

TOWN OF GIBRALTAR
AMENDED AND RESTATED ORDINANCE NUMBER 1982-05, SECTION 1
REGARDING MOBILE FOOD ESTABLISHMENTS

The Town of Gibraltar does hereby adopt this ordinance amending and restating Section 1 of Ordinance No. 1982-05 as follows:

(1) PURPOSE AND AUTHORITY

The Town of Gibraltar has determined that the regulation of Mobile Food Establishments is necessary to protect the health, safety and welfare of the public, as well as to promote the public interest by regulating the areas and methods of operation. The Town of Gibraltar experiences high traffic congestion due to the unique characteristic of the Town being located adjacent to the large body of water known as Green Bay. The Town of Gibraltar has a single, two lane highway that travels through the business district of the Town. This highway and the adjacent business district of the Town experience increased traffic during the months of May through October every year due to tourists traveling to the Town or traveling through the Town to other destinations in Door County. The Town of Gibraltar is concerned that any increased traffic in highly congested areas of the Town creates dangerous situations for pedestrians, bicyclists and motorists traveling through the Town. Furthermore, heavy traffic is increased in the Town because of the entrance to Peninsula State Park located in the Town. The Wisconsin Department of Natural Resources estimates attendance at Peninsula State Park to be 1.2 million visitors annually causing significant traffic in the Town of Gibraltar from people traveling to and from Peninsula State Park. Additionally, the Town of Gibraltar generates the highest amount of hotel room tax in Door County with a high density of these lodging units being located in the business district of the Town. These lodging units contribute to increased traffic in the Town. Based on these traffic and congestion concerns during the busy tourist season as stated herein, the Town adopts this ordinance in an effort to protect the general welfare and safety of Town residents and visitors from pedestrian, motor vehicle and bicycle accidents.

The Town of Gibraltar is a community with history dating back to the mid-1800's. The Town has properties listed on the National Register of Historic Places. The Town started as a fishing and logging village but has grown into a popular tourist destination due to the quaintness and character of the community. The Town is adjacent to a large body of water and Peninsula State Park. The Town's focus on preserving its parks and natural beauty are the reason tourists continue to visit the area. The Town of Gibraltar adopts this ordinance in an effort to preserve this character of the community so that tourists and residents continue to travel to the Town to enjoy this natural beauty.

In an effort to meet the Town's safety objectives, the Town has determined that all persons or entities that desire to vend from Mobile Food Establishments within the Town must be issued a permit pursuant to the requirements of this ordinance. In addition to traffic and accident concerns, the Town is concerned regarding food preparation and safety during the busy, hot summer months. Preventing disease and illness is a health concern for Town residents and visitors. The authority for the Town to regulate these safety issues is authorized by Article XI, Section 3 of the State of Wisconsin Constitution, Wisconsin Statutes 60.10, 60.22 and 61.34 which states that this chapter shall be liberally construed in favor of the rights, powers or privileges of the municipality to promote the general welfare, peace, good order and prosperity of such municipality and the inhabitants thereof. This Ordinance amends

Ordinance No. 1982-05, Section 1, adopted on January 10, 2018 and restates that section of said Ordinance herein.

(2) DEFINITIONS.

(a) “Mobile Food Establishment” means a restaurant or retail food establishment where food is served or sold from a movable vehicle, trailer or cart which periodically or continuously changes location and requires a service base to accommodate the unit for servicing, cleaning, inspection and maintenance or except as specified in the Wisconsin Food Code.

(b) “Mobile” shall mean the state of being in active, but not necessarily continuous movement.

(c) “Mobile Food Vendor” means the registered owner of a mobile food establishment or the owner’s agent or employee, or any business which sells edible goods from a mobile food establishment within the Town of Gibraltar.

(d) “Edible Goods” shall include but are not limited to:

1. Prepackaged and prepared food including, but not limited to, ice cream, hot dogs, desserts, and pizza.
2. On-site prepared food including, but not limited to, shaved ice, sandwiches, and tacos.

