

**DALLAS TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA
ORDINANCE #2021-1**

An Ordinance of Dallas Township, Luzerne County, Pennsylvania, Regulating Mobile Food Facilities and Booths

Section 101. Title. This Ordinance may be known and cited as the “Dallas Township Mobile Food Facilities Ordinance”.

Section 102. Purpose. The Township of Dallas wishes to regulate, control, and otherwise inspect entities known and identified as Mobile Food Facilities and Booths within the Township for the purpose of ensuring the public health, safety and welfare of the residents of Dallas Township along with the people patronizing Mobile Food Facilities and Booths.

Section 103. Definitions. The following words and phrases when used in this Ordinance shall have, unless the context clearly indicates otherwise, the meanings given to them in this Section:

"Alley"- means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

“Board of Supervisors”- means the governing body of Dallas Township, Luzerne County, Pennsylvania.

“Booth”– means a structure at a fixed location on Land within the Township at any given time to be used for a limited duration to sell or offer to sell prepackaged food or prepared food. A Booth may be located adjacent to or near a Mobile Food Facility during events at which multiple Mobile Food Facilities gather.

“Code Enforcement Officer”- means the person appointed by the Board of Supervisors to administer and enforce the Dallas Township Code of Ordinances, including this Ordinance.

"Land"- means a designated parcel, tract or area of real property established by a plat or otherwise as permitted by law and to be used, developed or built upon within the Township.

"Landowner"- means the legal or beneficial owner or owners of Land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the Landowner, or other person having a proprietary interest in Land.

“Mobile Food Facility”- means a Mobile Vehicle, including, but not limited to, what is commonly known as a food truck, which is used to sell or offer to sell prepackaged food or prepared food and having a temporary stationary location on Land within the Township at any given time. This term does not include a Mobile Vehicle used for catering of prepared food to a specific location not open to the public for a limited duration. This Ordinance does not require a permit for the operation of a Mobile Food Facility or Booth during special events, such as Township sponsored events where one or more Mobile Food Facilities would be gathered.

“Mobile Vehicle”- means a motor vehicle, including a trailer or other portable unit, which is attached to a motor vehicle that is intended for use in the sale of prepackaged food or prepared food. The term includes any device by which any person or property is or may be transported on a road such as a food truck. The term shall not include pushcart vending or roadside markets, as they are regulating by zoning as a temporary use.

“Operate” “Operating” or “Operation”- means to sell or offer to sell products from a Mobile Vehicle or Booth.

“Owner”- includes the person Operating a Mobile Food Facility or Booth or entitled to the use and possession of the Mobile Food Facility or Booth; the person, other than a lienholder, having the right in or title to the Mobile Food Facility; the Landowner upon which a Mobile Food Facility or Booth is operating; and/or the applicant of a permit under this Ordinance.

"Park" or "Parking"- means the temporary storing or halting of a Mobile Food Facility, whether in operation or not, on Land.

“Person”- includes any individual, firm, partnership, limited liability partnership, limited liability company, cooperative, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a Mobile Food Facility or Booth in the absence of the principal.

“Prepackaged Food”- means no preparation or assembly of foods or beverages takes place. The food or beverages are packaged or made up in advance in a container or wrapped and ready for offer to the consumer, or is in a form that is edible without washing, cooking, or additional preparation.

“Prepared Food”- means to cook, prepare and assemble food items or beverage products.

“Pushcart Vending”-means a cart that is limited to minimal cooking, holding and serving of plated, wrapped, or frankfurter-like foods.

“Right-of-Way”- means the legal right, established by usage or grant, to pass along a specific route through grounds or property belonging to another. A public right of way is a public right to travel unhindered over a piece of Land, even if that Land is privately owned. For purposes of this Ordinance, this term is in reference to roads or streets that are located within the Township.

“Road” or “Street”- means the entire width between the boundary lines of every way publicly or privately maintained when any part thereof is open to the use of the public for purposes of vehicular travel and the terms include that portion of a highway, road or street improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm or shoulder.

“Roadside Markets”- means a nonmobile stationary location selling raw agricultural commodities, prepackaged foods, or other products to consumers.

“Stationary Location”- means the position of the Mobile Food Facility when not in motion, and selling or offering the sale of prepacked food or prepared food to the consumer.

"Stand" or "Standing" – means the temporary halting of a Mobile Food Facility.

