

**KINGSTON TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA
ORDINANCE NO. O-2025- 5**

**AN ORDINANCE OF KINGSTON TOWNSHIP, LUZERNE COUNTY,
PENNSYLVANIA, AMENDING CHAPTER 27 (ZONING) OF THE KINGSTON
TOWNSHIP CODE TO SET FORTH REQUIREMENTS FOR MOBILE FOOD
FACILITIES AS PERMITTED USES IN B-1 NEIGHBORHOOD COMMERCIAL
DISTRICTS AND B-2 GENERAL COMMERCIAL DISTRICTS**

WHEREAS, Kingston Township wishes to regulate, control, and otherwise inspect entities known and identified as "mobile food facilities" within the Township for the purpose of ensuring the public health, safety, and welfare of the residents of the Township and patrons of such facilities; and

WHEREAS, the purpose of this ordinance is to set forth requirements for mobile food facilities.

NOW THEREFORE KINGSTON TOWNSHIP HEREBY ORDAINS, and it is hereby enacted and ordained as follows:

SECTION 1: Kingston Township Code Chapter 27 (Zoning), Section 507 (B-1 Neighborhood Commercial District), Subsection 1. (Permitted Uses) is amended by adding before "Accessory uses to the above" the following:

Mobile food facilities, subject to the requirements set forth at § 352

SECTION 2: Kingston Township Code Chapter 27 (Zoning), Section 508 (B-2 General Commercial Districts), Subsection 1. (Permitted Uses) is amended by adding before "Accessory uses to the above" the following:

Mobile food facilities, subject to the requirements set forth at § 352

SECTION 3: Kingston Township Code Chapter 27 (Zoning), Part 3 (General Provisions) is amended by adding a new Section numbered "352" entitled "Mobile Food Facilities" and providing as follows:

1. **Definitions.** The following definitions shall apply to this Section unless the context clearly requires otherwise; in this Section, the singular shall include the plural and the plural the singular, unless the context clearly requires otherwise.

MOBILE FOOD FACILITY

A movable retail food facility, such as a stand, vehicle, cart, basket, box, or similar structure, from which food or beverages are stored, prepared, processed, distributed, or

sold, and which may be self-propelled, pulled, or pushed down a sidewalk, street, or highway. This definition shall not include: a non-movable facility or structure, such as a semi-permanent farmstand; a facility from which farm or agricultural products are made available for sale during a farmers' market; farmers selling their own produce; and ice cream trucks, being a specialized vehicle selling ice cream, frozen yogurt, frozen custard, Italian ice or similar products, so long as the ice cream truck is not at any stationary location for a period in excess of 10 minutes.

OWNER

Every person having legal or equitable title to or any interest in a mobile food facility.

PERSON

Includes a natural person, corporation, partnership, limited liability company, business trust, joint venture, other association, estate, trust, or other legal or commercial entity, and including their respective heirs, personal representatives, transferees, successors and assigns, including but not limited to the owner of a mobile food facility and the agent or employee having charge or control of a mobile food facility in the absence of the owner.

2. Applicability. This Section shall not apply to:
 - A. A mobile food facility that is exempt from licensure requirements under the Retail Food Safety Act, as indicated in 7 Pa. Code § 46.1141(b) and any amendments thereto.
 - B. The operation of a mobile food facility at a Kingston Township-sponsored public event, a pre-arranged neighborhood block party, a community event sponsored by a nonprofit, charitable, religious, or other community organization at its premises, or a public gathering for which a permit has been issued under Chapter 13, Part 1 (Public Exhibitions and Amusements) of the Kingston Township Code.
 - C. The operation of a mobile food facility as a private food and beverage caterer, provided, that:
 - i. The mobile food facility shall be parked entirely on private property.
 - ii. Service shall be limited to guests of the catering event host only, not the general public.
 - iii. Payment shall occur directly between the catering event host and the mobile food facility operator. No payment transactions shall occur for individual orders.

