



**BOROUGH OF BOGOTA**

**ORDINANCE NO. 1618**

**DATE: June 6, 2024**

**ADOPTION**

**AN ORDINANCE AMENDING CHAPTER 4 OF THE  
BOGOTA CODE, ENTITLED "GENERAL LICENSING"  
Mobile Retail Food Establishments**

**PUBLIC HEARING OPEN:**

| <b>Councilperson</b>        | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Absent</b> | <b>Abstain</b> |
|-----------------------------|---------------|---------------|------------|-----------|---------------|----------------|
| Council President Carpenter |               |               | ✓          |           |               |                |
| Councilwoman Kohles         |               |               | ✓          |           |               |                |
| Councilman McHale           |               |               |            |           | ✓             |                |
| Councilman Mitchell         | ✓             |               | ✓          |           |               |                |
| Councilman Robbins          |               | ✓             | ✓          |           |               |                |
| Councilwoman Vergara        |               |               | ✓          |           |               |                |

**COMMENTS:** None

**PUBLIC HEARING CLOSED:**

| <b>Councilperson</b>        | <b>Motion</b> | <b>Second</b> | <b>Yes</b> | <b>No</b> | <b>Absent</b> | <b>Abstain</b> |
|-----------------------------|---------------|---------------|------------|-----------|---------------|----------------|
| Council President Carpenter | ✓             |               | ✓          |           |               |                |
| Councilwoman Kohles         |               |               | ✓          |           |               |                |
| Councilman McHale           |               |               |            |           | ✓             |                |
| Councilman Mitchell         |               | ✓             | ✓          |           |               |                |
| Councilman Robbins          |               |               | ✓          |           |               |                |
| Councilwoman Vergara        |               |               | ✓          |           |               |                |

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|-----------------------------|---------------|---------------|------------|-----------|---------------|----------------|
| Council President Carpenter |               |               | ✓          |           |               |                |
| Councilwoman Kohles         |               |               | ✓          |           |               |                |
| Councilman McHale           |               |               |            |           | ✓             |                |
| Councilman Mitchell         | ✓             |               | ✓          |           |               |                |
| Councilman Robbins          |               | ✓             | ✓          |           |               |                |
| Councilwoman Vergara        |               |               | ✓          |           |               |                |



CERTIFICATION

ATTEST:

\_\_\_\_\_  
Borough Clerk

APPROVED:

\_\_\_\_\_  
Mayor

I, Yenlys Flores-Bolivard, Municipal Clerk of the Borough of Bogota, Bergen County, New Jersey, do hereby certify that the foregoing is a correct and true copy of an ordinance adopted by the Borough of Bogota at a meeting held on June 6, 2024.



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**AN ORDINANCE AMENDING CHAPTER 4 OF THE  
BOGOTA CODE, ENTITLED "GENERAL LICENSING"**

Mobile Retail Food Establishments

**WHEREAS**, Chapter 4 of the Bogota Code sets forth the rules and regulations for all matters of general licensing in the Borough; and,

**WHEREAS**, the Mayor and Council seek to implement regulations for the licensing of mobile retail food establishments that wish to operate in Bogota; and,

**WHEREAS**, the Borough Health Inspector has reviewed and recommended that the language in this ordinance be implemented to effectuate the purposes set forth herein.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Bogota, that a new Section 17 shall be added to Chapter 4 of the Bogota Code, which shall read as follows:

**SECTION 1: ESTABLISHMENT OF A NEW SECTION 4-17**

A new Section 4-17, entitled "Mobile Retail Food Establishments" is hereby established, which shall read as follows:

4-17 Mobile Retail Food Establishments.

4-17.1 Definition.

For purposes of this section, a "mobile retail food establishment" is defined as any movable restaurant, truck, van, trailer, cart, bicycle, watercraft, or other movable unit, including hand-carried portable containers, in or on which food or beverage is transported, stored or prepared for retail sale or given away at temporary locations.





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It does not include:

- (1) A vendor selling fresh, uncut fruits and/or vegetables at a community farmer's market.
- (2) Deliveries of food to customers from a licensed retail food establishment operating from a fixed location.
- (3) The sale of ice cream, ice cream products, water ices or frozen confectionary products.

4-17.2. Annual Mobile Retail Food Establishment license required.

