the plural and masculine shall include the feminine and neuter.

§ 108-2. License required.

No person shall engage in peddling in the Borough of Manchester without first having taken out a license as herein provided.

§ 108-3. Application for license. [Amended 6-11-2018 by Ord. No. 2018-4]

Every person desiring to engage in peddling in the Borough of Manchester shall first make application to the Secretary for a license. Upon such application, such person shall give his name, address, his previous criminal record, if any, the name of the person for whom he works, if any, the type of goods, wares and merchandise he wishes to peddle, the length of time he wishes to be licensed, the type of vehicle he uses, if any, and the number of helpers he has; provided that, when a person makes application for himself and one or more helpers, all applicable personal information specified above shall be given for each helper, and an individual license shall be required for each helper. All applicants shall submit valid photo identification when submitting an application for a license, and all applicants shall pick up issued licenses in person at the Borough offices. No license issued under this article shall be transferable from one person to another.

§ 108-4. License fee. [Amended 7-14-1997 by Ord. No. 1997-12]

No license shall be issued under this article until the fee is paid with each application. The fee shall be in an amount as shall be set from time to time by resolution of the Borough Council.¹

§ 108-5. Issuance of license.

Upon making application therefor and paying the proper fee, as herein specified, a license shall be issued to every peddler. Such license shall contain the information required to be given upon the application therefor. Every peddler shall at all times when engaged in peddling in the Borough carry such license upon his person and shall exhibit such license upon request to all police officers, Borough officials and citizens. No peddler shall engage in selling any product not mentioned upon such license.

1. Editor's Note: See Ch. A152, Fees.

§ 108-6. Hours of activity. [Amended 6-11-2018 by Ord. No. 2018-4]

No person licensed as a peddler under this article shall engage in peddling at any time on Sundays, or upon any other day of the week before 9:00 a.m. or after 7:00 p.m.

§ 108-7. Noise restrictions.

No person licensed as a peddler under this article shall hawk or cry his wares upon any of the streets or sidewalks of the Borough, nor shall he use any loudspeaker or horn or any other device for announcing his presence by which the public is annoyed.

§ 108-8. Parking of business vehicles.

No person licensed as a peddler under this article shall park any vehicle upon any of the streets or alleys of the Borough in order to sort, rearrange or clean any of his goods, wares or merchandise; nor may any such person place or deposit any refuse upon any of such streets or alleys; nor may any such person maintain or keep a street or curbstone market by parking any vehicle upon any street or alley in the Borough for longer than necessary in order to sell therefrom to person residing in the immediate vicinity.

§ 108-9. Fixed location restrictions.

No person licensed as a peddler under this article shall occupy any fixed location upon any of the streets, alleys or sidewalks of the Borough for the purpose of peddling with or without any stand or counter.

§ 108-10. Record of licenses. [Amended 7-14-1997 by Ord. No. 1997-12]

The Secretary shall keep a record of all licenses issued under this article, and the Mayor or designated Borough official shall apply daily to the Secretary for a list of all licenses issued hereunder since the previous day. The Mayor or designated Borough official shall supervise the activities of all holders of such licenses.

§ 108-11. Suspension of license. [Amended 7-14-1997 by Ord. No. 1997-12]

The Mayor or designated Borough official is hereby authorized to suspend any license issued under this article for violation of any of the provisions of this article, or for giving false information on any application for a license hereunder.

§ 108-12. Violations and penalties. [Amended 7-14-1997 by Ord. No. 1997-12]

Any person who shall violate any of the provisions of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 and costs of prosecution and, in default of payment thereof, to imprisonment for not more than 30 days.

§ 108-13. Duration of license. [Added 6-11-2018 by Ord. No. 2018-4]

All approved licenses shall be valid for no more than seven days. All licenses shall expire after seven days from the date of issuance.

ARTICLE II**Food Truck Vendors****[Adopted 4-12-2021 by Ord. No. 2021-2]****§ 108-14. Title.**

This article shall be known and may be cited as the "Food Truck Vendor Ordinance."

§ 108-15. Definitions.

When used in this article, unless the context otherwise requires, the following terms shall have the following meanings:

BUSINESS PLAN — A formal statement of a set of business goals, the reasons they are believed attainable, and the plan for reaching those goals, background information about the organization or team operating the business and financial projections showing the business is sustainable.

FIRE CHIEF — The Fire Chief of the Borough of Manchester Fire Department and his/her assistants.

FOOD ESTABLISHMENT — Business operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption as set forth in the Food Code issued by the Pennsylvania Department of Agriculture, 7 Pa. Code § 46.1 et seq., as amended from time to time.

FOOD PRODUCTS — Includes and shall be limited to such foods intended for immediate consumption following sale without threat or danger to public health.

MOBILE FOOD COMMISSARY — A licensed food establishment in which food, containers, or supplies are stored, kept, handled, prepared and packaged and directly from which mobile food vehicle operations are serviced and where mobile food trucks report to for all food and supplies and for all cleaning and sanitizing of units and equipment.

MOBILE FOOD PREPARER — Any person who, by traveling from place to place upon the public streets of the Borough, prepares and serves food from a mobile food truck.

MOBILE FOOD TRUCK — A mobile food vehicle.

MOBILE FOOD VEHICLE — A food establishment that is located upon a minimum four-wheeled self-contained motorized vehicle where food or beverage is cooked and/or prepared and served for individual portion service, such as a mobile food kitchen. Food establishments that are not self-contained and must be pulled by another vehicle are not considered a mobile food vehicle.

PUBLIC PROPERTY — The public right-of-way, Borough-owned property, and Borough of Manchester established right-of-way, including sidewalks.

RESTAURANT — Any public place at a fixed location kept, used, maintained, advertised and held out to the public as a place where food and drink is prepared and served for the public for consumption on or off the premises pursuant to the required licenses of the Borough of Manchester and the Commonwealth of Pennsylvania. Such establishments may include, but are not limited to, restaurants, cafes, coffee shops, cafeterias, dining rooms, eating houses, short-order cafes, luncheonettes, grills, pubs, tearooms and sandwich shops.

§ 108-16. Scope.

- A. The provisions of this article shall apply to mobile food operations engaged in the business of cooking, preparing, and distributing food or beverage with or without charge from mobile food trucks on or in public, private or restricted spaces.
- B. This article shall not apply to canteen, coffee, or ice cream trucks that move from place to place and are stationary in the same location for no more than 30 minutes at a time or food vending push carts and stands.

§ 108-17. Mobile food truck health license and permit required.

- A. No person or business entity, including a religious or charitable organization, shall operate a mobile food truck in any public, private or restricted space without a permit issued by the Borough.
- B. A separate mobile food truck permit is required for each and every mobile food truck operated within the Borough by an individual, partnership or corporation each time the mobile food truck is set up and open for operation to the public.
- C. In addition to the permit, a separate health license issued in accordance with the Commonwealth of Pennsylvania is required for each mobile food truck operated within the Borough by an individual, partnership or corporation.

§ 108-18. Application for permit.

- A. Application. There shall be made available by the Borough an application form to apply for each mobile food truck permit. The application shall provide the following:
 - (1) A description of necessary inspections and fees;
 - (2) A description of areas of the Borough where the operation of mobile food trucks is limited or prohibited.
- B. Submission of materials. Each application shall indicate on its face that the following materials must be submitted by the applicant:
 - (1) The name of the business and its owner or owners and the mailing address of the business.
 - (2) For a mobile food truck applying for a permit for the first time, a business plan for the mobile food truck operation must be submitted.

