

BOROUGH OF BROOKHAVEN
DELAWARE COUNTY, PENNSYLVANIA

Ordinance No. 821

AN ORDINANCE OF THE BOROUGH OF BROOKHAVEN, DELAWARE COUNTY,
PENNSYLVANIA, AUTHORIZING MOBILE FOOD TRUCKS WITHIN BROOKHAVEN
BOROUGH BY SETTING REGULATIONS AND GUIDELINES.

BE IT ENACTED and it is hereby enacted and ordained by the Council of the Borough of Brookhaven, Delaware County, Pennsylvania, as follows:

MOBILE FOOD TRUCKS

ARTICLE I. PURPOSE.

The general purpose of these regulations is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of Brookhaven Borough by requiring that new and existing Mobile Food Trucks provide residents and customers with a level of cleanliness, quality and safety. It is also the intent of this regulation to establish reasonable guidelines and restrictions for Mobile Food Trucks and encourage the safe and convenient use of the Borough's public right-of-way.

ARTICLE II. DEFINITIONS.

As used in this article, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

"Applicant" - Any person or business who applies for a license under the provisions of this article.

"Commissary" - a facility to which a mobile food facility returns daily for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and where food is kept, handled, prepared, packaged, or stored.

"Enforcement Officer" -The Code Enforcement Officer of the Borough of Brookhaven or any sworn Officer of the Borough of Brookhaven Police Department.

"Mobile Food Truck" -A person who sells, intends to sell, or offers to sell food products in or about the streets of the Borough from a street vending or sidewalk vending facility.

"Restaurant" An establishment where meals are generally served and eaten on premises; prepares and serves food and drink to customers in return for money, either paid before the meal or after the meal is provided.

ARTICLE III. LICENSE, CERTIFICATES & PERMITS REQUIRED.

- A. No person shall commence operation of a Mobile Food Truck in the Borough of Brookhaven unless the required license has been obtained for the Truck and, if required by the State, its Commissary from the Commonwealth of Pennsylvania Department of Agriculture. Mobile Food Trucks not requiring license by the State must show proof of application and inspection by the Commonwealth of Pennsylvania Department of Agriculture as required by State law.
- B. All licenses from the Commonwealth of Pennsylvania Department of Agriculture and certifications shall be prominently displayed at all times during operation of a Mobile Food Truck.
- C. Upon request from the Enforcement Officer, a Mobile Food Truck must show proof of General Liability insurance in the amount of \$1,000,000 per individual and \$300,000 per occurrence.

Any Mobile Food Truck operating without the required License(s) shall be deemed in violation of this chapter, and the Mobile Food Truck shall be subject to penalties and fines as provided within this chapter and otherwise provided by law.

- D. The Code Enforcement Officer shall be authorized to deny, revoke, or suspend operations for any Mobile Food Truck found in noncompliance with the established requirements.

ARTICLE IV. GENERAL RULES APPLICABLE TO ALL MOBILE FOOD TRUCKS

- 1. Only a Brookhaven Borough Resident may request a mobile food truck within the borough.
- 2. No Mobile Food Truck shall sell or offer for sale any products or services within five hundred (500) feet from another food truck vendor at any Borough-organized, Borough-sponsored or Borough-sanctioned event or activity to which vendor access is restricted or regulated, provided that this restriction shall not apply to a Mobile Food Truck who receives a written permission from the borough or committee sponsoring the event to operate within the boundaries of any Borough-organized, Borough-sponsored or Borough-sanctioned event or activity.
- 3. No Mobile Food Truck on public property or within the public right-of-way shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters. Residents can bring their own chairs but not sit within 20 feet of the truck.
- 4. Mobile Food Trucks shall provide Consumers with single-service, break-resistant dinnerware, drinkware, and serving containers.
- 5. Once arriving at their destination within the Borough, Mobile Food Trucks will remain stationary. No products may be sold while driving on borough streets.

6. For Mobile Food Trucks on public property, including the Borough's right-of-way, the Borough reserves the right to temporarily move a Mobile Food Truck if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit or if the location is required for a Borough-sponsored event.
7. Borough trash receptacles may not be used by Mobile Food Trucks. All Mobile Food Trucks must provide a waste bin and a recycle bin that shall be removed by the Mobile Food Truck at the close of the Mobile Food Truck's business day and shall pick up and remove all papers, wrappers, bottles or other refuse dropped by the customers thereof within thirty (30) feet of the vicinity of the Mobile Food Truck. Under no circumstances shall a Mobile Food Truck use borough containers or receptacles
8. No Mobile Food Truck shall make or cause to be made any unreasonable or excessive noise and shall comply with Borough Ordinances, including, but not limited to the Noise Control Ordinance, as defined in Chapter 652 of the Regulations of the Borough of Brookhaven.
9. No Mobile Food Truck is permitted to park or stop to serve customers within 150 feet radius of any principal customer entrance to any restaurant or food establishment serving food products within the Borough during that establishment's hours of operation or within 150 feet from any permitted Mobile Food Truck location, and shall locate the Mobile Food Truck at the curb in such a way as to cause any line that forms to do so along the curb. Application will indicate location of truck.
10. No Mobile Food Truck shall sell or offer for sale any food or nonfood products and services in a manner that would substantially obstruct a public right-of-way, impair the movement of pedestrians or vehicles, or pose a hazard to public safety.
11. Mobile Food Trucks may not operate between the hours of 10:00 p.m. and 8:00 a.m.
12. All Mobile Food Trucks shall, at all times, be attended by at least one (1) operator who is at least age 18 and shall operate within thirty (30) minutes of occupying a public space. Unattended vehicles are prohibited.
13. No Mobile Food Truck shall use electric, water or wastewater facilities of the Borough without the written consent of the Borough Office Manager.
14. All signage not affixed to the Mobile Food Truck shall meet the requirements of the Borough's Zoning Ordinance.
15. Mobile Food Trucks shall not dispose of liquid waste or grease on public space, such as, tree pits, storm drains, sidewalks, or streets. Under no circumstances shall grease be released or disposed of in the Borough's sanitary sewer system.
16. A Mobile Food Truck that does not follow all of the statements listed, will be in violation of this article.

