

# BOROUGH OF BERWICK

## ORDINANCE 2016-04

### AN ORDINANCE BY THE BOROUGH OF BERWICK IN COLUMBIA COUNTY, PENNSYLVANIA, SETTING RULES & REGULATIONS FOR STREET VENDORS IN THE BOROUGH

BE IT ORDAINED AND ENACTED by the Borough of Berwick Council and it is hereby ordained and enacted by the authority of the same as follows:

#### DEFINITIONS:

**PUBLIC RIGHT -OF-WAY:** That portion of a public street located in the area where street vending is permitted which is limited to a designated parking space of such public street.

**STREET VENDING:** The act of selling food by a street vendor.

**STREET VENDOR:** A person who sells food from a vending cart/vehicle/trailer.

**VENDING CART:** A transportable, motorized or non-motorized, self-contained transportable conveyance from which food is prepared and sold within the public rights of way of the Borough of Berwick as defined herein.

#### PERMITS:

- Permit required.
- It shall be unlawful for any person to engage in street vending without a permit, which shall be prominently displayed on the vending cart.
- A permit issued are not be transferable.
- Permits shall be issued for each calendar year covering the period from January 1 through December 31 of each calendar year.
- Permit holder shall supply the Borough of Berwick with a certificate of insurance naming the Borough of Berwick as an additional insured for the permitted year.
- The permit holder shall obey all Borough of Berwick parking regulations and must move the cart/vehicle/trailer at the end of each business day.
- A permit fee, in an amount of \$50.00
- Permits shall be revoked or denied by the Borough of Berwick Code Enforcement Officer.

### **APPEAL:**

- The street vendor may appeal the notice of revocation to Borough Council or via a Code Appeal Hearing on a form provided by the borough within 20 days of the date of mailing of the notice of revocation. The procedure for the appeal shall be as follows:
- Borough Council shall hold an informal hearing at the Borough Council meeting next following receipt of the appeal to review the facts and render a decision.

### **PENALTY:**

- Any person who violates any provision of this Part shall be sentenced to pay a fine of not less than \$300.00 or in excess of \$1,000 to the use of the Borough of Berwick, with costs of prosecution, or to be imprisoned for not more than 10 days, and each day of violation shall be considered a separate offense.

### **LOCATION / LIMITATIONS:**

- Vendors will not set up in the downtown business district which consists of Front to Second Streets and Vine to Pine Streets.
- A vending cart shall be placed in the center of the parking place where it is permitted to operate.
- A vending cart shall be placed as close as possible to the curb when set up in the right-of-way.
- Sales shall take place only on the sidewalks adjacent to the permitted spaces and not in the right-of-way.

### **VENDING CART REQUIREMENTS:**

- A vending cart/vehicle/trailer shall be designed to be attractive and not offensive in any way.
- A vending cart/vehicle/trailer shall be easily maintained and kept in a sanitary condition.
- A vending cart shall comply with statutes and regulations of the Commonwealth of Pennsylvania with regard to cooking, utensils, refrigeration, appliances, materials and food storage and other matters, and a permit issued by the Department of Agriculture shall be predominately displayed on the vending cart.
- The street vending permit issued by the Borough of Berwick shall be predominately displayed on the vending cart.
- A vending cart shall have a trash receptacle with a tight-fitting lid, and the street vendor shall be responsible for the disposal of trash generated by its business. Street vendors are responsible for proper disposal of the trash whenever the container becomes full or, at a minimum, at the conclusion of the day's operation, but not in receptacles provided for by the Borough of Berwick.
- Only single-service articles, plates, or utensils may be used and articles, plates, or utensils that require washing shall not be used.

- Only signs identifying the street vendor's name, business name and mailing address and a listing of the items available for sale are permitted on a vending cart.
- Street vendors must obtain and maintain a Serve Safe Certificate from the Department of Agriculture within three months of obtaining a street vending permit, and the Serve Safe Certificate shall be prominently displayed on the vending cart, and a copy shall be delivered to the Borough of Berwick Code Enforcement Office within five days of receipt from the Department of Agriculture.
- All refuse must be recycled.
- All vending carts shall be equipped with a serviceable fire extinguisher.
- A vending cart shall be placed in the center of the parking place where it is permitted to operate.
- A vending cart shall be placed as close as possible to the curb when set up in the right-of-way.

**THE FOLLOWING SHALL BE PROHIBITED:**

- Vendors shall not set up in the downtown business area consisting of Front to Second Streets and Vine to Pine Streets.
- Vendors shall not set up at or near the area of the Jackson Mansion during summer concerts without the consent of the borough.
- Use of a sidewalk for product display, storage, or the disposal of trash.
- Connection of utilities to neighboring properties.
- Gas cylinders that weigh more than 20 pounds.
- No advertising other than the list of food and prices.
- Tables, chairs, benches, stools or other items for customers to use during the consumption of food.
- Fold-out shelves that extend into the sidewalk area that interfere with pedestrian traffic.
- Awnings, canopies, and umbrellas are permitted so long as they do not interfere with pedestrian or vehicle traffic.
- Any act that interferes with the free and open movement of persons on a sidewalk and vehicles in the street right-of-way.
- Sound-amplifying devices to attract attention, verbally hawking or soliciting product sales, and the making of loud or raucous noises. The only exception being a traveling vendor. Music shall stop playing while vending cart/vehicle/trailer is stopped.
- The sale of any non-food merchandise other than a promotional t-shirt that displays the name of the street vendor.

**INSURANCE & INDEMNIFICATION:**

- Comprehensive Liability Insurance. Each street vendor shall maintain, and provide the Borough of Berwick with proof thereof, comprehensive liability insurance with a minimum policy limit of \$500,000 per person and \$1,000,000 per occurrence coverage for personal injury, and \$50,000 coverage for property damage.
- A copy of a street vendor's certificate of insurance shall be provided to the Borough of Berwick Code Enforcement Office at least five days prior to commencement of business.
- Street vendors shall indemnify and hold harmless the Borough of Berwick, its agents, servants, workmen, employees, and Borough Council members from any and all liability arising out of their engaging in street vending in the Borough of Berwick. Nothing herein shall be construed to waive, relinquish, or limit any defenses available to the Borough of Berwick under the governmental immunity laws of the Commonwealth of Pennsylvania.

**REPEALED CLAUSE**

The provisions of this Ordinance, as far as they are the same as those of ordinances in force immediately prior to the enactment of this Ordinance, are intended as a continuation of such ordinances and not as new enactments. The provisions of this Ordinance shall not affect any such suit or prosecuting pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any ordinance repealed by this ordinance.

**SEVERABILITY CLAUSE**

The provisions of this Ordinance are severable, and if any provision shall be held to be unconstitutional, illegal, or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid provision not been included herein.

**EFFECTIVE DATE.** This Ordinance shall become effective thirty (30) days after passage of this Ordinance.

**BOROUGH OF BERWICK ANIMALS INSIDE THE BOROUGH OF BERWICK  
ORDINANCE 2016-04  
ORDAINED AND ENACTED THIS 16<sup>TH</sup> DAY OF MAY, 2016**

ADOPTED as an Ordinance this 16<sup>th</sup> day of MAY 2016.

ATTEST:

BOROUGH OF BERWICK

BOROUGH OF BERWICK

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DEBRA FORCE,  
BOROUGH MANAGER

\_\_\_\_\_  
ALVIN HILL,  
COUNCIL PRESIDENT

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TIM BURKE,  
MAYOR