

**BOROUGH OF GIRARD  
ERIE COUNTY, PENNSYLVANIA  
ORDINANCE NO. 750**

**An Ordinance amending Ordinance 462 adopted by the Borough Council of the Borough of Girard 7-15-1974 providing for the licensing and regulation of transient retail business, and amended to include food trucks, in the Borough of Girard.**

Section 1 Definitions; word usage.

A.

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

**Food Truck**

*A food service establishment that is licensed by the Erie County Department of Health, mobile and located upon or within a vehicle, or which can be pulled by a vehicle or which can be pulled or pushed by human or animal power (such as a pushcart), where food or beverage is cooked, prepared and/or served.*

**LEGAL HOLIDAY**

Includes New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas.

**PERSON**

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

**TRANSIENT RETAIL BUSINESS**

Includes the following:

(1)

Engaging in peddling, soliciting or taking orders, either by sample or otherwise, for any **food**, goods, wares or merchandise upon any street, alley, sidewalk or public ground, or from house to house, within the Borough of Girard; and

(2)

Selling, soliciting or taking orders for any food, goods, wares or merchandise from a fixed location within the Borough on a temporary basis, which shall include, but shall

not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of specific yearly holidays.

B.

In their chapter, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

Section 2 Permit required; fees. [1]

No person shall engage in any transient retail business within the Borough of Girard without first having obtained from the Borough Secretary a permit, for which a fee as set from time to time by resolution of the Borough Council, which shall be for the use of the Borough, shall be charged, provided that no permit fee shall be charged under their section to farmers selling permit own produce; for the sale of food, goods, wares and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose; or to any manufacturer or producer in the sale of bread and bakery products, meat and meat products or milk or milk products, but all persons exempted hereby from the payment of the permit fee shall be required to register with the Borough Secretary and obtain a permit without fee; provided further that any person dealing in one or more of the above-mentioned exempted categories, and dealing with other goods, wares or merchandise not so exempted, shall be subject to the payment of the permit fee fixed by their section for permit activities in connection with the sale of goods, wares and merchandise not in such exempted categories; provided further that the Secretary may similarly exempt from payment of the permit fee, but not from registering, persons working without compensation and selling goods, wares or merchandise for the sole benefit of any nonprofit corporation, such as, ***food trucks participating in events sponsored by civic organizations (such as Dan Rice Days, A. F. Dobler Hose & Ladder Co., Girard Lake City Chamber of Commerce)***; and provided further that every permit issued under the provisions of their chapter shall be issued on an individual basis to persons engaging in such business, every individual shall obtain a separate permit, issued to them in their name, and the permit fee hereby imposed shall be applicable to every such individual permit.

**Section 3 Food Trucks.**

A.

*Locations. Subject to the restrictions and limitations set forth in the section, food trucks may operate in established parking spaces at locations and times as may be approved by the Borough department in primary control of such property, at locations and such other areas as may be permitted by the Zoning Code of the Borough of Girard, provided that food trucks may not operate on a public right-of-way within 100 feet of the primary entrance of any type of restaurant located within a permanent structure or building. Limited by up to 3 consecutive days at a time. And no more than 2 times per calendar month.*

B.

Specific regulations. The following specific regulations apply to the operation of food trucks:

(1)

If operating in a public right-of-way or Borough property, contain food preparation within the food truck.

(2)

Not obstruct traffic on a public right-of-way or public sidewalks or walkways.

(3)

If operating on a public right-of-way, park at least 20 feet from any intersection.

(4)

If operating on a public right-of-way, distribute food/beverage away from vehicular traffic flow.

(5)

If operating on a public right-of-way, utilize no more than two parking spaces.

(6)

Not utilize Borough utility connections unless permission has been specifically stated in the permit and approved by the borough.

(7)

Continuously contain and police waste and refuse.

(8)

Provide a trash receptacle for use by customers.

(9)

If operating on a public right-of-way, not be left overnight or unattended at any time.

(10)

Only operate on a public right-of-way between the hours of 6:00 a.m. and 12:00 midnight.

(11)

Service/replenish the food truck on a daily basis. This includes getting fresh water, disposing of waste and refuse, and restocking supplies.

(12)

Not leave any location without first picking up, removing and disposing of all waste and refuse remaining from sales made by the food truck.

(13)

Not solicit or conduct business with occupants of a motor vehicle.

(14)

Not create sound or permit sound to emit from any device, including, but not limited to, loud mechanisms or equipment which produces a loud and raucous noise (except for generators), or operate any

loudspeaker, public address system, radio, music player, sound amplifier or similar device to attract attention of the public or otherwise.

(15)

Not burn wood or charcoal or produce smoke while operating on a public right-of-way.

(16)

Provide exterior lighting which must be hooded or shielded so that the light source is not scattering light to surroundings other than to the food truck and its adjacent service area.