17. Brookhaven Borough residents wanting to bring a Mobile Food Truck into the borough, must complete a Food Truck Application at the borough office and pay a \$10 application fee no later than seven (7) days prior to event.

ARTICLE V. ENFORCEMENT.

1. Authority is hereby conferred upon the Enforcement Officer to promulgate rules and regulations with respect to the specific matters for which such authority is herein granted and to change and modify any and all such rules and regulations from time to time in the manner provided by law, subject to the approval of the Borough Office Manager, provided that such rules and regulations shall not be inconsistent with the provisions herein, local, state and federal law. A copy of such rules and regulations shall be available in the office of the Borough.
2. When it appears to the Enforcement Officer or Borough Official that the operation of the Mobile Food Truck poses an immediate and imminent threat to the public health and safety that will occur if the Mobile Food Truck is not immediately closed, the Enforcement Officer or Borough Official shall have the power to order the immediate closure of Mobile Food Truck until such time that the violations complained of have been corrected or the Borough Council or other appropriate hearing board overrules the determination of the Enforcement Officer.
3. Nothing set forth in this section may limit the pursuit of other appropriate actions or proceedings at law or in equity available to the Borough.

ARTICLE VI. DENIAL, SUSPENSION

1. Operation may be denied or suspended, by the Code Enforcement for any of the following reasons:
 - (a) The Mobile Food Truck or any of its principals fail to satisfy any qualification of requirements imposed by this article, or other local, state or federal laws or regulations; or
 - (b) The Mobile Food Truck or any of its principals has engaged in operating without a valid license; or
 - (c) The Mobile Food Truck is operated in such a manner as to constitute a public nuisance or safety hazard; or
 - (d) The Mobile Food Truck, its principals or agents, repeatedly violates any of the provisions of this article.
2. Notice of denial, revocation or suspension will be sent via First Class Mail to the name and address of the applicant for license with the Commonwealth of Pennsylvania Department of Agriculture. If no applicant for license with the Commonwealth of Pennsylvania Department of Agriculture is on record, the notice shall be sent via First Class Mail to the registrant of the vehicle license plate or hand-delivered to the Mobile Food Truck. Upon notice of denial, revocation, or suspension, an aggrieved party may appeal to the Borough by submitting a written notice of appeal to the Code Enforcement Office within ten (10) days following the date of the adverse action.

3. The provisions of this Section are not exclusive. This Section shall not preclude the enforcement of any other provisions of this Ordinance or state or federal laws and regulations. The Borough of Brookhaven may impose additional requirements to protect against health hazards related to the operation of a Mobile Food Truck.

ARTICLE VII. PENALTIES FOR VIOLATIONS.

Any person who violates any provision of this chapter shall be guilty of an offense; and for every such violation, upon conviction, shall be sentenced to pay a fine of not less than \$300.00, nor more than \$1,000.00, and the costs or prosecution, and, in default of payment of fine and costs, to undergo imprisonment for not more than 90 days.

ARTICLE VIII. SEVERABILITY.

The provisions of this ordinance and code sections adopted hereby are severable, and if any clause, sentence, or section thereof shall be adjudged invalid or unconstitutional, such decision or judgment shall not affect the validity of the remaining provisions.


ARTICLE IX. REPEALER.


All ordinances, resolutions, or parts thereof inconsistent herewith are repealed, rescinded, canceled, and annulled to the extent of such inconsistency.

ARTICLE X. EFFECTIVE DATE.

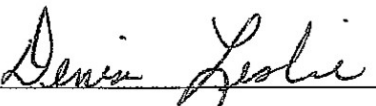
This Ordinance shall be effective upon its adoption by Brookhaven Borough Council and its approval by the Mayor.

DULY ENACTED THIS 2 DAY OF AUGUST 2021 BY
THE COUNCIL OF THE BOROUGH OF BROOKHAVEN.

By: 
Terry Heller, President
Brookhaven Borough Council

Attest: 
John Wilwert
Borough Secretary

APPROVED THIS 2 DAY OF August 2021.

By: 
Denise Leslie, Mayor