3. Mobile food facility permit required; Application required; Issuance of permit; Term of permit.
 - A. It shall be unlawful for any person to operate or permit the operation of a mobile food facility in Kingston Township where food or beverages are served to the public, without a Mobile food facility permit issued by the Township. A separate Mobile food facility permit shall be required for each mobile food facility operating in the Township.
 - B. Any person owning or operating or desiring to operate a mobile food facility within Kingston Township shall make application for a mobile food facility permit to the Kingston Township Zoning Officer on a mobile food facility permit application furnished by the Township.
 - C. A mobile food facility permit application shall be filed not less than thirty (30) days prior to the mobile food facility's anticipated opening date.
 - A. A mobile food facility permit shall be issued by the Kingston Township Zoning Officer within thirty (30) days of acceptance by the Zoning Officer of a completed mobile food facility permit application package, *provided*, that no good cause exists to deny the permit under this ordinance. The Zoning Code Enforcement Officer shall not accept an incomplete application package. A completed application package shall consist of the fully filled out and fully executed mobile food facility permit application; all required information and documentation; and payment of the mobile food facility permit fee. The Zoning Officer shall notify the Applicant in writing whether the application package is complete within ten business days of receipt of the application package. If the application package is complete, it shall be considered accepted as of the date of mailing or emailing of the notice to the Applicant. If the application package is incomplete, the Zoning Officer shall advise the Applicant in writing of any deficiencies that must be addressed before the application package will be considered complete.
 - D. Unless suspended or revoked, an initial mobile food facility permit shall expire on December 31 of the year in which the initial permit is issued. An unexpired permit may be renewed as set forth in § 6.C. of this ordinance. A renewed permit shall be effective on January 1 and, unless suspended or revoked, shall expire on December 31 of the year for which the renewed permit is issued.
4. Mobile food facility permit application; Continuing obligation to provide accurate information and documentation; Renewal of permit.
 - A. A mobile food facility permit application shall require, at a minimum, the following information and documentation:

- (1) Name, address, telephone number, email address, and copy of valid driver license, of: the person applying for the mobile food facility permit; every owner of the mobile food facility; and every agent or employee having charge or control of the mobile food facility in the absence of the owner.
- (2) Name, registered business address, telephone number, and email address of the business entity operating the mobile food facility.
- (3) Copy of current valid mobile Food Facility License issued to the mobile food facility by the Pennsylvania Department of Agriculture.
- (4) Proof of registration for and compliance with all local income tax requirements for employers or self-employed persons.
- (5) A certificate of insurance providing general liability insurance of not less than \$500,000.00 per occurrence, listing Kingston Township, its officers, agents and employees as additional insureds. Each owner shall indemnify Kingston Township against any and all claims, losses, injuries or damages to person or property, including attorney fees and court costs, for any claim, loss, injury or damage incurred as a result of any act of the Township, its officers, agents and employees, the owner, and the employees or agents of the owner.
- (6) Proof of workers' compensation insurance; or an affidavit by each owner of the mobile food facility affirming that workers' compensation insurance is not required, and stating the specific reason why such insurance is not required.
- (7) Copy of current vehicle registration card for the mobile food facility.
- (8) Description of the mobile food facility, including without limitation, color photos of the front, rear, sides, inspection sticker, and license plate of the mobile food facility; color photos of all signage affixed or to be affixed to the mobile food facility; and description of all products sold or to be sold from the mobile food facility.
- (9) If available at the time of filing the application, or as soon as possible after filing the application or issuance of the mobile food facility permit, the name, address, telephone number, and email address of each owner of the property upon which the mobile food facility proposes to operate, and a copy of the fully executed ground lease, license, or other written permission from each property owner.
- (10) A verification by each owner of the mobile food facility, that all statements and information in the mobile food facility permit application package are true and

correct to the best of the individual owner's knowledge, information, and belief; and that the owner makes such statements subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

- B.** Information and documentation submitted to the Kingston Township Zoning Officer as part of a mobile food facility permit application package shall constitute continuing representations of existing facts and circumstances. Any change, at any time (regardless of whether a mobile food facility permit has been issued, renewed, or is still under consideration) relating to any information or documentation submitted as part of a mobile food facility permit application package, shall be reported within five (5) days of such change to the Township Zoning Officer.
- C.** An unexpired mobile food facility permit may be renewed by submitting to the Kingston Township Zoning Officer, at least twenty-one (21) days before the expiration of the permit: a copy of the mobile food facility's then-current mobile Food Facility License issued by the Pennsylvania Department of Agriculture; a permit renewal affidavit swearing or affirming that all changes relating to any information or documentation submitted as part of the mobile food facility's mobile food facility permit application package have been reported to the Zoning Officer; and payment of the mobile food facility permit renewal fee.
- D.** The Kingston Township Zoning Officer is directed to prepare a mobile food facility permit application form and a permit renewal affidavit pursuant to the requirements herein. In the absence of such a prepared application form or affidavit, the application or affidavit required by this ordinance shall be in a writing prepared by the owner and conforming to the requirements of this ordinance.

5. Permit fee; Renewal fee.

- A.** The mobile food facility permit fee and the mobile food facility permit renewal fee shall be as set forth by resolution in the Kingston Township Schedule of Fees in effect at the time of the application or renewal.
- B.** Fees under this ordinance shall be nonproratable, nonrefundable, and nontransferable.

6. False information unlawful. It shall be unlawful for any person subject to the provisions of this ordinance to make a false mobile food facility permit application or permit renewal affidavit, or to give or file, or direct the giving or filing of, any false information or documentation with respect to the application package or the affidavit required by this ordinance.

