

**TOWN OF TUXEDO
INTRODUCTORY LOCAL LAW
FOOD TRUCKS**

BE IT ENACTED by the Town Board of the Town of Tuxedo, County of Orange, State of New York, as follows:

Section 1. Chapter 72 of the Code of the Town of Tuxedo is amended and renamed: to read as follows: “Food Trucks, Peddling and Soliciting”.

Section 2. Chapter 72 of the Code of the Town of Tuxedo shall be amended to create a new Article I which shall be titled “Peddling and Soliciting” and shall comprise the existing Chapter sections 72-1 through 72-14

Section 3. Chapter 72 of the Code of the Town of Tuxedo shall be amended to create a new Article II which shall be titled “Food Trucks” and shall read as follows:

ARTICLE II

FOOD TRUCKS

§ 72-15 Purpose.

The purpose of this chapter is to regulate food trucks within the Town of Tuxedo in a manner that protects the public health, safety, and welfare. This chapter describes the permitting procedures for food trucks and is intended to operate in conjunction with the regulations of Chapter **98** entitled "Zoning."

§ 72-16 Definitions.

The following terms shall, for the purposes of this chapter, have the meanings herein indicated:

FOOD TRUCK

A mobile food service operation located in a licensed motorized vehicle or a movable cart, stand, or trailer and from which food and beverages (pre-packaged or prepared and served from the vehicle or stand) are sold or distributed in individual portions to the general public directly from the food truck for consumption on or off of the premises.

FOOD TRUCK OPERATOR

The registered owner of a food truck or the owner's agent or employee.

§ 72-17 Permit required.

- A. It shall be unlawful for any person or entity to operate a food truck within the Town of Tuxedo without having obtained a permit for such purpose in accordance with the provisions of this chapter.
- B. Any person or entity desiring to operate a food truck shall make a written application for a food truck permit to the Town of Tuxedo Zoning Enforcement Officer. The application for a permit shall be made on forms provided by the Town of Tuxedo and shall include the information required by this chapter and the following:
- (1) Name, signature, telephone number, e-mail address, home address, and business address of the food truck operator and of the registered owner of the food truck.
 - (2) A description and photograph of the food truck, including the license plate and registration number, VIN number, year, make, and model of the vehicle, and dimensions (length and width).
 - (3) A valid copy of the Orange County Health Department permits for a mobile food service operation.
 - (4) Address of the private property the food truck will be located on and name of the property owner.
 - (5) Owner consent form from the property owner authorizing the location of the food truck on the property.
 - (6) A sketch plan including details sufficient to demonstrate compliance with this chapter.
 - (7) Required application fee in accordance with the fee schedule established by the Town Board.
- C. The Zoning Enforcement Officer shall approve and issue a food truck permit if:
- (1) The applicant demonstrates compliance with the requirements of this chapter.
 - (2) The required food truck permit fee has been paid.
 - (3) No notices of violation are pending on the property; and

- (4) The use is in a non-residential zoning district in Chapter **98**.
- D. Food truck permits may be issued for the following lengths of operation, provided that in no event shall a permit be issued to expire later than the County Health Department permit:
 - (1) Annual permit: twelve months.
 - (2) Daily permit: three consecutive days.
- E. A permit is effective upon approval by the Zoning Enforcement Officer.
- F. A food truck permit is not transferable.
- G. The Zoning Enforcement Officer shall administer this chapter and be authorized to issue appearance tickets for any violations of this chapter.

§ 72-18 Siting.

- A. Food trucks permitted under this chapter shall only be located on private property. Nothing in this chapter shall be deemed to authorize the sale or distribution of food from a food truck on public property or in the public right-of-way absent explicit approval of the Town Board.
- B. Food trucks shall only be permitted in the non-residential zoning districts established in Chapter **98** of the Town Code.
- C. Food trucks may only be sited on the property at the location designated on the permit.
- D. Food trucks shall meet the minimum side and rear yard setback requirements for a principal structure in the zoning district in which they are located and shall have a minimum front yard setback of five feet.
- E. Food trucks shall be located a minimum of five feet from the edge of any driveway, utility box and vault, handicapped ramp, building entrance, exit or emergency access/exit way or emergency call box.
- F. Food trucks shall be located a minimum of 150 feet from the main entrance to any restaurant on adjacent properties, 150 feet from any outdoor dining area associated with any restaurant on adjacent properties, and 50 feet from any food truck on another property, as measured from the designated location on the lot accommodating the food truck.

