

**BOROUGH OF BERGENFIELD  
PUBLIC NOTICE**

**ORDINANCE 20-2573 – AN ORDINANCE AMENDING ARTICLE V OF THE CODE OF THE CODE OF THE BOROUGH OF BERGENFIELD ENTITLED “RETAIL FOOD ESTABLISHMENTS”**

was introduced at a Work Session Meeting of the Mayor and Council of the Borough of Bergenfield, in the County of Bergen, New Jersey, held on Tuesday, October 6, 2020 and will be further considered for final passage after public hearing at a meeting of the Mayor and Council to be held in the Council Chambers, Bergenfield Municipal Center, 198 North Washington Avenue, Bergenfield, New Jersey on Tuesday, October 20, 2020 at 8:00 p.m. prevailing time, or as soon thereafter as the matter can be heard.

A clear and concise statement is to amend Section 344-29 entitled Mobile Retail Food Establishments and replace with regulations as set forth in the ordinance.

A copy of this ordinance may be obtained without cost between the hours of 8:30 a.m. and 4:30 p.m. at the office of the Borough Clerk, 198 North Washington Avenue, Bergenfield, New Jersey.

Marie Quinones, RMC  
Borough Clerk  
October 7, 2020

BOROUGH OF BERGENFIELD

**Ordinance No. 20-2573**

AN ORDINANCE AMENDING ARTICLE V OF THE CODE OF THE BOROUGH OF BERGENFIELD, ENTITLED  
"RETAIL FOOD ESTABLISHMENTS"

WHEREAS, Article V of the Code of the Borough of Bergenfield sets forth all regulations regarding Retail Food Establishments in the Borough of Bergenfield; and,

BE IT ORDAINED, by the Mayor and Council of the Borough of Bergenfield, County of Bergen and State of New Jersey that those portions of the aforesaid set forth below are hereby amended as follows and that those portions of the Ordinance not set forth below shall remain unchanged.

Section 344-29 entitled Mobile Retail Food Establishments

A. Definition. For purposes of this article, a "mobile food vendor" is defined as anyone who sells non-prepackaged prepared food or beverages from a non-permanent location to the public-at-large, whether such food or beverages are prepared on site or prepared elsewhere and transported to the site of the sale. It includes, but is not limited to, anyone who sells such food or beverages from a vehicle, whether motorized or non-motorized, such as a truck, van, trailer, or pushcart. It does not include:

- i. a vendor selling fresh, uncut fruits and/or vegetables at a community farmer's market.
- ii. deliveries of food to customers from a licensed retail food establishment operating from a fixed location.
- iii. the sale of ice cream, ice cream products, water ices or frozen confectionary products, which is regulated by Chapter 227 of the Borough Code.
- iv. the sale of prepackaged food and beverages (except hot coffee, cocoa and tea).

B. Annual Mobile Food Vendor License Required.

1. All mobile food vendors are required to obtain an annual Mobile Food Vendor License from the Department of Health, along with any other approvals required by this article or any other provision of the Borough Code, before commencing the sale of any food or beverages with the Borough of Bergenfield. Mobile Food Vendor Licenses are valid for a 365 day period (or 366 days in the event of a leap year) from the date of issuance.

2. The annual Department of Health license fee is \$150.00.

3. There shall be a maximum of twenty (20) Mobile Food Vendor Licenses available. If the license maximum is reached, the Department of Health shall offer any licenses that thereafter become available because an existing license holder's license has been revoked or non-renewed to a new applicant on a first come, first serve basis. The Department of Health shall maintain a waiting list and notify the prospective applicant on the top of the list that a license has become available, and at such time the prospective applicant shall have five (5) business days from notification to either file an application for the license or be removed from the waiting list.

4. At any time a mobile food vendor is conducting the sale of food or beverages within the Borough, the mobile food vendor shall prominently display copies of (1) the annual mobile food vendor license issued by the Department of Health; (2) a certificate of registration issued by the New Jersey Division of Taxation; and (3) the operating permit allowing the mobile food vendor to serve food and beverages at a particular location, issued by the Department of Health.

5. Mobile food vendor licenses are not transferrable and may not be sold or leased to any other party.

6. Mobile food vendors are subject to random inspections by the Department of Health at any time they are serving food or beverages within the Borough.

#### C. Application Process.

1. Before issuing a mobile food vendor license, the Department of Health shall obtain all information and documentation necessary in its judgment to ensure that the applicant is prepared to meet all of the requirements the New Jersey State Sanitary Code is capable of safe and sanitary operation.

2. The applicant must provide documentation that at least one person working for the mobile food vendor is a certified food protection manager, or holds a food handler's certificate issued by an organization recognized by the State of New Jersey to provide certified food protection manager training.

3. If the mobile food vendor intends to serve food or beverages from a vehicle, whether motorized or non-motorized, such as a truck, van, trailer or pushcart, proof of ownership of the vehicle must be supplied, along with proof of general liability insurance with at least \$500,000 in coverage. If the vehicle is motorized, proof of motor vehicle insurance as required by N.J.S.A. 39:6B-1 must be supplied. The Department of Health shall inspect and approve any vehicle to be used in the operations of a mobile food vendor before issuing a Mobile Food Vendor License.

#### D. Fire Permits Required for Certain Operations.

All mobile food vendors shall comply with any requirements established by the Fire Department and as set forth by the New Jersey Uniform Fire Code to ensure that the operations of the mobile food vendor do not present a fire hazard. Any mobile food vendor using any flame in its operations or utilizing a tent or canopy thirty (30) or more feet in length must pay the applicable fee (as established by the New Jersey Department of Community Affairs) and obtain a Type I permit issued by the Bergenfield Fire

Department, Bureau of Fire Prevention before commencing operations. If an inspection is required during non-business hours of the Bureau of Fire Prevention, the mobile food vendor shall pay a \$100.00 surcharge in addition to the applicable fee. The Fire Department is empowered to conduct safety checks of any mobile food vendor to ensure compliance with the New Jersey Uniform Fire Code.

E. Where Mobile Food Vendors May and May Not Operate.

1. Commercial/Industrial/Office Property: mobile food vendors may operate on a private commercial, industrial or office property that is located within M & B-2 zone in the Borough under the following terms, conditions and requirements:

a. the mobile food vendor must be situated at least one hundred (100') feet away from the main entrance of any licensed restaurant, luncheonette or tavern that serves food.

b. prior to allowing a mobile food vendor to operate on a private commercial, industrial or office property that property must be approved for a zoning permit from the Department of Building, Housing and Land Use. The zoning permit applicant must be the property owner or an authorized agent of the property owner. As part of the application for this zoning permit, the applicant shall submit notarized documentation that the property owner, or an authorized agent of the property owner, has authorized mobile food vendors to operate on the property and further consents to allowing Borough officials onto the property to enforce the provisions of this article. This documentation shall include a phone number and email address for at least one representative of the property owner who may be contacted by the Borough during the period when the zoning permit is in effect and is empowered to address any concerns that may arise. The zoning permit shall be valid for a period of up to ninety (90) days and shall be renewable for an unlimited number of times. The fee for each zoning permit (including renewals) is \$50.00.

c. A maximum of one (1) mobile food vendor shall be allowed to operate on a private commercial, industrial or office property at any particular time. However, the zoning permit does not restrict the property from hosting different mobile food vendors over the entirety of ninety (90) day period the zoning permit is valid so long as only one (1) mobile food vendor is operating on the property at any one time.

d. Exceptions to the one (1) mobile food vendor limit may be granted by the Borough Administrator and only in connection with a special event open to the general public, such as a fair, festival or carnival, not to exceed five (5) days in length. In the case of a one (1) day event, the Borough Administrator has the authority to expand the number of vendors as needed.

e. Mobile food vendors may not operate on any private commercial, industrial or office property outside of a M & B-2 zone, except as authorized by the Borough Administrator and only in connection with a special event open to the general public, such as a fair, festival or carnival, not to exceed five (5) days in length.

2. Public property/parks. No mobile food vendor may operate on public property, including a Borough park, field or parking area adjacent thereto, except as authorized by the Borough Administrator and only in connection with a special event open to the general public, such as a fair, festival or carnival, not to exceed five (5) days in length.

3. Residential Property. Mobile food vendors are not normally allowed to operate on residential property. Exceptions are for (1) an approved residential block party or (2) an approved private catering arrangement. In either circumstance, the mobile food vendor and residential property must be in compliance with all other applicable Borough code requirements. An application to operate on a residential property shall be made to the Borough Administrator at least ten (10) business days in advance of the event and authorization shall be granted for no greater than a two (2) day period.

4. Public Streets and Sidewalks. Mobile food vendors are prohibited from serving and food or beverage along any public street, including from any metered or non-metered parking space along any public street, or any public sidewalk or right-of-way. The Borough Administrator may grant limited exceptions from this requirement on a case by case basis when the public interest requires.

5. Other Property within the Borough. Mobile food vendors may not operate on any other property within the Borough not specifically mentioned in Chapter 186 Attachment 1, Schedule A except as authorized by the Borough Administrator and only in connection with a special event open to the general public, such as a fair, festival or carnival, not to exceed five (5) days in length.

F. Dates, hours and other conditions of operation.

1. At least five (5) business days prior to operating on any private commercial, industrial or office property within the Borough, a mobile food vendor shall file with the Department of Health a schedule of the dates and times it will be serving food and beverages for the ninety (90) day period at each location where a zoning permit has been granted pursuant to Chapter 186 Attachment 1, Schedule A. Any changes to that schedule shall be filed with the Department of Health at least three (3) business days in advance. Provided all of the requirements of this article are met, the Department of Health shall issue an operating permit authorizing the mobile food vendor to serve food and beverages on that specific private commercial, industrial or office property. A separate operating permit shall be required for every property on which a mobile food vendor will be conducting operations. There is no charge for an operating permit.

2. It shall be a violation of this article for a mobile food vendor to serve food and beverages at any other time than as set forth on the schedule it has filed with the Department of Health for a specific private commercial, industrial or office property.

3. Maximum operating hours for any mobile food vendor are 10:00 a.m. until 7:00 p.m., seven days per week.

4. Mobile food vendors shall make every effort to minimize noise and odors while in operation and shall ensure that customers have trash receptacles readily available on site, or some other adequate means to ensure the proper disposal of any food or other waste generated.

5. Mobile food vendors utilizing motorized vehicles are prohibited from parking any such vehicle on any property where the mobile food vendor has been authorized to serve food and beverage between the hours of 11:30 p.m. and 6:00 a.m. the following morning. This provision shall not apply if the motorized vehicle is stored in a garage located on the property. Exceptions may be granted by the Borough Administrator for no more than five (5) nights and only in connection with a special event open to the general public, such as a fair, festival or carnival.

6. A mobile food vendor shall not provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, or standup counters, in connection with its operations. The foregoing shall not apply to already existing facilities located on the property where the mobile food vendor is operating.

#### G. Inspections and Enforcement.

The Department of Health, Building Department, Fire Department, Police Department and Borough Administrator are empowered to conduct inspections of any mobile food vendor to ensure compliance with the provisions of this article that are within their respective areas of jurisdiction, along with any other applicable provisions of the Borough Code or New Jersey laws or regulations. These officers are further authorized to enforce this article and all of its provisions.

#### H. Violations and Penalties.

Any person who violates any of the provisions of this Article shall be subject to the penalties established by Chapter 344-4 Violations & Penalties of the Borough Code. Additionally, any vehicle, whether motorized or non-motorized, such as a truck, van, trailer or pushcart, used in a mobile food vending operation without all applicable licenses and permits as required by this article shall be deemed a public safety hazard and may be impounded.

#### I. License Revocation or Suspension.

Failure to comply with any of the provisions of this article may result in having any license or permit issued under the provisions of this article revoked or suspended for a specified period of no greater than ninety (90) days, by the licensing authority, Borough officer responsible for enforcement or by the Borough Council, in accord with the provisions of Chapter 198 Section 9 of the Borough Code. The foregoing is in addition to the penalties established by Chapter 344-4 Violations & Penalties of the Borough Code.

#### J. Mobile and Transient Food Establishments.

A. All food and beverages, except hot coffee, cocoa and tea, on mobile or transient retail food establishments, shall be prepackaged, unless the mobile or transient retail food establishment has been issued a Mobile Food Vendor License as provided in Paragraph B herein and is operating in compliance with all of the provisions of the Borough Code. If the food or beverage is prepackaged outside the limits of the Borough of Bergenfield, a certification from the Health Department as to its sanitary condition shall accompany the application for a license required by this article.

Section 3

All Ordinances of the Borough of Bergenfield which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 4

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

Section 5

This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

**NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced at a meeting of the Borough of Bergenfield on the 6<sup>th</sup> day of October, 2020 and passed on first reading, and the same was ordered for final passage at a meeting of the Council to be held at the Municipal Building in the Borough of Bergenfield, Bergen County, New Jersey, on the 20<sup>th</sup> day of October, 2020 at 8 p.m., at which time and place all persons interested will be given an opportunity to be heard concerning such Ordinance.**

**Borough Clerk**