

BOROUGH OF EDINBORO
Erie County, Pennsylvania
Ordinance No. 625

AN ORDINANCE OF THE BOROUGH OF EDINBORO, ERIE COUNTY, ENTITLED THE EDINBORO FOOD TRUCK ORDINANCE, PROVIDING FOR SHORT TITLE, DEFINITIONS, FOOD TRUCK PERMITTING REQUIREMENTS, AND ENFORCEMENT, VIOLATIONS AND PENALTIES; AND PROVIDING FOR A REPEALER, SEVERABILITY, BOROUGH MANAGER FILING INSTRUCTIONS, AND AN EFFECTIVE DATE.

WHEREAS, the Borough of Edinboro (the “Borough”) has experienced a marked increase in the number of Food Trucks which operate within the Borough; and

WHEREAS, the Borough recognizes that allowing Food Truck vendors to operate within the Borough creates a sense of community, but also requires that certain standards for mobile food vending operations and practices are necessary to serve the health, safety and welfare of the citizens, residents and visitors of the Borough; and

WHEREAS, the Borough Council believes that enacting this Ordinance will protect public’s health, safety and welfare, as well as preserve the orderly use of public spaces by Food Truck vendors.

NOW THEREFORE, on this 14th day of November, 2022, the Borough Council of the Home Rule Borough of Edinboro hereby ordains and enacts the following:

Section 1. Short Title

This Ordinance shall be known as and may be cited as the Edinboro Food Truck Ordinance.

Section 2. Definitions

For purposes of this Ordinance, the following terms shall have the meanings as indicated:

Food Truck - A vehicle or cart, which may, upon issuance of a permit by the Borough, and in conformance with all applicable regulations, temporarily park upon a publicly designated street or sidewalk and engage in the service, sale or distribution of food for individual portion service to the general public, directly from the vehicle. The term shall include, but is not limited to, vehicles and trailer hitch units used for food vending. The term shall include mobile ice cream trucks or water ice trucks.

Section 3. Permit Required

A. It shall be unlawful for any person to maintain or operate a Food Truck in the Borough without first applying for and securing a permit therefor, as provided in this

Ordinance. The permit shall be valid from the date of issuance and shall be valid for a specified period of time, daily, weekly or until the end of the calendar year in which the permit was issued. Permits may be denied or revoked for failure to comply with this Ordinance, or the provision of inaccurate information on a Permit Application.

B. Food Trucks are not required to obtain a Borough Permit pursuant to this Ordinance when the Food Truck is participating in a public event separately approved by the Borough, or when operating on the grounds of Goodell Gardens & Homestead or Pennsylvania Western University for events held at either location.

Section 4. Permit Application

A. Any person who shall desire to operate food truck in the Borough shall make an application in writing to the Borough. Such application shall be accompanied by an application fee, as required by a schedule of fees, established and amended from time to time by resolution of Borough Council. The application shall include, at a minimum, the following information:

- (i) The name and address of the of the Applicant and/or the Food Truck owner/operator;
- (ii) The business name and address and EIN;
- (iii) Contact information, include phone number and e-mail address;
- (iv) Food Truck information, including business license number, truck make, model and license plate number;
- (v) Copy of Erie County Health Department License and any other permits or licenses required to operate a Food Truck within the Commonwealth of Pennsylvania;
- (vi) Food Truck vending information, including types of goods to be sold and proposed hours of vending;
- (vii) A certificate of Liability Insurance naming the Borough as an additional insured as required by section 5 of this Ordinance;
- (viii) A copy of the applicable vehicle insurance for the Food Truck; and
- (ix) Such other information as may be required from time to time by the Borough.

B. The Borough shall not process any application unless the application has been completed in its entirety and the application fee, indemnity agreement and certificate of Liability Insurance have been submitted to the Borough.

C. The application form shall be submitted to the Borough subject to the penalty of perjury pursuant to 18 Pa.C.S. §4904, relating to Unsworn Falsification to Authorities and shall contain the following indemnity language, to which the Applicant shall agree:

“The Applicant represents that he/she is authorized and has the authority to properly bind _____ (name of business) (hereinafter referred to as “Operator”) and to offer this Indemnification. Operator shall save, indemnify, defend and hold harmless the Borough of Edinboro, Erie County, Pennsylvania (the “Borough”), its elected officials, officers, employees, volunteers and agents, against any and all losses and expenses, including, but not limited to, litigation and settlement costs and attorney’s fees and costs, claims, suits, action, damages and liability for or on account of actual or alleged loss of life, bodily injury, personal injury or damage to property, caused by any reason due to the existence and/or operation of the Food Truck owned and/or operated by Operator, it’s officers, directors, employees, agents or volunteers within the Borough.”

Section 5. Insurance

The application for a permit to operate a Food Truck within the Borough must include a certificate of insurance naming the Borough of Edinboro, Erie County, Pennsylvania as an additional insured under a policy of general liability insurance issued by a company qualified to do business in the Commonwealth of Pennsylvania and are rated A- or better. The insurance policy shall be in a minimum amount of \$1,000,000 for bodily injury or death and \$500,000 for property damage per occurrence and \$2,000,000 in the aggregate. The Borough is to be notified in writing at least 30 days prior to any reduction or cancellation of coverage. Neither this provision nor any other term of this Ordinance shall limit the liability of the owner or operator of the Food Truck.

