

**BOROUGH OF ELMER
COUNTY OF SALEM, NEW JERSEY
ORDINANCE NO. 2024 - 10**

**AN ORDINANCE OF THE BOROUGH OF ELMER, COUNTY OF
SALEM, STATE OF NEW JERSEY AMENDING CHAPTER 4,
ENTITLED GENERAL LICENSING AND BUSINESS
REGULATIONS TO ADOPT SECTION 6, TEMPORARY FOOD
ESTABLISHMENTS**

WHEREAS, it is the purpose of this Ordinance to protect the safety of residents of the Borough of Elmer, to ensure temporary food establishments are properly licensed by both the Borough and the County Board of Health; and

WHEREAS, the Borough of Elmer desires to establish criteria for the licensing of temporary food establishments for the public health, safety and welfare of the residents; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Elmer, County of Salem, State of New Jersey, as follows:

SECTION 1: Adopt Chapter 4-6 entitled “Temporary Food Establishments” in its entirety with the following:

Chapter 4, Section 6 – Temporary Food Establishments

§4-6.1 License Required Canvasser or solicitor defined.

It is unlawful for any temporary food establishment or mobile retail food establishment, as defined in this chapter, to engage in or carry on any business within the Borough without first obtaining a permit and license. Failure to obtain a permit prior to setting up a temporary food establishment or mobile retail food establishment shall constitute a violation of the Ordinance. Each day of solicitation without a valid permit shall constitute a separate violation of the Ordinance.

§4-6.2 – Definitions.

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

COUNTY DEPARTMENT AND DEPARTMENT OF HEALTH — The Salem County Department of Health.

FOOD — Any raw, cooked, processed edible substances, water, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

FOOD TRUCK – A motorized vehicle that is registered and is able to be operated on the public streets of the State of New Jersey, in which ready to eat food is cooked, wrapped, packaged, processed or portioned for sale and distribution.

LAW — Any federal, state and local statutes, ordinances and regulations.

MOBILE RETAIL FOOD ESTABLISHMENT — Any movable restaurant, truck, trailer, van, cart, bicycle or other movable unit including hand carried, portable containers in or on which food or beverage is transported, stored, or prepared for retail sale or given away at temporary locations.

NONPROFIT/COMMUNITY SERVICE ORGANIZATIONS — Those organizations which are exempted from tax by the United States Internal Revenue Service and which present to the Borough a tax exemption number which has been issued to them by that federal agency.

PERSON — Organizations, corporations, unincorporated associations, individual persons, any group of two or more persons, or any other entity, excluding nonprofit/community service organizations.

RETAIL FOOD ESTABLISHMENT — Any fixed or mobile restaurant; coffee shop; cafeteria; short- order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; night club; roadside stand; industrial eating establishment; private, public or nonprofit organization, institution, or group preparing, storing or serving food; catering kitchen; commissary; box lunch establishment; retail bakery; meat market; delicatessen; grocery store; public food market, or any similar place in which food or drink is prepared for retail sale or service on the premises or elsewhere, and any other retail eating or drinking establishment or operation where food is served, handled or provided for the public with or without charge; except that agricultural markets, covered dish suppers or similar type of church or nonprofit type institution meal services shall meet the special provisions of N.J.A.C. 8:24-8, provided further, that any food and beverage vending machine shall meet the requirements of N.J.A.C. 8:24-11.

STATE DEPARTMENT AND DEPARTMENT OF HEALTH — The New Jersey State Department of Health.

TEMPORARY FOOD LICENSE — The license required by any retail food establishment operating under temporary conditions with a duration of two days or less a week.

TEMPORARY RETAIL FOOD ESTABLISHMENT — Any retail food establishment which operates at a fixed location for a temporary period of time in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering, including church suppers, picnics or similar organizational meetings, mobile retail food establishments, as well as agricultural markets.

§4-6.3 –Temporary Food License

A. No person shall conduct, maintain or operate a temporary food stand, concession or mobile food establishment in the Borough who does not possess the appropriate license from the County Board of Health and temporary license from the Borough.

B. Each such temporary license shall not be transferable and shall continue in full force in effect for a 30-day period; however, operation of the temporary food establishment must not exceed two (2) days per week, Monday through Sunday, within that 30-day period, unless sooner revoked or suspended.

C. Each temporary food stand, concession or mobile food establishment must be moved immediately upon the conclusion of the operation of the event period, with the exception that if the event is two (2) consecutive days the temporary food stand, concession or mobile food establishment may remain and be moved immediately at the conclusion of the second day.

D. Every owner or operator of a temporary food establishment shall be required to obtain a temporary license for each establishment.