- (3) If the operator intends to establish a predetermined route, the proposed service route and hours of operation, along with a detailed schedule of times and locations where the mobile food truck will be stationary and serving food, shall be provided.
 - (4) Certification that the mobile food truck has passed all necessary inspections required by the Commonwealth of Pennsylvania.
 - (5) For all excess food that cannot be prepared or stored in the mobile food truck, the address of the kitchen where the mobile food truck is stored and where food is stored must be provided.
 - (6) Proof of access to restroom facilities for the use of the mobile food truck employees.
 - (7) Mobile food truck interior design showing all features, locations of required hand-washing sink for employees, location of propane tanks or generators, etc. The design and final mobile food truck must comply with all applicable provisions of the Pennsylvania Department of Agriculture Retail Food Code, Title 7, Agriculture, Chapter 46.
 - (8) A certificate of insurance providing general liability insurance of not less than \$350,000 per occurrence, listing the Borough as additionally insured. A mobile food truck permit shall be issued only for the explicit time period covered by the effective dates of the general liability insurance policy. The owner shall indemnify the Borough of Manchester against any and all such claims, losses, injuries or damages to person or property, including attorneys fees and court costs, whether incurred as a result of the negligence of the Borough, the owner or their employees, agents.
- C. Approval process. An application must be submitted to the Mayor for review. The application must receive the approval of Borough Council prior to its final approval and the issuance of a permit by the Mayor and sealed by the Secretary.
- D. The Mayor or Secretary may work with the applicant or permit holder to modify a service route at any time: i) before the issue of a permit; or ii) after the issue of a permit, if the grant of a permit or approval of a service route has led to the creation of a nuisance or otherwise endangers the public health, safety, or order or by request of the permit holder.
- E. Within 60 days of the submission of a completed application, the Mayor or Secretary shall either issue or deny the application for a permit.
- F. If the application is denied in whole or in part, the Mayor or Secretary shall state in writing the specific reasons for the denial. Any applicant who has been denied a permit may appeal such denial by submitting a written request for a hearing to the Mayor or Secretary within 10 days of denial. Such hearing shall be conducted by Borough Council within 30 days of receipt of said appeal. The decision resulting therefrom shall be final and subject only to judicial review under Pennsylvania law.

§ 108-19. Rules and regulations; inspections.

- A. General. Borough Council is hereby authorized to promulgate additional rules and regulations appropriate for the implementation of this article and, if necessary, work with other agencies and departments of the Borough and the Commonwealth of Pennsylvania to establish a process for the permitting of mobile food trucks; provided, however, that such rules and regulations are not inconsistent with the following limitations and restrictions:
- (1) No mobile food trucks will be permitted to operate on a public street in Borough.
 - (2) No mobile food truck may operate between the hours of 8:00 p.m. and 8:00 a.m. unless permitted for different hours for a special event.
 - (3) No mobile food truck is permitted to park or stop to serve customers within 250 feet of any principal customer entrance to any restaurant or food establishment serving similar food products within the Borough.
 - (4) No mobile food truck may park in any Borough parking areas longer than four hours.
 - (5) No operator of a mobile food truck shall park, stand, or move a vehicle and conduct business within areas of the Borough where the permit holder has not been authorized to operate.
 - (6) Mobile food trucks are permitted to park and serve customers on private property if given express written consent of the property owner and such written consent is kept in the mobile food truck at all times when the vehicle is operating on the property.
 - (7) Mobile food truck operations on private property in all other Zoning Districts shall be governed by the Borough of Manchester Zoning Ordinance.²
 - (8) On school days from 7:00 a.m. to 4:00 p.m., no mobile food truck may operate within 500 feet of the grounds of any building used as a public kindergarten, elementary school or secondary school.
 - (9) No mobile food truck shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters.
 - (10) Borough trash receptacles may not be used by mobile food truck vendors.
 - (11) Consumers shall be provided with single-service articles, such as plastic forks and paper plates, and a waste container for their disposal. All mobile food trucks shall offer a waste container for public use that the operator shall empty at his own expense.
 - (12) Mobile food truck vendors are required to keep all areas within 20 feet of the mobile food truck clean of grease, trash, paper, cups or cans associated with the vending operation.

2. Editor's Note: See Ch. 149, Zoning.

- (13) The permit holder must keep an accurate log indicating that the mobile food truck is serviced daily by a mobile food commissary or approved kitchen for all food, water and supplies and for all cleaning and servicing operations, including the emptying and cleaning of waste containers.
 - (14) No mobile food truck shall make or cause to be made any unreasonable or excessive noise in violation of Chapter 100 of the Borough Code.
 - (15) A mobile food truck may not operate on property owned by the Borough of Manchester unless the Mayor or Secretary has otherwise granted approval on the permit application for its operation at a particular location during specific times.
 - (16) For mobile food trucks on public property, the Borough reserves the right to temporarily move a mobile food truck to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit.
- B. Inspections. The Mayor or Secretary shall ensure compliance with all applicable state food and sanitary codes as well as applicable Borough codes.
- C. Fire Chief. The Fire Chief shall promulgate rules and regulations for the inspection of mobile food trucks to ensure compliance with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and codes.