7. Mobile food facility regulations.

- A.** A mobile food facility shall operate only on private land located in a Neighborhood Commercial District (B-1) or in a General Commercial District (B-2).
- B.** No mobile food facility may operate on any private land without written permission from the landowner.
- C.** A mobile food facility shall not park, stand, stop, or operate:
 - (1)** In any public or private road or right-of-way.
 - (2)** Within 50 feet of the primary entrance of any land having another use.
 - (3)** In violation of the Pennsylvania Vehicle Code.
- D.** A mobile food facility shall not operate on land where access could become congested, and shall not operate in a manner that impedes vehicular or pedestrian traffic. A mobile food facility shall not cause any congestion of vehicle traffic or pedestrian flow, and if vehicle traffic or pedestrian flow becomes congested, the owner of the mobile food facility, or the agent or employee having charge or control of the mobile food facility in the absence of the owner, shall immediately and without delay vacate the land so as to allow for the free flow of vehicular and pedestrian traffic, and relief of congestion.
- E.** A mobile food facility shall operate only between the hours of 6:00 a.m. and 11:00 p.m., Monday through Sunday.
- F.** Signage identifying or advertising a mobile food facility shall be affixed to the mobile food facility and shall advertise only the name and products being sold or offered for sale from the mobile food facility. The following signage is prohibited: Moving objects used to attract attention to the mobile food facility; flashing, blinking, twinkling, animated, or moving signs; signs which emit smoke, visible vapors or particles, sound, or odor; balloons that are greater than 50 cubic feet that are tethered to the land or the mobile food facility or other structure; and neon signage of more than 10 square feet.
- G.** No lighting from a mobile food facility shall illuminate any public or private road or right-of-way, or any property adjoining the property upon which the mobile food facility is permitted to operate. Floodlights and lasers are prohibited.
- H.** Every mobile food facility shall provide a portable waste receptacle for customers. The owner of the mobile food facility and the person in charge of the mobile food facility in the absence of the owner, shall be responsible for proper disposal of the receptacle daily. Waste receptacles may not be left outdoors when the mobile food

facility is not in operation.

- I. Wastewater from a mobile food facility shall not be drained onto the ground, onto any public or private road or right-of-way, or into any storm or sewer drain outlet.
- J. Music or repetitive sounds shall not project from the mobile food facility. Generator noise shall be minimized so as not to offend the owners or occupants of neighboring properties.
- K. A five-foot clear space shall be maintained around the mobile food facility at all times, except for portable waste receptacles. A mobile food facility shall be located not less than 25 feet from a side yard line, not less than 30 feet from a rear yard line, and not less than 50 feet from any road.
- L. A no-smoking sign shall be posted next to the order window on the mobile food facility. Smoking is prohibited within twenty (20) feet of a mobile food facility during the facility's hours of operation.
- M. A tagged fire extinguisher with a 10 BC rating and a Class K fire extinguisher shall be kept accessible at all times in the mobile food facility.
- N. Proper electrical power shall be installed and maintained in compliance with the International Electrical Code. Extension cords running from any residential structure for power are prohibited. Extension cords from a commercial use or business shall not run across areas accessible to the public or to vehicular and pedestrian travel.
- O. A minimum of 10 off-street parking spaces shall be made exclusively available on the land for the mobile food facility while it is in operation. All such off-street parking spaces shall be located within 100 feet walking distance of the mobile food facility. In addition to and separate from the minimum number of off-street parking spaces for the mobile food facility, every other use of the land shall meet the minimum number of off-street parking space requirements for that use as per the Kingston Township Zoning Ordinance.¹ The mobile food facility shall not obstruct parking and access aisles serving other uses on the land, regardless of whether those other uses are open for business when the mobile food facility is in operation.
- P. No mobile food facility may park or stop to serve customers within a 150 feet radius of any principal customer entrance to any restaurant or food establishment serving food products during that establishment's hours of operation.