E. The license procedure for such temporary license is as follows:

- (1) There shall be an annual application fee of \$150 per temporary license.
- (2) This fee shall accompany the application for the license which shall be submitted to the Borough Clerk or the Borough Police Department not less than five (5) business days prior to the commencement of operation of the temporary food concession. The Borough Clerk or Borough Police Department shall issue such license not later than two (2) days before the license is required to operate.
- (3) The license shall be conspicuously displayed in a prominent place at the temporary food concession.
- (4) There shall also be an inspection obtained from the Bureau of Fire Prevention prior to each event and/or relocation of the temporary food establishment. There shall be a fee in the amount of \$54 per inspection.
- (5) The owners/ operators of temporary food establishments shall also conduct, maintain and operate his/her food stand in compliance with the requirements of this article herein and all other applicable laws and regulations.
- (6) Any movable restaurant, truck, van, etc., shall be defined as a mobile retail food establishment.

§4-6.4 – Temporary Food License – Nonprofit/Community Service Organizations

Any temporary food establishment operated by any nonprofit community or service organization as well as local government, public schools, volunteer fire departments, rescue squads, or recreational sports organizations shall also be required to complete the temporary license procedure as outlined in §4-6.3 E, but shall be exempt from the annual application fee.

§4-6.5 – Application.

Each applicant for a temporary food license shall complete the application and provide all information requested on the application. When requested to do so, each applicant shall provide satisfactory proof to the Borough of any representation contained in the application. Failure to do so shall result in a denial of a license. If there is a material misrepresentation or omission in an application, any temporary license issued on the basis of same or aforesaid application shall be revoked or suspended.

§4-6.6 – Revocation

A. Any license issued under the terms and provisions of this article may be suspended or revoked by the Borough for the violation by the licensee of any provision of this

section, or Chapter XII of the State Sanitary Code of New Jersey, or whenever it shall appear that the business, trade, calling, profession or occupation of the person, firm, or corporation to whom such license was issued, is conducted in a disorderly or improper manner, or in violation of any law of the United States, State of New Jersey, or any ordinance of the Township, or that the person or persons conducting the retail food establishment is of an unfit character to conduct the same or that the purpose for which the license has been issued is being abused to the detriment of the public, or is being used for the purpose foreign to that for which the license was issued.

B. There shall be no refund if any license is suspended or revoked.

C. If any such license shall have been revoked, neither the holder thereof nor any person acting for him, directly or indirectly, shall be entitled to another license to carry on the same business within the Borough, unless the application for such license shall be approved by the Borough Council.

§4-6.7 – Enforcement

This chapter shall be enforced by the Borough Police Department and the Fire Prevention Bureau in the Borough of Elmer Fire Department.

§4-6.8 – Violations and Penalties

Any person, firm or corporation who shall violate a provision of this section, or fail to comply therewith, or who shall violate or fail to comply with any order or regulation made thereunder, shall severally for each and every such violation and noncompliance upon conviction thereof, be liable to the penalty state in Chapter 1, Section 1-5. Any person who is found to be in violation of the provisions of this Ordinance shall be subject to a fine of \$250 per date of violation. In addition to the penalties herein provided, any license issued to such person violating the same shall be subject to revocation, provided, however, that notice of such proposed revocation shall be given to said licensee and a hearing given to him in accordance with the provisions of this section. There shall be no refunds to a licensee upon the surrender or revocation of a license granted under this section.

Section 2.

Repealer.

All prior Ordinances or parts of Ordinances inconsistent with this Ordinance be and the same are hereby repealed to the extent of such inconsistencies.

Section 3.

Severability.

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section 4.

Ordinance shall become effective immediately upon final passage and publication as required by law. Introduced at a regular meeting of Borough Council on June 12, 2024 and passed upon a second reading of Borough Council held on July 10, 2024.

BOROUGH OF ELMER

**BY: _____
Joseph Stemberger, Mayor**

ATTEST:

**Sarah D. Walker
Registered Municipal Clerk**

ROLL CALL VOTE as follows:

	<u>MOTION</u>	<u>SECOND</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Schneider	_____	_____	_____	_____	_____	_____
Davis	_____	_____	_____	_____	_____	_____
Foster	_____	_____	_____	_____	_____	_____
Nolan	_____	_____	_____	_____	_____	_____
Schalick	_____	_____	_____	_____	_____	_____
Zee	_____	_____	_____	_____	_____	_____

NOTICE

The Ordinance published herein was introduced and passed upon first reading at a meeting of the Mayor and Council of the Borough of Elmer, in the County of Salem and State of New Jersey, held on July 10, 2024. It will be further considered for final passage, after public hearing hereon, at a meeting of said Mayor and Council to be held in the Borough Hall, 120 South Main Street, Elmer, New Jersey 08318, on August 14, 2024 at 7:30 P.M. During the week prior and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's office at Borough Hall, 120 South Main Street, in the Borough, to the members of the general public who shall request the same.

Sarah D. Walker
Registered Municipal Clerk