- (1) Unless previously approved by the Borough Administrator to operate at a special event, as described in this Section, all mobile retail food establishments are required to obtain an annual Mobile Retail Food Establishment license from the Board of Health, along with any other approvals required by this Section or any other provision of the Borough Code, before commencing the sale of any food or beverages within the Borough of Bogota. Mobile Retail Food Establishment 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 Board of Health license fee is \$150.
- (3) There shall be a maximum of 5 Mobile Retail Food Establishment licenses available. If the license maximum is reached, the Board 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-served basis. The Board 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 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 retail food establishment is conducting the sale of food or beverages within the Borough, the mobile retail food establishment shall prominently display copies of 1) the annual Mobile Retail Food Establishment license issued by the Board of Health pursuant to this Section 17.2; 2) a certificate of registration issued by the New Jersey Division of Taxation; and 3) the operating permit allowing the



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mobile retail food establishment to serve food and beverages at a particular location, issued by the Board of Health.

- (5) Mobile Retail Food Establishment licenses are not transferrable and may not be sold or leased to any other party.
- (6) Mobile retail food establishments are subject to random inspections by the Board of Health at any time while they are serving food or beverages within the Borough.

4-17.3 Application process.

- (1) Before the Bogota Board of Health issues a Mobile Retail Food Establishment license, the applicant shall provide all information and documentation required by the Board of Health to ensure the applicant is prepared to meet all of the requirements of this Ordinance and of N.J.A.C. 8:24, "Sanitation in Retail Food Establishments, Food and Beverage Vending Machines and Cottage Food Operations," and has the capacity and capabilities of operating in a clean and sanitary manner.
- (2) The applicant must provide documentation that all persons working for the mobile retail food establishment are certified food protection managers who have shown proficiency through obtaining a food safety certificate and passing a food safety certification examination administered by an accredited certifying program recognized by the Conference for Food Protection. Certified food protection managers shall maintain the currency of their food safety certificate by following the accredited certifying program's requirements for renewal. The applicant must noticeably post these certifications within their Mobile Retail Food Establishment(s).
- (3) If the mobile retail food establishment intends to serve food or beverages from a vehicle, whether motorized or nonmotorized, 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 Board 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.

4-17.4. Fire permits required for certain operations.





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All mobile retail food establishments shall comply with any requirements established by the Bogota Fire Department and as set forth by the New Jersey Uniform Fire Code to ensure that the operations of the mobile retail food establishment do not present a fire hazard. Any mobile retail food establishment using any flame in its operations or utilizing a tent or canopy 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 Bogota Fire Department, Bureau of Fire Prevention before commencing operations. If an inspection is required during nonbusiness hours of the Bureau of Fire Prevention, the mobile retail food establishment shall pay a \$100 surcharge in addition to the applicable fee. The Fire Department is empowered to conduct safety checks of any mobile retail food establishment to ensure compliance with the New Jersey Uniform Fire Code.

4-17.5. Where mobile retail food establishments may and may not operate.

- (1) Commercial/industrial/office/property: mobile retail food establishments may operate on a private commercial, industrial or office property that is located within PD, B-1, B-2, B-3 and I zones in the Borough under the following terms, conditions and requirements:
  - (a) The mobile retail food establishment must be situated at least 100 feet away from the main entrance of any licensed restaurant, luncheonette or tavern that serves food.
  - (b) Prior to allowing a mobile retail food establishment to operate on a private commercial, industrial or office property, that property must be approved for a zoning permit from the Borough Zoning Officer. 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 the mobile retail food establishment to operate on the property and further consents to allowing Borough officials onto the property to enforce the provisions of this section. 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



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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 90 days and shall be renewable for an unlimited number of times. The fee for each zoning permit (including renewals) is \$50.

- (c) A maximum of one mobile retail food establishment 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 retail food establishments over the entirety of the ninety-day period the zoning permit is valid, so long as only one mobile retail food establishment is operating on the property at any one time.
  - (d) Any mobile retail food establishment who receives approval from the Borough Administrator to operate at a special event open to the general public, such as a fair, festival or carnival is exempt from the provisions of this Section; however, the Borough and its officials retain the right to perform all inspections set forth in this Section, and all insurance requirements remain in effect. In the case of a one-day event, the Borough Administrator has the authority to expand the number of mobile retail food establishments as needed.
  - (e) Mobile retail food establishments may not operate on any private commercial, industrial or office property outside of the PD, B-1, B-2, B-3 and I zones, 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 days in length.
- (2) Public property/parks. No mobile retail food establishment 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 days in length.
- (3) Residential property. Mobile retail food establishments are not allowed to operate on residential property. Exceptions are for 1) an approved residential block party or 2)





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an approved private catering arrangement. In either circumstance, the mobile retail food establishment 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 10 business days in advance of the event, and authorization shall be granted for no greater than a two-day period.