Section 6. Operational Matters

The following requirements shall apply to the operation of Food Trucks within the Borough:

- (i) All required Erie County license and permits must be valid and posted in a visible location on or within the Food Truck at all times.
- (ii) No vending is permitted within 100 feet of a brick-and-mortar restaurant, unless any restaurant within 100 feet has provided written permission.
- (iii) No vending is permitted within 25 feet of a fire hydrant
- (iv) No vending is permitted on private property without express permission of the property owner.
- (v) Food Trucks are prohibited from operating such that the customers are served from the side of the Truck open to the road.

- (vi) No tanks, generators or other equipment shall be placed within the public right-of-way.
- (vii) Temporary signs shall not exceed eight square feet and shall not block any sidewalks or impede any vehicular, biking or pedestrian traffic or paths.
- (viii) Awnings and canopies associated with any Food Truck shall be at least seven feet above any public sidewalk.
- (ix) A Food Truck operating within the Borough is subject to all applicable Borough Ordinances, resolutions, and requirements.
- (x) Food Trucks are only permitted to operate within a Commercial Zoning District or within or adjacent to a public park with express approval from the Borough.
- (xi) Any operator of a Food Truck shall provide the Borough Code Enforcement Officer with a minimum of 24 hours advanced written notice of when the operator will be operating the Food Truck within the Borough limits pursuant to a validly issued permit. The date or dates of operation and requested locations of operation for that specific time period of operation shall be provided. Notice is required each time the operator of a Food Truck shall conduct business within the Borough. In the event that the operator intends to operate on a weekend or holiday, the operator shall provide the required notice at least 24 hours prior to the last business day prior to the weekend or holiday.
- (xii) No Food Truck operating under an approved Food Truck Permit shall be permitted to remain parked in the Borough for over 24 consecutive hours. Food Trucks intending to serve for multiple days in a row must vacate the approved space and return the next day.
- (xiii) Food Trucks are permitted to serve customers on private property throughout the Borough if given express written consent of the property owner and if the Food Truck is serving food to a private event and is not serving/selling to the public.
- (xiv) In no event may Food Trucks be permitted to operate on an unimproved parcel located within the Borough.

Section 7. Enforcement; Violations and Penalties

A. The Borough of Edinboro Police Department shall have the power to enforce the provisions of this Ordinance, and may bring any action at law or in equity to secure compliance with the provisions of this chapter and/or collect any fine imposed.

B. Any person who shall violate the provisions of this Part or fail to comply therewith with any of the requirements thereof shall, upon conviction thereof in a summary proceeding brought before a Magisterial District Justice, be guilty of a summary offense and shall be subject to the payment of a fine, not less than \$50 for the first offense, and in no case shall either fine exceed \$1000, plus the costs of prosecution. Upon default of payment thereof, the defendant may be sentenced to imprisonment in the county prison for a period of not more than 30 days. Each section or provision of this Ordinance that is violated shall constitute a separate offense, and each day or portion thereof in which a violation of this Ordinance is found to exist shall constitute a separate offense, each of which shall be punishable by a separate fine imposed by the Magisterial District Justice in the amounts stated above.

Section 8. Repealer

Any ordinances, rules or resolutions, or parts of ordinances, rules, or resolutions, in conflict herewith shall be, and the same are hereby repealed.

Section 9. Severability

The provisions of this Ordinance are severable. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

Section 10. Directions to Borough Manager

The Borough Manager is hereby direct to affix the Borough Seal upon this Ordinance, insert the date of enactment upon the same, record the Ordinance in the Borough Ordinance Book and take all such actions as are required by the Home Rule Charter of the Borough and to amend the Borough Code as may be necessary.

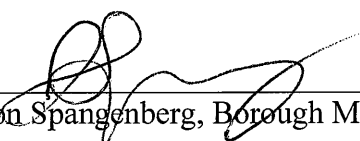
Section 11. Effective Date.

This Ordinance shall be effective on the tenth (10th) day following the enactment of this Ordinance, as indicated below.

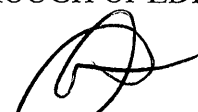
ORDAINED AND ENACTED by the BOROUGH COUNCIL OF THE HOME RULE BOROUGH OF EDINBORO on the date first indicated above.

ATTEST:

BOROUGH OF EDINBORO



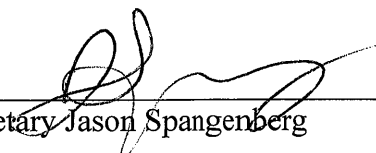
Jason Spangenberg, Borough Manager



Aaron Gast, Mayor

CERTIFICATION

I hereby certify that the above is a true copy of the Borough of Edinboro Ordinance No. 625 adopted by a roll call vote signifying the majority vote of the members present of the Borough Council of the Borough of Edinboro on November 14, 2022, the same being advertised in the Meadville Tribune and recorded in the Borough Ordinance Book.


Secretary Jason Spangenberg

2348495.v1