"Stop" or "Stopping" - means complete cessation from movement of a Mobile Food Facility for a fixed period of time.

"Township" - means Dallas Township, Luzerne County, Pennsylvania.

Section 104. Applicability. This Ordinance shall not apply to:

- A. Any catering of prepared food to a specific location not open to the public for a limited duration of not more than ten times per year or for a special occasion less than four times per year.
- B. The operation of a Mobile Food Facility or Booth during special events, such as Township sponsored events where one or more Mobile Food Facilities or Booths would be gathered.
- C. The operation of a Mobile Food Facility or Booth previously permitted by the Township or the Zoning Hearing Board as to the conditions of approval previously imposed only when those conditions conflict with the regulations of this Ordinance. This Ordinance shall regulate that previously approved Mobile Food Facility or Booth in all other respects.

Section 105. Violation; Permit Required. It is unlawful for any Person or Owner to operate a Mobile Food Facility or Booth on any Land within the Township except in compliance with the requirements of this Ordinance. Every person operating a Mobile Food Facility or Booth must first obtain a permit from the Code Enforcement Officer prior to operating the Mobile Food Facility or Booth within the Township.

Section 106. Permit Fee.

- A. The annual permit fee for a Mobile Food Facility or Booth shall be fifty (\$50.00) dollars. This fee may be changed from time to time by resolution of the Board of Supervisors.
- B. The one-time use permit fee for a Mobile Food Facility or Booth shall be twenty-five (\$25.00) dollars. This fee may be changed from time to time by resolution of the Board of Supervisors.
- C. Each Mobile Food Facility or Booth shall be permitted separately.
- D. The annual permit fee shall be valid for the calendar year in which it is issued ending December 31st.
- E. The annual permit fee shall not be prorated.
- F. No refund shall be made for a Mobile Food Facility or Booth that is discontinued during the calendar year.

Section 107. Permit Applications.

- A. An applicant for a permit shall apply not less than thirty (30) days prior to the anticipated operation of the Mobile Food Facility or Booth in the Township.

B. An application for a permit shall require the following information:

- (1) Name of Applicant.
- (2) Legal name of business or entity.
- (3) EIN Number.
- (4) State of incorporation and copies of the filing of the partnership or corporate entity with the state corporation bureau.
- (5) If applicable, the current listing of directors, partners, officers, shareholders, members, owners or principles. Publicly traded companies are exempt from this requirement.
- (6) Sales tax number with a copy of the sales tax permit.
- (7) A copy of the fully executed ground lease or license or other signed and written permission from the Landowner.
- (8) Name, phone number, and driver license number of the Owner of the Mobile Food Facility or Booth.
- (9) Contact name and phone number for the Mobile Food Facility or Booth while in operation within the Township.
- (10) Description of products being sold from the Mobile Food Facility or Booth.
- (11) Description and number of any attached signage.
- (12) Vehicle identification number, license plate number and state, and copy of insurance and vehicle registration of the Mobile Vehicle used to operate the Mobile Food Facility.
- (13) Make, Model and Year of the Mobile Vehicle used to operate the Mobile Food Facility.
- (14) Plot plan showing the location of the Mobile Food Facility or Booth when parked or located on Land, including setbacks from the Mobile Food Facility or Booth to the property lines (front, side and rear) and the location and number of designated parking spaces for the Mobile Food Facility or Booth.
- (15) A copy of the license issued to the Mobile Food Facility or Booth by the Pennsylvania Department of Agriculture.
- (16) A copy of a current Food Handler Certificate issued by ServSafe to the Person who will be operating the Mobile Food Facility.
- (17) Evidence of Insurance as provided in Section 109 R.

Section 108. False Information. It shall be unlawful for any person subject to the provisions of this Ordinance to make a false application for a permit, or to give or file, or direct the giving or filing of, any false information with respect to the permit required by this Ordinance.

Section 109. Mobile Food Facility and Booth Regulations.

A. A Mobile Food Facility shall not park, stand, stop and operate:

- (1) In any public or private road or Right-of-Way.
- (2) Within fifty (50) feet of the primary entrance of any Land having another use.
- (3) In violation of the Pennsylvania Vehicle Code.

B. A Mobile Food Facility shall not operate at a Stationary Location for a duration exceeding ten (10) hours during any twenty-four (24) hour period.