¹ **Editor's Note: See Ch. 27, Zoning**

- Q.** A mobile food facility shall at all times be attended by at least one person who is at least 18 years of age and licensed to operate a motor vehicle.
- R.** No mobile food facility shall use utilities (including electric, water, or wastewater) of Kingston Township without the written consent of the Kingston Township Board of Supervisors.
- 8.** Display and transfer of permit.
- A.** The original mobile food facility permit shall be displayed in a conspicuous place on the mobile food facility.
- B.** A mobile food facility permit shall not be transferable. A transfer of a controlling interest in a mobile food facility shall constitute a termination of the existing permit and the establishment of a new mobile food facility requiring a new permit.
- 9.** Denial of permit; Appeal of denial.
- A.** Upon a finding of good cause under this ordinance, the Kingston Township Zoning Officer shall deny the issuance of a mobile food facility permit. If a permit is denied, the Zoning Officer shall, within 30 days of acceptance of the completed mobile food facility permit application package, provide the owner of the mobile food facility written notice of the denial along with the reasons for denial.
- B.** A mobile food facility owner shall have the right to appeal the denial of a mobile food facility permit under § 11 of this ordinance.
- 10.** Revocation of permit; Order to close.
- A.** A mobile food facility permit may be revoked by the Kingston Township Zoning Officer when the Zoning Code Enforcement Officer finds that the information contained in the mobile food facility permit application package or the mobile food facility permit renewal affidavit is false, or when the mobile food facility is operated in violation of any provision of this ordinance. A permit may be revoked by the Zoning Code Enforcement Officer only after service of written notice to the owner of the mobile food facility as provided in § 13 of this ordinance. A mobile food facility owner shall have the right to appeal the revocation of a mobile food facility permit under § 13 of this ordinance.
- B.** When it appears to the Kingston Township Zoning Officer that the operation of the mobile food facility poses an immediate and imminent threat to the public health, safety, or welfare of the residents of the Township or patrons of the mobile food

facility that will occur if the facility is not immediately closed, the Zoning Code Enforcement Officer shall have the power to order the immediate closure of the facility until such time that the immediate and imminent threat has been remedied or the Kingston Township Zoning Hearing Board overrules the determination of the Zoning Officer.

11. Notice/service; Corrective measures; Appeal rights; Penalties.

- A. Notice/Service.** The Kingston Township Zoning Officer shall have authority to give written notice, by personal service, or by posting on the mobile food facility, or by regular United States Mail, to any person who violates or permits any violation of this ordinance, or when denying or revoking a mobile food facility permit. Notice by personal service or posting shall be effective immediately, and notice by regular United States Mail shall be effective three calendar days after the date of mailing.
- B. Corrective measures.** For violations of this ordinance, the written notice shall describe each violation, describe action that the alleged violator must take to cure or correct the violation, and direct the alleged violator to take such action within ten (10) calendar days following service of the notice. Any written notice issued for any violation of this ordinance shall be sufficient to constitute notice of any subsequent violation, *provided* that the violation is for the same provision of this ordinance and the violation occurs within the same calendar year.
- C. Appeal.** Any person directly affected by a determination of the Kingston Township Zoning Officer shall have the right to appeal the determination to the Kingston Township Zoning Hearing Board, *provided* that a written application for appeal is filed with the Kingston Township Zoning Officer within 10 calendar days after the day the written notice was served or the permit issued.
- D. Stay of enforcement.** Appeal of a written notice issued by the Kingston Township Zoning Officer (except for a revocation of a permit) shall stay the action or enforcement of the notice or permit until the appeal is heard by the Kingston Township Zoning Hearing Board.
- E. Appeal to Court of Common Pleas.** Any person aggrieved by any decision of the Kingston Township Zoning Hearing Board may appeal to the Luzerne County Court of Common Pleas within 30 days of the date the decision is mailed to the appellant.
- F. Penalties.** Any person who violates or permits any 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 \$1,000, plus the costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for a term of not more than 30 days; or a civil penalty

of not more than \$600, together with court costs and reasonable attorney fees. A separate offense shall arise for each day or portion thereof in which a violation of this ordinance is found to exist, and for each section of this ordinance which is found to have been violated.

12. General provisions; Effective date.

- A. Repealer.** All ordinances or parts of ordinances which are inconsistent with this ordinance are repealed to the extent necessary to give effect to the provisions of this ordinance.
- B. Savings Clause.** In all other respects, the Kingston Township Code shall remain as previously enacted and ordained.
- C. Severability.** The provisions of this ordinance are declared to be severable. If any section, subsection, sentence, clause, or part thereof of this ordinance is held by a Court of competent jurisdiction to be unconstitutional, illegal, invalid, or contrary to any provision of state or federal law, that section, subsection, sentence, clause, or part thereof shall not affect the validity of the remaining provisions of this ordinance. It is hereby declared the intent of the governing body to have enacted this ordinance as if such unconstitutional, illegal, or invalid section, subsection, sentence, clause, or part thereof had not been included therein.
- D. Effective Date.** This ordinance shall take effect according to law.

ADOPTED, ORDAINED, AND ENACTED at a regular meeting of the Kingston Township Board of Supervisors held on the 8th day of October, 2025.

ATTEST:

KINGSTON TOWNSHIP

Burr Kirby
**BOARD SECRETARY
TOWNSHIP CLERK**

By: *[Signature]*
**CHAIR,
BOARD OF SUPERVISORS**