§ 108-20. Health license and permit fees.

- A. Application fee. An annual application fee for a permit granted by the Borough Manager for the operation of a mobile food truck shall be \$300, which fee may be changed from time to time by resolution of Borough Council.
- B. Per-event fee. In addition to the annual permit fee above, a fee to operate a mobile food truck in the Borough shall be \$50 per event, which fee may be changed from time to time by resolution of Borough Council.

§ 108-21. Limitation on number of permits.

- A. Borough Council may from time to time set a limit on the number of total permits that may be issued or renewed per year; provided, however, that no more than 10% of total permits or three permits, whichever is greater, may be issued to a single person or business entity or both.
- B. Upon receipt of application, the Borough Manager shall advise the applicant whether or not the limitation has been met.

§ 108-22. Transfer of permit prohibited.

- A. Transfers for value prohibited. No person holding a permit for a mobile food truck shall sell, lend, lease or in any manner transfer a mobile food truck permit for value.

- B. Unauthorized transfer voids permit. Any unauthorized transfer or attempt to transfer a permit shall automatically void such permit. Violation of this provision shall be subject to a fine of \$500 each for the transferor and the transferee, pursuant to this section. The unauthorized transfer or attempt to transfer of each permit shall constitute a separate violation.

§ 108-23. Operation of mobile food trucks.

- A. Every mobile food truck shall post its permit, or a copy of the permit, in a conspicuous place to which the public has access by sight.
- B. Operation without permit. Any mobile food truck being operated without a valid mobile food truck permit issued by the Borough Manager shall be deemed a public safety hazard, shall be ticketed in accordance with existing Borough ordinance and may be impounded.
- C. Unattended vehicles prohibited. No mobile food truck shall be parked on the street overnight or left unattended and unsecured at any time food is kept in the mobile food truck. Any mobile food truck which is found to be unattended shall be considered a public safety hazard, shall be ticketed in accordance with existing Borough ordinance and may be impounded.
- D. A mobile food truck operating outside of an approved route, at an unauthorized location, or beyond the hours for which the operation has been permitted shall be deemed operating without a permit in violation of this article and may be subject to enforcement under this article.

§ 108-24. Enforcement; violations and penalties.

- A. Fine for violation. Any permit holder operating a mobile food truck or service in violation of any provision of this article or any rules and regulations promulgated hereunder shall be subject to a fine of no less than \$300 and no more than \$1,000 for each day that the violation continues to exist or a term of imprisonment not exceeding 90 days, or both. Each day a violation continues to exist shall constitute a separate and distinct violation of this article.
- B. Revocation, suspension, modification. Once a permit has been issued it may be revoked, suspended, modified, or not renewed by the Borough Manager for failure to comply with the provisions of this article or any rules and regulations promulgated by the Committee.
- (1) Decisions by the Mayor or Secretary to revoke, suspend, modify, or not renew a permit may be appealed to Borough Council. The decision resulting therefrom shall be final and subject only to judicial review under Pennsylvania law.
 - (2) The Secretary may suspend a permit for no more than three days without a notice or hearing. If the suspension is expected to exceed three days, a hearing shall be held before the Mayor within 72 hours of the suspension in order to determine whether concern for the public safety or health justifies the suspension.

- C. In addition to prosecution of persons in violation of this article, the Mayor, Secretary, police officers or any duly authorized agent of the Borough may seek such civil or equitable remedies, including injunctive relief and other measures to enforce the provisions of this article in any court of record in the Commonwealth of Pennsylvania, against any person or property, real or personal, to effect the provisions of this article.
- D. Removal. Any permit holder found in violation of this article or any rules and regulations promulgated by the Committee shall be issued a citation for violation in accordance with existing Borough ordinances, and the mobile food truck may be impounded.
- E. Enforcement. The provisions of this article or any rules and regulations promulgated hereunder shall be independent, nonmutually exclusive, separate remedies, all of which are available to the Borough as may be deemed appropriate and all of which may be enforced by the Police, the Mayor, the Secretary or any other designated officials of the Borough of Manchester.

§ 108-25. When effective.

This article shall be effective five days after its enactment.