- G. Food trucks must be sited in a location that does not obstruct or interfere with the free flow of pedestrian or vehicular traffic, does not restrict visibility at any driveway or intersection, and does not unreasonably interfere with the activities of other businesses or otherwise interfere with other lawful activities or violate any statutes, ordinances, or other laws.

§ 72-19 Number and size of food trucks.

- A. A food truck or trucks may only be located on a lot of at least 1/2 acre in size.
- B. A maximum of three food trucks shall be permitted per lot at any one time.
- C. The maximum number of permits that may be issued and outstanding for any lot per year shall be one seasonal permit and three daily permits.
- D. The maximum size of a food truck shall be 256 square feet, measured from the exterior faces of the food truck.

§ 72-20 Operations.

- A. Food truck operators shall maintain a valid Orange County Health Department permit and shall operate the food truck in conformance with all applicable health standards.
- B. The following shall be conspicuously posted in public view on the food truck at all times: The Orange County Health Department permit; the Town of Tuxedo food truck permit; and a notice in at least two-inch font stating: "To report a violation, call the Town of Tuxedo Zoning Enforcement Officer at 845-351-4411 ext.6."
- C. Food truck operators must demonstrate that a minimum of four parking spaces are available on the lot (or on an immediately adjacent lot with owner permission) to serve the food truck, and that such spaces are not otherwise reserved, encumbered, or designated to satisfy the off-street parking requirement of another business or activity that is operating on the lot at the same time as the food truck.
- D. Food trucks must have adequate ingress and egress from the property to prevent traffic congestion and safety hazards. Existing and/or proposed curb cuts intended to serve the food truck shall meet the minimum sight distance requirements of the Town of Tuxedo highway specifications.
- E. Signage. All food trucks shall be permitted a single freestanding sign not greater than eight square feet in size, in addition to the following:

- (1) There shall be no limit on the size or number of signs on the truck.
 - (2) Signs affixed to food trucks shall not be mounted perpendicular to the food truck and shall not protrude beyond the edges of the food truck.
- F. The operation of food trucks shall be limited to the hours of 7:00 a.m. to 9:00 p.m.
 - G. The food truck operator or his/her designee must be present at all times during the hours of operation except in cases of emergency.
 - H. Food truck operators shall provide trash and recycling receptacles within 10 feet of their food truck. A food truck operator is responsible for the proper disposal of waste and trash associated with the operation of the food truck. Operators shall remove all waste and trash from their approved location at the end of each day or more frequently as needed to maintain the health and safety of the public. The food truck operator shall keep all areas and any associated seating areas clean of grease, trash, paper, cups, or cans associated with the operation. No liquid waste or grease shall be disposed in or on streams, wetlands, storm drains, lawns, sidewalks, streets, or other public space or in sanitary sewers or septic tanks not equipped with a grease trap.
 - I. Outdoor seating shall be permitted as long as it is sited consistent with the provisions for food trucks in § **72-18**.
 - J. With the exception of allowable outdoor seating areas and trash receptacles, all equipment required for the operation of a food truck shall be contained within, attached to, or located within three feet of the food truck.
 - K. No food shall be prepared, sold, or displayed at the food truck site outside of the food truck.
 - L. No lighting is permitted except for lighting that is used within the food truck for the purpose of inside food preparation. Such lighting shall be turned off after hours.
 - M. Tents are prohibited. Awnings are only permitted if they are attached to the food truck. Umbrellas are only permitted if they are attached to a picnic table.
 - N. Amplified sound or loudspeakers are prohibited, and the food truck operation shall comply with the noise limits in Chapter **68** of the Town Code.
 - O. Food trucks shall be consistent with the general performance standards of § **98-**

42 of the Zoning Law and shall not cause objectionable odors or smoke at any lot line.

- P. Food trucks and associated outdoor seating, if any, shall be removed from all permitted locations upon expiration of the permit.

§ 72-21 Exceptions.

- A. Special event, private residence. Residents may request that food trucks cater special events on private property at their place of residence within any zoning district. Such request for a special event private use food truck permit shall be made to the Zoning Enforcement Officer for a period not exceeding one day, and not more than two events per year, and subject to the requirements of this chapter except for §§ **72-18B** and **72-20N**. In such cases, sales shall be limited to event attendees only (not to the general public).
- B. Special permit procedure, public property. The Town Board may from time to time by resolution establish procedures for issuance of a permit to locate a food truck on certain public property, and such permits, if authorized by the Town in its discretion, shall not be subject to the requirements of this chapter except other than within a parcel owned by the Town or an adjacent right-of-way area, they shall be sited within permitted zoning districts, and as may be provided in such resolution.
- C. Special event, public. The Town Board may by resolution authorize a not-for-profit organization or public entity to obtain a daily permit in any zoning district for a designated date, time and location approved by the Town Board for the purpose of special events or public festivals. The Town Board may by resolution authorize a daily permit in any zoning district in conjunction with a permit for parades, processions and block parties or large assemblies.

§ 72-22 Violations.

- A. Any of the following shall constitute a violation of this chapter:
 - (1) Failure to properly obtain and/or properly display a valid food truck permit shall be considered a violation of this chapter.
 - (2) Fraud or misrepresentation contained in the permit application.
 - (3) Fraud or misrepresentation made in the course of operating the business.
 - (4) Conduct that creates a public nuisance, or otherwise constitutes a danger to the public health, safety, welfare, or morals.

(5) Failure to comply with the provisions of this chapter.

§ 72-23 Suspension or revocation of a permit.

- A. The Zoning Enforcement Officer may issue a notice of intent to suspend or revoke a food truck permit for any violation. The notice of intent to suspend or revoke shall describe the violation and require the permit holder to immediately correct the violation or cause the violation to be corrected.
- B. The notice of intent shall be provided to the permit holder by personal service, by regular mail to the address submitted with the permit application, or by posting at the place of business of the food truck.
- C. If the permit holder fails to immediately correct the violation or cause the violation to be corrected, the Zoning Enforcement Officer shall suspend or revoke the permit.
- D. A permit holder shall be entitled to request a hearing on suspension or revocation before the Town Board, upon application made to the Town Clerk demonstrating that the permit holder was not in violation of the permit. Any suspension or revocation remains in effect unless modified by the Town Board. The Town Board shall hold a hearing to determine whether to reverse the suspension or revocation within 30 days of written request.

§ 72-24 Enforcement and administration.

- A. The requirements established by this chapter shall be administered and enforced by any law enforcement agency that has jurisdiction in the Town of Tuxedo ("police officers"), the Town of Tuxedo Zoning Enforcement Officer, Code Enforcement Official/Building Inspector and Town Attorney or his/her designee and such other employees and/or officials authorized by the Town Board.
- B. Pursuant to the provisions of Municipal Home Rule Law, § 10, Subdivision 4(a), and the Criminal Procedure Law, § 150.10, Police Officers, the Zoning Enforcement Officer and Code Enforcement Official/Building Inspector of the Town of Tuxedo are hereby authorized to issue and serve appearance tickets, as defined in the Criminal Procedure Law, returnable in Town Court of the Town of Tuxedo, when he or she has reasonable cause to believe a person has violated, in his or her presence, Chapter **72 Article II** of the Code of the Town of Tuxedo, entitled "Food Trucks," and to prosecute the violation in Town Court.
- C. If the violation occurs on the premises of a property which is occupied by someone other than the owner, the issuer of the appearance ticket must also

notify the owner in writing of the violation within five business days of said violation. Failure to provide such notice shall not affect the prosecution of the person or persons charged with said violation.

§ 72-25 Penalties for offenses.

- A. Violation of this chapter shall be deemed an offense, and any person, firm or corporation who shall violate any provision of this chapter shall, upon conviction, be subject to a penalty of not more than \$250, or imprisonment for a term not to exceed 15 days, or both. Each day's continued violation shall constitute a separate offense.
- B. Conviction of a violation of this chapter shall constitute and effect an immediate forfeiture of any license hereunder held by the person so convicted.
- C. Without limiting any other remedy, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with, or to restrain by injunction the violation of, this chapter.

Section 4. This law shall take effect upon filing with the Secretary of State.