(e) “Sell” shall mean the act of exchanging a good for profit or in return for a donation.

(f) “Service Base” means an establishment operated under license or permit of an appropriate regulatory authority where food is manufactured, stored, prepared, portioned or packaged, or any combination of these, where such food is intended for consumption at another establishment or place, and where such units are serviced, cleaned, supplied, maintained, and where the equipment, utensils and facilities are serviced, cleaned and sanitized.

(g) “Vehicle” shall mean any motor vehicle as defined by Wis. Stats. §340.01(35) or trailer as defined by Wis. Stats. §340.01(71). Vehicle shall also include any bicycle or other self-propelled device.

(h) “Vend” shall mean to sell or to transfer the ownership of an article to another for a price in money.

(3) LICENSE REQUIRED.

(a) No mobile food vendor and/or mobile food establishment shall vend, sell or dispose of or offer to vend, sell or dispose of goods, wares or merchandise, produce or any other thing at any place whatsoever in the Town of Gibraltar, without having obtained an approved license from the Town Clerk.

(b) All mobile food establishments used for vending food shall be licensed for such use by the State of Wisconsin or the Door County Health Department and all other applicable agencies. Mobile food establishments shall acquire the appropriate licenses and permits for any additional food items not required under this subchapter if deemed necessary by the State of Wisconsin or the Door County Health Department.

(c) License. Every mobile food vendor shall have a license issued by the Town Clerk to conduct business in the Town of Gibraltar. Each mobile food establishment shall be licensed separately. A mobile food establishment license shall expire on May 15 each year.

(d) License Fee. The license fee to operate a mobile food establishment is stated on the Town's forfeiture and fee schedule.

(e) License Renewal. Upon renewal of license, each applicant must provide a new application, the renewal fee as stated on the Town's forfeiture and fee schedule, and any new permitting documentation upon the license renewal.

(f) Transfer of License. A license issued under this subchapter shall not be transferable from person to person. A license is valid for one vehicle only and shall not be transferrable between vehicles.

(g) Surrender of License; Alteration of License; Failure to Display License. On the expiration of a license issued under this subchapter, the license holder shall surrender the license to the Town Clerk. No person shall alter or change in any manner any license issued under the provisions of this subchapter, and such alteration or the failure of the holder of the license to display the license in a conspicuous place on the mobile unit or his or her person or to exhibit the license upon demand of any officer or customer or prospective vendee shall be cause for revocation of such license.

(h) The regulations of this ordinance do not apply to scheduled farmer's markets in the Town of Gibraltar up to a limit of twelve farmer's markets per year.

(4) LICENSE APPLICATION PROCESS.

(a) Application. Any person desiring to operate a mobile food establishment shall apply for a license on a form promulgated by the Town Clerk and pay the proper license fee for each mobile food establishment managed by the person. The Town Clerk shall forward the application to the Town Board for review. If the Town Board approves the application, the Town Clerk shall issue the license to the applicant.

(b) Application Denial. An applicant of a mobile food establishment may be denied where:

1. The applicant made a false statement on the application.
2. The applicant is under eighteen (18) years old.
3. The applicant is found to have unpaid civil judgment(s) which relates to the duties and responsibilities of the permitted occupation which shall be determined by the nature and the amount of the judgment, the relationship of the judgment to the purpose of the permit and the extent that the permit would allow someone to engage in further activity that would lead to unsatisfied civil judgments.

(c) Request for Hearing. If the Town Board denies an application for a license, the applicant may request a hearing before the Town Board within fifteen (15) days after the Town Clerk mails a notice of denial to the applicant. If the applicant files a timely request for hearing with the Clerk, the Clerk shall schedule a hearing before the Town Board.

(d) Issuance. The Clerk shall issue the mobile food establishment license if the applicant has completed the application requirements and has been approved by the Town Board.

(5) LICENSE SUSPENSION OR REVOCATION. The Town Board may revoke or suspend, no less than ten (10) and not more than ninety (90) days, any license under this subchapter for violation by any vendor or the vendor's employee or agent of any provision of this chapter or any State law or Town ordinance which renders future vending contrary to the public health, safety or welfare, or for fraud or misrepresentation in solicitation under this chapter.

(6) INSURANCE.

(a) Liability Insurance. The license holder under this subchapter shall have in force liability insurance for each mobile food establishment.

(b) Proof of Insurance. As evidence of liability insurance, the licensee shall furnish a certificate of insurance, on a form acceptable to the Town, evidencing the existence of adequate liability insurance in an amount not less than one million dollars (\$1,000,000.00). Whenever such policy is cancelled, not renewed, or materially changed, the insurer and the licensee shall notify the Town of Gibraltar by certified mail.

(7) SANITATION REQUIREMENTS.

(a) Mobile food establishments shall comply with all regulations of the Wisconsin Food Code, the State of Wisconsin and the Door County Health Department including, but not limited to, the time, temperature, plumbing, operation and maintenance for mobile food establishments.

(b) Mobile food establishments shall comply with all regulations of the Wisconsin Food Code, the State of Wisconsin and Door County Health Department regarding preparation facilities, serving areas and operation areas.

(c) The licensees of the mobile food establishment or employee(s) thereof shall abide by the request of the State of Wisconsin and the Door County Health Department for annual inspections of the establishment at a location designated by the appropriate authority.

(d) Authorities of the State of Wisconsin or the Door County Health Department may require that mobile food establishments found to violate sanitation and health requirements to have follow-up inspections to verify compliance.

(e) Service Base Required.

1. All mobile food establishments shall have a mobile service base to store and prepare food and all supplies. No food items are allowed to be stored or prepared in a private residence or garage unless approved by the State of Wisconsin or the Door County Health Department.

2. All mobile food units shall be cleaned and serviced as regulated by the Wisconsin Food Code or the Door County Health Department. All mobile food units shall be maintained in good condition. There shall be no rust on the mobile food unit and the paint on the vehicle shall be in good condition.

3. The service base shall be inspected and approved by the State of Wisconsin or the Door County Health Department prior to operating the mobile food establishment.

4. All mobile food establishments shall return to its service base at least once every twenty-four (24) hours for service and maintenance.

5. All mobile food establishments shall move from the location of its service base once per week if conducting business from the mobile food establishment. The intent of this provision is that the mobile food establishment is actually mobile and not permanently located at one location.

(8) CONDUCT OF BUSINESS.

(a) Regulations Generally. The following regulations shall apply to mobile food establishments during the regular order of business:

1. Due to high traffic, congestion and safety concerns, no mobile food establishment shall be permitted to operate in the designated area attached as Exhibit A.

2. A licensee shall not falsely or fraudulently misrepresent the quantity, character or quality of the food offered for sale or offers for sale any unwholesome or tainted edible goods, nor intentionally misrepresents the source of supply of the food which he or she sells or offers for sale.

3. A licensee shall not use the license provided by the Town after expiration or revocation of the license.

4. A licensee shall keep the premises in a clean and sanitary condition and the edible goods offered for sale well covered and protected from dirt, dust and insects. All food vendors shall comply with requirements of state and local authorities.

5. A licensee may vend, sell or dispose of, or offer to sell, vend, or dispose of goods, wares, or merchandise in the Town of Gibraltar between the hours of 8:00 a.m. and 8:00 p.m.

6. No mobile food establishment shall conduct business at a stationary location for a duration exceeding eight (8) hours per location per day.

7. All persons conducting business must maintain within twenty-five (25) feet of their sales location, a clean, sanitary and hazard-free condition, and shall not discharge any material onto the street, sidewalk, gutters or storm drain. Each person conducting business under the provisions of this chapter shall carry a minimum thirty (30) gallon container for placement of such litter by customers or other persons.

8. A vehicle or other on-street unit which is operated for the purpose of selling food from the unit shall be operated only by a person who has obtained a license or by the employee of the person who obtained a license under this subchapter.

9. No person may sell or vend any item upon any premise(s) if there is placed signage prohibiting the activity.

10. No food service shall be prepared, sold, or displayed outside of the mobile food establishment.

11. No person shall provide or allow any dining area to the mobile food establishment, including, but not limited to, tables and chairs, booths, stools, benches or stand up counters.

12. Signage may only be permitted when affixed to the mobile food establishment. No separate free-standing signs are permitted.

(b) Vehicle Regulations.

1. Any vehicle or other on-street units used for vending food in any public street must be designed and constructed specifically for the purpose of vending the product or products to be vended.
2. No amplified music or other sounds, other than the sound from the vehicle engine running, are permitted from any vehicle or unit used for the purpose of vending products.
3. All mobile food establishments shall be entirely self-contained in regards to gas, water, electricity, and equipment(s) required for operation of the unit.
4. All mobile food vehicles must have valid license plates and registration as provided by Chapter 341, Wisconsin Statutes.
5. No vehicle or unit may violate any traffic or parking statute or ordinance when stopping to make sales.
6. No flashing or blinking lights, or strobe lights are allowed on a mobile food establishment or related signage when the establishment is parked and engaged in serving customers. All lighting is subject to review by the police department and shall be removed if deemed to be in conflict with safe travel.
7. All mobile food establishments shall comply with all Federal, State, and local regulations regarding vehicle size requirements.

(c) Other Restrictions.

1. The vendor of the mobile food establishment shall not operate in a congested area where such operation impedes or inconveniences public use. No vendor shall engage in the licensed business on any public park, playground, school or library.
2. No mobile food establishment or pedestrian desiring to conduct business at the mobile food establishment shall obstruct an adjacent path or lane of travel. A path or lane of travel includes, but is not limited to sidewalks, motor vehicle lanes, bicycle lanes and other designated parking areas.
3. No more than one mobile food establishment shall be allowed to conduct business on a private property.
4. No mobile food vendor shall be located on any private property without written permission from the property owner. A copy of the written permission shall be kept in the mobile food unit at all times. The mobile food vendor shall comply if asked to leave the private property by the property owner or a Town official.
5. No mobile food establishment shall conduct business within five hundred (500) feet of Clark Park, Sunset Beach Park or Peninsula State Park or any fair, festival, special event or civic event that is licensed or sanctioned by the Town of Gibraltar unless the licensee has obtained written permission from the event sponsor.
6. A mobile food establishment shall be located on a paved surface at all times.

7. No person may conduct business on a sidewalk or curbside or within twenty (20) feet of the intersection of the sidewalk with any other sidewalk.

8. A mobile food establishment may be permitted in all zoning districts except within any district zoned residential by Door County. Mobile food establishments are not permitted in the high traffic areas designated in Exhibit A.

(9) SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

(10) PENALTIES. A licensee or vendor who violates any provision of this subchapter or any regulation, rule, or order made hereunder shall be subject to a forfeiture as stated on the Town's forfeiture and fee schedule.

BE IT RESOLVED, that the foregoing amended and restated ordinance shall be adopted and become effective on passage and publication.

Adopted this ____ day of April, 2019.

Published this ____ day of April, 2019.

TOWN OF GIBRALTAR

Richard Skare, Chairman

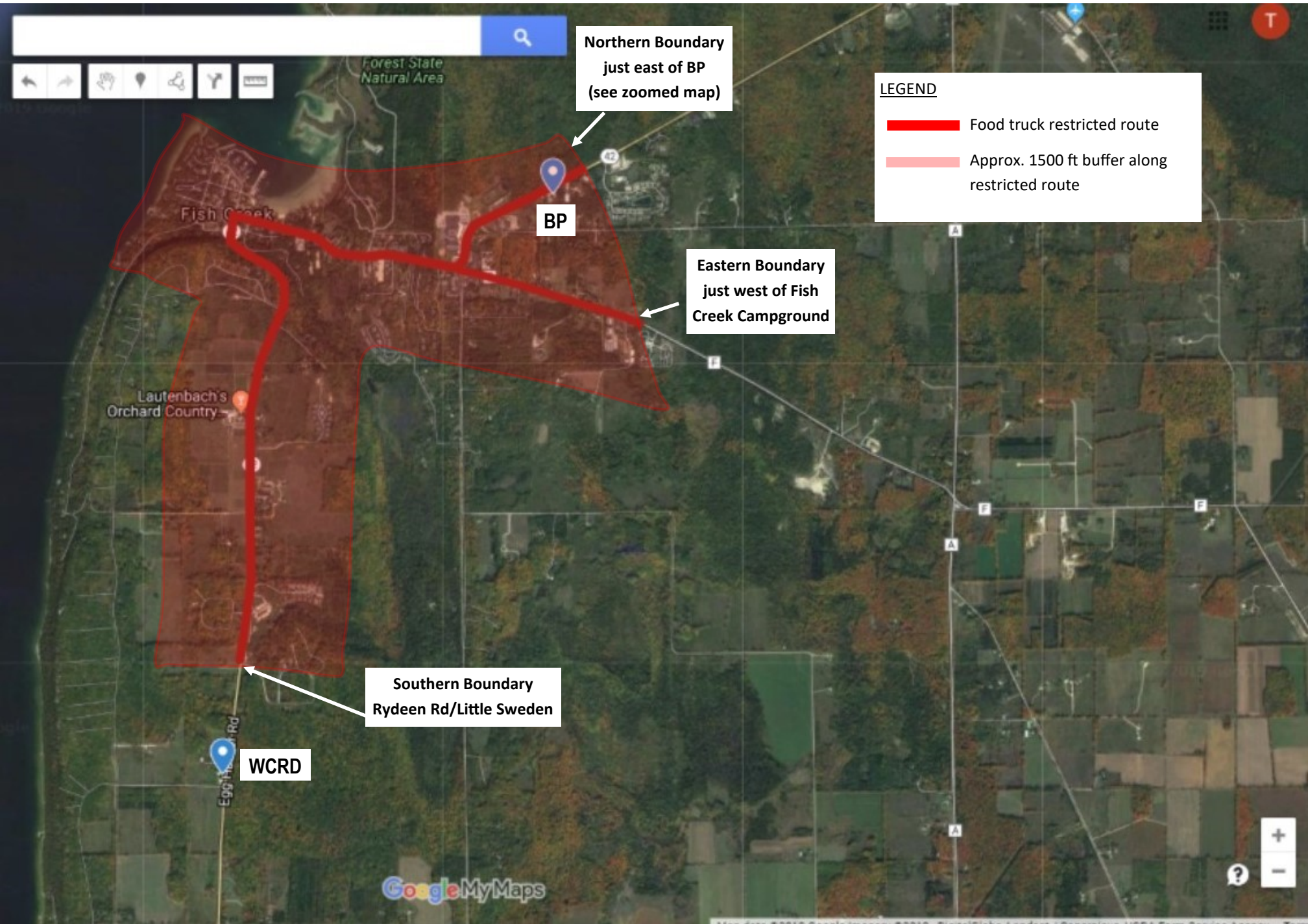
Steve Sohns, Supervisor

Dwayne Daubner, Supervisor

Bill Johnson, Supervisor



Barbara McKesson, Supervisor

Beth Hagen, Clerk



Northern Boundary
just east of BP
(see zoomed map)

LEGEND

-  Food truck restricted route
-  Approx. 1500 ft buffer along restricted route

Eastern Boundary
just west of Fish
Creek Campground

Southern Boundary
Rydeen Rd/Little Sweden

Lautenbach's
Orchard Country

Fish Creek

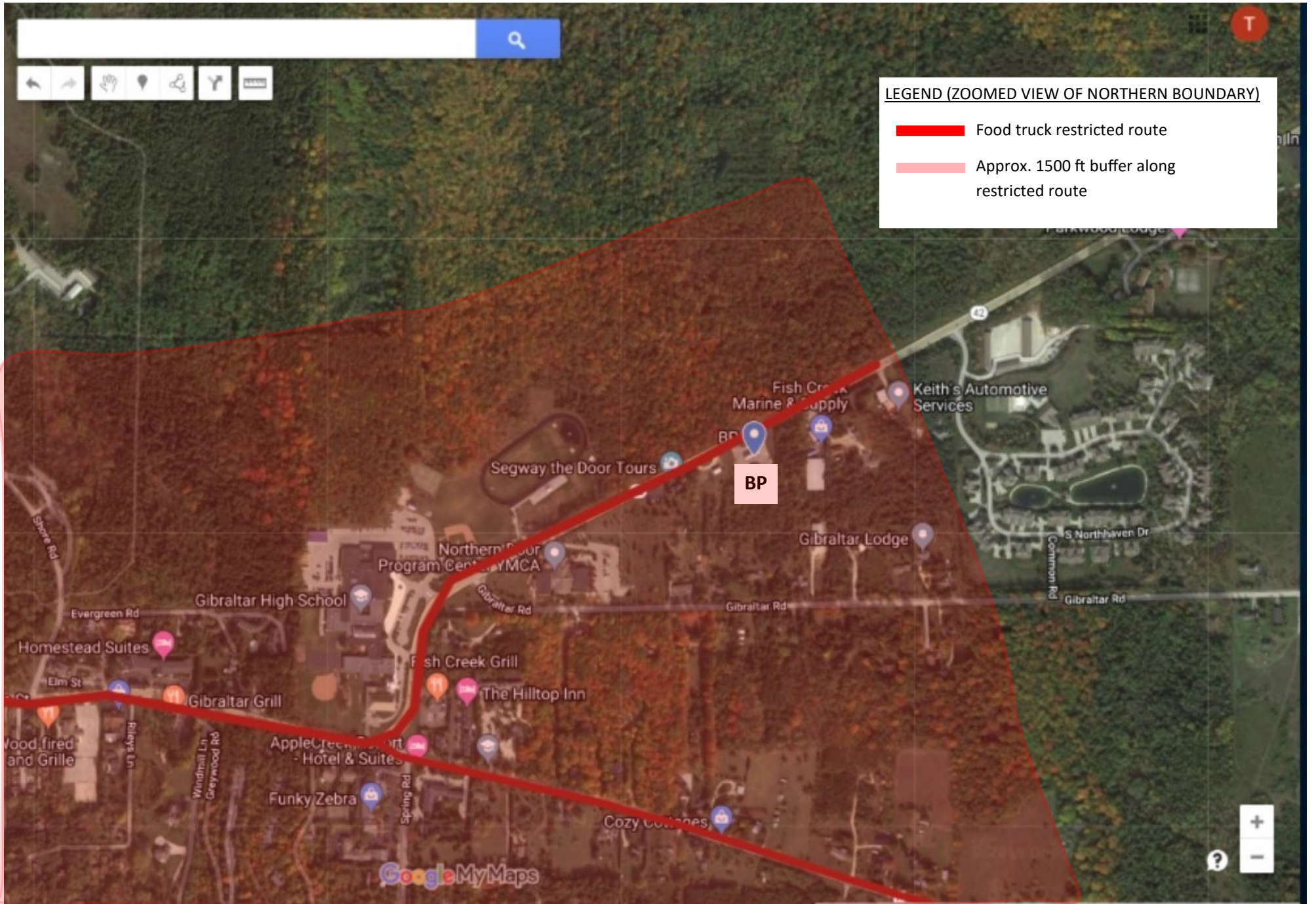
Forest State
Natural Area

BP

WCRD

Egg Harbor Rd

Google MyMaps



LEGEND (ZOOMED VIEW OF NORTHERN BOUNDARY)

- █ Food truck restricted route
- Approx. 1500 ft buffer along restricted route

BP