- (4) Public streets and sidewalks. Mobile retail food establishments are prohibited from serving food or beverages along any public street, including from any metered or nonmetered 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 retail food establishments may not operate on any other property within the Borough, 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.

4-17.6. Dates, hours and other conditions of operation.

- (1) At least five business days prior to operating on any private commercial, industrial or office property within the Borough, a mobile retail food establishment shall file with the Board of Health a schedule of the dates and times it will be serving food and beverages for the ninety-day period at each location where a zoning permit has been granted. Any changes to that schedule shall be filed with the Board of Health at least three business days in advance. Provided all of the requirements of this section are met, the Board of Health shall issue an operating permit authorizing the mobile retail food establishment 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 retail food establishment will be conducting operations. There is no charge for an operating permit.





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- (2) It shall be a violation of this section for a mobile retail food establishment to serve food and beverages at any other time than as set forth on the schedule it has filed with the Board of Health for a specific private commercial, industrial or office property.
- (3) Maximum operating hours for any mobile retail food establishment are 10:00 a.m. until 7:00 p.m., seven days per week.
- (4) Mobile retail food establishments 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 retail food establishments utilizing motorized vehicles are prohibited from parking any such vehicle on any property where the mobile retail food establishment 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 nights and only in connection with a special event open to the general public, such as a fair, festival or carnival.
- (6) A mobile retail food establishment 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.

#### 4-17.7. Inspections and enforcement.

The Board of Health, Building Department, Fire Department, Police Department and Borough Administrator are empowered to conduct inspections of any mobile retail food establishment to ensure compliance with the provisions of this section 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 section and all of its provisions.

#### 4-17.8. Water Requirements.

Water meeting the requirements specified under this section shall be made available for a mobile retail food establishment using one of the following means:



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1. A supply of containers of commercially bottled drinking water;
2. One or more closed portable water containers;
3. An enclosed vehicular water tank;
4. An on-premises water storage tank; or
5. Piping, tubing, or hoses connected to an adjacent approved source.

4-17.9. Sewage and Other Liquid Wastes.

Sewage and other liquid wastes shall be removed from a mobile retail food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created. A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

4-17.10. Indoor Surface Characteristics.

Indoor surface characteristics shall include the following:

1. Except as specified in (a)2 below, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:
  - i. Smooth, durable, and easily cleanable for areas where retail food establishment operations are conducted;
  - ii. Closely woven and easily cleanable carpet for carpeted areas; and 8:24–6.1(a)1(ii) 42
  - iii. Non-absorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, ware washing areas, toilet rooms, mobile retail food establishment servicing areas, and areas subject to flushing or spray cleaning methods.
2. Exterior surfaces of buildings and mobile retail food establishments shall be of weather resistant materials and shall comply with law.

4-17.11. Violations and penalties.

Any person who violates any of the provisions of this section shall be subject to the penalties established by §3-1 of the Borough Code. Additionally, any vehicle, whether motorized or nonmotorized, such as a truck, van, trailer or pushcart, used in a mobile food vending operation





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without all applicable licenses and permits as required by this section shall be deemed a public safety hazard and may be impounded.

4-17.12. License revocation or suspension.

Failure to comply with any of the provisions of this section may result in having any license or permit issued under the provisions of this section revoked or suspended for a specified period of no greater than 90 days, by the licensing authority, Borough officer responsible for enforcement or by the Borough Council. The foregoing is in addition to the penalties established by §3-1 of the Borough Code.

**SECTION 2: SEVERABILITY**

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

**SECTION 3: INCONSISTENCY**

Any and all ordinances, or parts thereof, in conflict or inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to such extent as they are so in conflict or inconsistent.

**SECTION 4: EFFECTIVE DATE**

This ordinance shall take effect twenty (20) days after the first publication thereof after final passage.