C. A Mobile Food Facility or Booth shall not operate on Land where the access could become congested and in a manner that impedes vehicular or pedestrian traffic. A Mobile Food Facility or Booth shall not cause any congestion of traffic flow, and, if vehicular traffic or pedestrian flow becomes congested, the Owner of the Mobile Food Facility shall immediately and without delay vacate the Land so as to allow for the free flow of traffic and relief of the congestion.

D. A Mobile Food Facility or Booth shall only be open for business between the hours of 7:00 am and 9:00 pm, Monday through Saturday.

E. A Mobile Food Facility or Booth will not be allowed in the following Zoning Districts: (R-1), (R-2), (S-1) and (R-MHP).

F. No Mobile Food Facility or Booth may operate on any private Land without written permission from the Landowner, and must comply if asked to leave by the Landowner.

G. Any signage identifying or advertising the Mobile Food Facility or Booth shall be affixed to the Mobile Food Facility or Booth and must only advertise the name and products being sold or offered for sale from the Mobile Food Facility or Booth. No moving objects used to attract attention to the Mobile Food Facility shall be permitted. Flashing, blinking, twinkling, animated or moving signs are prohibited. Signs which emit smoke, visible vapors or particles, sound or odor are prohibited. Balloons that are greater than fifty (50) cubic feet that are tethered to the Land or any Mobile Food Facility or Booth or other structure are prohibited. Neon lighting of more than ten (10) square feet shall be prohibited.

H. No lighting from a Mobile Food Facility or Booth shall illuminate any public Right-of-Way or adjoining property. Flood lights and lasers are prohibited.

I. Every Mobile Food Facility or Booth shall provide a portable waste receptacle for customers and the Owner shall be responsible for proper disposal of the receptacle daily. Waste receptacles may not be left out when the Mobile Food Facility or Booth is not open for business.

J. Waste water from a Mobile Food Facility or Booth shall not be drained onto the ground or any public or private roadway, or be deposited into any storm or sewer drain outlet.

K. Continuous music or repetitive sounds shall not project from the Mobile Food Facility or Booth. Generator noise shall be minimized so as not to offend neighboring property owners, and the Owner shall otherwise remain in compliance with the Township Nuisance Ordinance.

L. A five (5) foot clear space must be maintained around the Mobile Food Facility or Booth at all times, except for a permitted portable waste receptacle. A Mobile Food Facility or Booth shall be located not less than twenty-five (25) feet from a side yard line and not less than thirty (30) feet from a rear yard line.

M. A no smoking sign must be posted next to the order window on the Mobile Food Facility or Booth.

N. A fire extinguisher having a current inspection tag with a 10 BC rating and a fire extinguisher having a current inspection tag with a Class K rating shall be kept accessible at all times in the Mobile Food Facility or Booth.

O. Proper electrical power shall be maintained and installed as per the International Electrical Code. Extension cords running from any residential living space for power will not be allowed. Extension cords from a commercial use or business shall not run across areas accessible to the public, and vehicular and pedestrian travel.

P. Public restroom facilities must be available upon the Land where the Mobile Food Facility or Booth is located while it is operating. Informational signs directing the public on where and how to access the restrooms must be posted at the order window while the Mobile Food Facility or Booth is operating on the Land.

Q. A minimum of ten (10) off-street parking spaces shall be made exclusively available on the Land for the Mobile Food Facility or Booth while it is open for business. All off-street parking spaces shall be located within one hundred (100) feet walking distance of the Mobile Food Facility or Booth. Every other use of the Land shall also meet the minimum number of off-street parking space requirements for that use as per the Dallas Township Zoning Ordinance. This shall be in addition to the minimum number of off-street parking spaces for the Mobile Food Facility or Booth. The Mobile Food Facility or Booth shall not obstruct parking and access aisles serving other uses on the Land no matter whether or not those other uses are open for business when the Mobile Food Facility or Booth is in operation.

R. Every Mobile Food Facility or Booth Owner doing business in the Township must furnish evidence of comprehensive public liability insurance coverage for not less than \$300,000.00 in the event of bodily injury, including death, and, if applicable, and proof of workers' compensation insurance or an affidavit that the Owner has no employees. Such evidence shall be in the form of a certificate with 10 days' cancellation notice, which shall be furnished to the Township with the application for a permit. Failure to maintain the required insurance will be considered sufficient reason for the Township to deny or revoke the permit and shall subject the Owner to fines and or penalties under this Ordinance.

