

Town of North Topsail Beach

Daniel Tuman, Mayor
Joann M. McDermon, Mayor Pro Tem
Aldermen:
Mike Benson
Jeremy Grove
Tom Leonard
Richard Peters



Bryan Chadwick, MPA
Town Manager

Laura Oxley, JD, MPA
Town Clerk

Nature's Tranquil Beauty

ORDINANCE NO. 2019-____

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE II, SECTION 4-36, FOOD TRUCK REGULATIONS

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF NORTH TOPSAIL BEACH, NORTH CAROLINA, THAT:

SECTION I. The Code of Ordinances, Chapter 4, Article II, Section 4-37 is hereby amended to read as follows:

Sec. 4-36. - Food trucks.

(a) *Findings and Intent.*

- 1) Allowing food truck businesses to operate in North Topsail Beach promotes diversification of the town's economy and employment opportunities.
- 2) Food trucks support the incubation and growth of entrepreneurial/start-up businesses.
- 3) North Carolina General Statute 160A-174 grants towns the power to define, prohibit, regulate, acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town through the creation of ordinances.
- 4) Pursuant to North Carolina General Statute 160A-178, The Town has the express statutory authority to regulate the activities of peddlers and other itinerant salespeople.

(b) *Definitions.* The following definitions apply to this article:

- 1) Food truck: A readily movable trailer or motorized wheeled vehicle, currently registered with the N.C. Division of Motor Vehicles, designed and equipped to serve food.
- 2) Regulatory fee: A fee assessed to cover the cost of regulating a business activity that is assessed to the particular business being regulated.

(c) *Permitting.*

- 1) A food truck permit shall be required prior to the operation of a food truck. A \$500 regulatory fee will be assessed to cover the costs associated with regulation of food trucks. All food truck operators shall obtain an annual permit from the town manager or their designee, unless otherwise exempted in this chapter.

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- 2) A food truck permit expires on December 31st of the year upon which the permit was issued. This permit shall be posted in a visible location on the food truck.
 - 3) Food truck operators shall have the signed approval of the property owner for each location at which the food truck operates. This approval must be made available with the permit application.
 - 4) Food trucks shall provide documentation of approval from the North Carolina Department of Health. A valid health permit must be maintained for the duration of the food truck permit and shall be placed in a conspicuous location for public inspection.
 - 5) A food truck permit does not include peddler, solicitor, or transient vendor as defined by the Town Code.
 - 6) No permit issued shall authorize a food truck to operate on or from a public street.
- (d) *Regulations.* Food trucks shall be allowed in all nonresidential districts with the following restrictions:
- 1) The food truck shall be positioned at least one hundred feet from the customer entrance of an existing restaurant during its hours of operation, unless the food truck vendor provides documentation that the restaurant owner supports a closer proximity.
 - 2) A trash receptacle shall be provided for customers. All associated equipment must be contained within vehicle. Trash receptacles must be within three feet of the food truck.
 - 3) Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.
 - 4) Food trucks shall only operate on private property, unless they are part of a town approved special event.
 - 5) No food truck shall conduct business on any public right-of-way, sidewalk, upon any public road in the town, or on any property owned by the town; except for town approved special events.
 - 6) No liquid, grease or solid wastes may be discharged from the food truck. Absolutely no waste may be disposed of in tree pits, storm drains, the sanitary sewer system or public streets.
 - 7) Food trucks must have the following fire extinguisher on board during hours of operation: minimum Class 2A, 10B, and C rated extinguisher. If food preparation involves deep frying, a Class K fire extinguisher must also be on the truck. All National Fire Protection Association

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(NFPA) standards shall be met to include fire extinguishers and fire suppression hood systems shall be maintained.

- 8) A food truck vendor shall not operate the food truck as a drive-in window.
- 9) Lighting shall be such that minimizes the glare on roadways and surrounding properties.
- 10) No signage shall be allowed other than signs permanently attached to the motor vehicle.
- 11) The noise level from the food truck shall comply with the municipality's noise ordinance.
- 12) No vendor shall remain on site at one property for more than twelve consecutive hours, with exception of a holiday weekend if holiday falls on Friday or Monday.
- 13) Food trucks shall be positioned at least three feet away from any fire hydrants, any fire department connection, utility box or vault. The food truck shall not locate within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic. A food truck shall not impede ingress and egress from driveway entrances, handicapped parking spaces & ramps, building entrances and exits.

(e) Suspension and revocation of permit.

- 1) The permit issued for the food truck business may be revoked if the vendor violates any of the provisions contained in this article.
- 2) The Town Manager may revoke a permit if he or she determines that the food truck vendor's operations are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or that such use is otherwise creating a danger to the public health or safety.
- 3) The Town Manager reserves the right to temporarily suspend food truck permits during times of special events in the downtown area.

SECTION II. WAIVER CLAUSE. The requirement of three separate readings of this Ordinance is hereby dispensed with by a vote of not less than a majority of all the members of Board of Aldermen.

SECTION III. CODIFICATION. The provisions of Section I of this Ordinance shall be published as appropriate in the North Topsail Beach Code of Ordinances as soon as practicable.

SECTION IV. SEVERABILITY CLAUSE. If any section, part of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the

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Board of Aldermen in passing this Ordinance that its parts shall be severable an all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION V. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication according to law.

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the Board of Aldermen of North Topsail Beach, North Carolina, at which a quorum was present, and which was held on the day of _____ 2019.

Dan Tuman
Mayor

(Seal)

ATTEST:

Laura Oxley, JD, MPA
Town Clerk