(17)

Not operate generator(s) with a total sound level that exceeds 65 dbA.

(18)

Be subject to payment of any and all applicable parking fees.

**Section 4 Application for permit.**

Every person desiring a permit under their chapter shall first make application to the Secretary for such permit. If such person shall also be required to obtain a permit from any state or county officer, he shall, when making such application, exhibit a valid permit from such state or county officer. The applicant shall give permit name and address; their criminal record, if any; the name and address of the person by whom he is employed; the type of goods, wares and merchandise he wishes to deal with in such transient retail business; the length of time (food trucks refer to Section 3 A) for which such permit is to be issued; and the type and permit number of the vehicle to be used, if any.

**Section 5 Issuance of permit; display.**

Upon receipt of such application and the prescribed fee, the Secretary, if they shall find such application in order, shall issue the permit required under their chapter. Such permit shall contain the information required to be given on the application therefor. Every permit holder shall carry such permit upon their person, if engaged in a transient retail business from house to house or upon any of the streets, alleys, sidewalks or public grounds, or shall display such permit at the location where they shall engage in such business if doing so at a fixed location. They shall exhibit such permit, upon request, to all police officers, Borough Officials, and citizens or residents of the Borough.

**Section 6 Prohibited acts.**

No person engaged in any transient retail business shall:

A.

Sell any product or type of product not mentioned in their permit;

B.

Hawk their wares upon any of the streets, alleys, sidewalks or public grounds in the Borough (Food Trucks refer to § 388-3);

C.

When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Borough for longer than necessary in order to sell therefrom to persons residing in the immediate vicinity;

D.

Park any vehicle upon any of the streets or alleys in the Borough for the purpose of sorting, rearranging or cleaning any of their goods, wares or merchandise or of disposing of any carton, wrapping material or of any stock or wares or foodstuffs which have become unsalable through handling, age or otherwise;

E.

Engage in any business activity prohibited in the Borough of Girard by general or special law applicable thereto;

F.

Engage in any house-to-house activity, except by prior appointment, at any time on a Sunday or legal holiday or at any time except between 9:00 a.m. and 5:00 p.m. any day of the week, other than a Sunday or legal holiday.

**Section 7 Supervision; records and reports.**

The Secretary shall supervise the activities of all persons holding permits under their chapter. He shall keep a record of all permits issued hereunder and shall make a report thereof to the Borough Council upon request.

**Section 8 Suspension and revocation of permit; appeals.**

The Borough Secretary is hereby authorized to deny, suspend or revoke any permit issued under their article when he deems such denial, suspension or revocation to be beneficial to the public health, safety or morals, or for violation of any provision of their article, or for giving false information upon any application for a permit hereunder. Appeals from any suspension, revocation or denial of a permit may be made to the Borough Council at any time within 10 days after such suspension, revocation or denial, and a hearing shall be held within 30 days of the petition for appeal. No part of a permit fee shall be refunded to any person whose permit shall have been suspended or revoked.

**Section 9 Violations and penalties.**

Any person who violates or permits a violation of their chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough before a Magisterial District Judge, pay a fine of not more than \$600, plus all court costs, including reasonable attorneys' fees, incurred by the Borough in the enforcement of their chapter. No judgment shall be imposed until the date of the determination of the violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable Rules of Civil Procedure.

Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Borough are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

**Section 10. Repealing a Prior Ordinance**

Any and all other ordinances or parts of ordinances in violation or in conflict with the terms, conditions and provisions of this ordinance are hereby repealed to the extent of such irreconcilable conflict. Ordinance 462 approved July 15, 1974 is hereby repealed.

**Section 11. Terms and Conditions.**

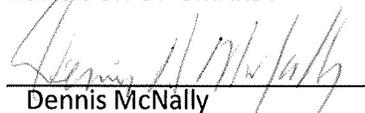
The terms, conditions and provisions of this ordinance are hereby declared to be severable, and, should any portion, part or provision of this ordinance be found by a court of competent jurisdiction to be invalid, non-enforceable or unconstitutional, the Council hereby declares its intent that the ordinance shall have been enacted without regard to the invalid, non-enforceable, or unconstitutional portion, part or provision of this ordinance.

**Section 12. Effective Date.**

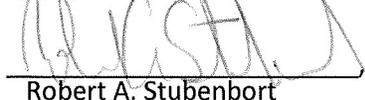
This ordinance shall become effective at the earliest time permitted under Pennsylvania law.

ORDAINED and ENACTED an ordinance of the Borough of Girard this 17th day of April 2023.

BOROUGH OF GIRARD:

  
 \_\_\_\_\_, COUNCIL PRESIDENT  
 Dennis McNally

ATTEST:

  
 \_\_\_\_\_, BOROUGH MANAGER  
 Robert A. Stubenbort

Approved this 17 day of April, 2023

  
 \_\_\_\_\_, MAYOR  
 Peter Burton