Section 110. Display and Transfer of Permit. All persons shall display the permit issued to them on the original form provided by the Code Enforcement Officer in a conspicuous place clearly visible from the outside of the Mobile Food Facility or Booth. A permit shall not be transferable and a transfer of controlling interest shall be considered a termination of the old permit and the establishment of a new Mobile Food Facility or Booth requiring a new permit.

Section 111. Denial of Permit. No application for a permit shall be denied if it is in compliance with this Ordinance. If a permit is denied, the Code Enforcement Officer shall send the Owner written notice of the denial, along with the reasons for denial, within thirty (30) calendar days of receipt of the application for a permit by the Code Enforcement Officer. The Owner has the right to appeal the denial of the permit under Section 113 of this Ordinance.

Section 112. Revocation of Permit. Any permit issued may be subsequently revoked by the Code Enforcement Officer when the Code Enforcement Officer finds that the information contained in the application for a permit is false, or when the Owner is operating in violation of this Ordinance (after notice and an opportunity to cure or appeal was first given to the Owner). A permit may only be revoked by the Code Enforcement Officer after written notice to the Owner describing the violation of this Ordinance or the condition of the permit citing the applicable sections of this Ordinance. The Owner has the right to appeal the revocation of the permit under Section 113 of this Ordinance.

Section 113. Notice/Service; Corrective Measures; Appeal Rights.

A. Notice/Service. The Code Enforcement Officer shall have authority to give notice, by personal service, posting of the Mobile Food Facility, or by regular United States mail, postage prepaid, to any Owner violating this Ordinance, or when denying or revoking a permit. Notice by personal service or posting shall be effective immediately, and notice by regular United States mail shall be effective three (3) calendar days after the date of mailing.

B. Corrective Measures. For a violation, the notice shall direct compliance with this Ordinance within ten (10) calendar days following service of the notice. Any notice issued for a violation of this Ordinance shall be sufficient to constitute notice of any subsequent violation provided that the violation is for the same section of this Ordinance and the violation occurs within the same calendar year.

C. Appeal. Any person directly affected by a determination of the Code Enforcement Officer shall have the right to appeal to the Board of Supervisors, provided that a written application for appeal is filed within ten (10) calendar days after the day the notice was served or the permit issued.

D. Stays of enforcement. Appeals of notices or permits issued by the Code Enforcement Officer (except for a revocation of a permit) shall stay the action or enforcement of the notice until the appeal is heard by the Board of Supervisors.

E. Appeals to Court of Common Pleas. Any person aggrieved by any decision of the Board of Supervisors may appeal to the County Court of Common Pleas of Luzerne County within thirty (30) days of the mailing of the decision of the Board of Supervisors to the appellant.

Section 114. Enforcement and Administration. The Code Enforcement Officer or their delegate.

Section 115. Penalties. Any Person or Owner who violates or permits the violation of this Ordinance shall be guilty of a summary offense, and, upon conviction, shall be sentenced to pay a fine of not more than one thousand (\$1,000.00) plus the costs of prosecution, and, in default of payment of fine and costs, to imprisonment for a term of not more than thirty (30) days; or a civil penalty of not more than six hundred (\$600.00) Dollars together with court costs and reasonable attorney fees. A violation of this Ordinance shall arise for each day of the violation; and each applicable section of the ordinance.


Section 116. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 117. Repealer. All Township ordinances or parts thereof which are inconsistent with this Ordinance are hereby repealed to the extent of their inconsistencies.

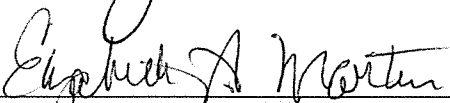
Section 118. Effective Date. This Ordinance shall become effective immediately following its adoption.

ENACTED AND ORDAINED THIS 2nd DAY OF MARCH, 2021.

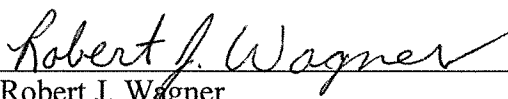
DALLAS TOWNSHIP BOARD OF SUPERVISORS



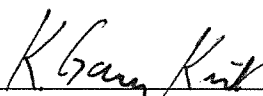
William J. Grant, Chairman



Elizabeth A. Martin, Vice-Chairman



Robert J. Wagner

ATTEST: 

K. Gary Kirk, Secretary/Treasurer

Seal:

