

BOROUGH OF PROSPECT PARK

ORDINANCE NO. 2022-19

ORDINANCE AMENDING CHAPTER 206 OF THE CODE OF THE BOROUGH OF PROSPECT PARK ENTITLED “FOOD HANDLING ESTABLISHMENTS” ESTABLISHING AND AMENDING FEES, CREATING CHAPTERS 207 ENTITLED “ICE”, CHAPTER 208 ENTITLED “VENDING MACHINES” AND CHAPTER 209 ENTITLED “ICE CREAM VENDORS” AND AMENDING FEES IN §255-2(B)

WHEREAS, Borough Administration has reviewed Chapter 206 of the Code of the Borough of Prospect Park entitled “Food Handling Establishments” and has reviewed and requested the Borough Council update the Borough Code; and

WHEREAS, the Council of the Borough of Prospect Park deem it in the best interest of the Borough of Prospect Park to amend Chapter 206 of the Code to provide for clarification and to amend the fees contained therein and to create Chapter 207, entitled “Vending Machines”, Chapter 208 entitled “Ice”, and Chapter 209 entitled “Ice Cream Vendors” regulating the same and to amend the fees contained in §255-2(B).

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Prospect Park in the County of Passaic in the State of New Jersey, that hereby amends the § 206 of Code of the Borough of Prospect Park as follows:

1. § 206-1 is hereby amended to state as follows:

RETAIL FOOD ESTABLISHMENTS

A. Retail Food Handling Establishment shall be defined as “any building or place, or portion thereof, maintained, used or operated where food is handled, stored, prepared, packaged, served, vended, or otherwise provided food for human consumption, distribution or sale within the Borough of Prospect Park.”

B. Mobile or Outdoor Food Vending Vehicle or Establishment shall be 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”

C. All retail food establishments shall comply with Chapter 24 of the New Jersey State Sanitary Code relating to the construction, operation and maintenance of retail food establishments, and all violations are hereby declared to be nuisances hazardous to health.

DB. License requirements and fees.

1. No person shall operate a Retail Food-Handling Establishment or Mobile or Outdoor Food Vending Vehicle or Establishment, including but not limited to each restaurant, store or mobile or outdoor food-vending vehicle or establishment, without first having obtained an appropriate retail food license or appropriate retail food licenses from the Borough Board of Health in such form or forms as the Board or its authorized representative may from time to time issue. Such license or licenses shall be posted in a conspicuous place in such establishment.

2. There shall be an annual license fee of \$100.00 for retail food handling establishment. The fee shall be applied per restaurant, store and/or vehicle. Changes in ownership or licenses which lapse for one year or more shall be considered new. The charge for temporary licenses valid for a maximum of 2 days shall be \$50.00.

3. All such licenses shall expire annually on June 30 of each year, except for temporary licenses, which are valid for a maximum of 2 days. Application for renewal of any license shall be submitted, together with the required fee, on or before June 1 of each year. A renewal application submitted after June 30 shall be assessed an additional late fee charge of \$25.00.

4. A license may be suspended or revoked for a violation by the holder of any provision of this chapter or Chapter 24 of the State Sanitary Code, after an opportunity for a hearing by the Board or its authorized representative.

5. No such license shall be transferable.

6. Inspections. All buildings, premises and/or vehicles subject to this chapter are subject to inspection from time to time by the Borough. All rooms and areas in the building shall be available and accessible for such inspections, which shall be made during usual business hours if the premises are used for nonresidential purposes; provided, however, that inspections may be made at other times if the premises are not available during the foregoing hours for inspections, there is reason to believe that violations are occurring on the premises which can be determined and proved by inspection only during other than the prescribed hours, or there is reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection and abatement without delay.

2. § 206-8 Terms of Certificate; Fee; Suspension or revocation shall be amended to state as follows:

- A. The food handler's certificate, when granted, shall be valid until the same is suspended or revoked, and the fee therefor shall be \$5.
- B. For good cause shown and on written notice to any person holding a food handler's certificate, the Board of Health of the Borough of Prospect Park,

New Jersey, expressly reserves the right to suspend or revoke any food handler's certificate issued or granted pursuant to this article.

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Prospect Park in the County of Passaic in the State of New Jersey, that hereby creates Chapter 207 of the Code of the Borough of Prospect Park as to state follows:

Chapter 207

ICE

§207-1. Ice unfit for use prohibited.

No person, partnership or corporation shall cut, manufacture, bring, sell or use any ice within the limits of the Borough of Prospect Park whenever, in the judgment of the Board of Health, the same is unfit for use, and no person, partnership or corporation shall attempt to cut, manufacture, bring into, sell or use any such ice after being notified by said Board or its officers or agents not to do so. The partnership or corporation will notify annually the Board of Health as to the potability and contents of the ice.

§207-2. Fees.

No such permit as set forth in the next section shall be issued by the Board of Health until there shall have been paid to said Board a fee of \$35.00, for each and every vehicle, conveyance or vending machine from which ice shall be sold or delivered.

§207-3. Permits.

Each permit to be issued as set forth in the preceding section shall continue for the term of one year, beginning on the first day of January in each year, provided that no such permit shall be issued, or any such permit so issued shall be revoked, if, in the judgment of the Board of Health, the use of any ice so cut, manufactured, sold or delivered or to be cut, manufactured, sold or delivered under the same is or would be detrimental to the public health.

§207-4. Violations and penalties.

Any person who violates any of the provisions of this article shall, upon conviction thereof, be punishable as provided in Chapter 1, General Provisions, Article II, General Penalty.

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Prospect Park in the County of Passaic in the State of New Jersey, that hereby creates Chapter 208 of the Code of the Borough of Prospect Park as to state follows:

Chapter 208

VENDING MACHINES

§208-1. Applicability of state standards

The provisions of N.J.A.C. 8:24-1.1 et seq. pertaining to retail food establishments and food and beverage vending machines shall be enforced in the Borough of Prospect Park by the Board of Health.

§208-2. Permit and license requirements.

It shall be unlawful for any person, whether as principal or agent, clerk or employee, either for himself or any other person, or for any body corporate, or as an officer of any corporation or otherwise, to

- A. Engage in the operation of one or more machines or devices offered for public use which, upon insertion of a coin, coins or token or by other means, dispense unit servings of food or beverages, either in bulk or package, without the necessity of replenishing the devices between each vending operation, without first having applied to and procured a permit from the Board of Health of this municipality so to do, or without complying with any and all of the provisions of N.J.A.C. 8:24-1.1 et seq.
- B. Maintain or permit to be maintained on or in any location in this municipality one or more machines or devices offered for public use which, upon insertion of a coin, coins or token or by other means, dispense unit serving of food or beverages, either in bulk or package, without the necessity of replenishing the devices between each vending operation, without first having applied to and procured a license for each such machine or device from the Board of Health of this municipality, or without complying with any and all of the provisions of N.J.A.C. 8:24-1.1 et seq.

§208-3. Permit and license fees; expiration date.

A. The fees for permits and licenses as required by Section 2 above, shall be \$100.00 per operator and \$35.00 per vending machine.

B. All permits and licenses issued under authority of this article shall expire on the 30th day of June each year.

§208-4. Application for and issuance of permits and licenses.

Application for and issuance of the permits and licenses referred to in Section 2 above shall be made in conformity with the provisions of N.J.A.C. 8:24-1.1 et seq. Such permits and licenses are not transferable.

§208-5. Suspension, revocation and reinstatement.

Permits and licenses issued under authority of this article may be suspended, revoked or reinstated by the Board of Health of this municipality pursuant to the provisions of N.J.A.C. 8:24-1.1 et seq.

§208-6. Interstate commerce.

No provision of this article shall be applied so as to impose any unlawful burden on either interstate commerce or any activity of the state or federal government.

§208-7. Violations and penalties.

Any person who violates any of the provisions of this article shall, upon conviction thereof, be punishable as provided in Chapter 1, General Provisions, Article II, General Penalty.

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Prospect Park in the County of Passaic in the State of New Jersey, that hereby creates Chapter 209 of the Code of the Borough of Prospect Park as to state follows:

Chapter 209

ICE CREAM VENDORS

§209-1. Definitions.

For the purpose of this article, the terms herein are defined as follows:

MOBILE ICE CREAM AND ICE CREAM PRODUCTS VENDOR — Any person, firm, partnership or corporation who sells ice cream and ice cream products from any vehicle, motorized or otherwise, wherein ice cream and ice cream products are carried on or attached by a contraption to the vehicle itself.

§209-2. License required; fees.

No mobile ice cream and ice cream products vendor shall operate in the Borough of Prospect Park without a license to do so. The annual license fee shall be \$100.00. Licenses shall be issued on an annual basis and shall expire on December 31 of the year of issuance. No portion of this fee shall be prorated for any part of the year. An operator of a mobile ice cream vendor/truck may obtain a temporary license. The charge for a temporary licenses valid for a maximum of 2 days shall be \$50.00.

§209-3. Application for license.

Licenses may only be obtained by application in writing to the Municipal Clerk setting forth the following:

A. The name, address, date of birth, place of birth and social security number of the applicant. In the event the applicant has not resided at the current address for a three-year period next preceding the date of the application, the applicant shall also set forth all residence addresses for said three-year period.

B. A physical description of the applicant, which shall include height, weight, hair color, and eye color.

C. A statement of whether the applicant has ever been convicted of crime and, if so, the nature, date and location of the offense(s).

D. A description of the nature of the business and goods to be sold.

E. The name, address and telephone number of the employer.

F. A description of the delivery method and, if by vehicle, the type of vehicle to be used and a schematic of the vehicle illustrating interior equipment. Any vehicle to be used for vending shall be inspected by the Police Department, the Health Department, and, in the event hazardous materials are determined to be on the vehicle, a further inspection and approval shall be made by the appropriate Borough official. Said inspection shall ascertain compliance with the motor vehicle laws of the State of New Jersey and/or safe handling practices of hazardous materials.

G. Proof of current and sufficient automobile liability insurance on the vehicle used in vending.

H. The names, addresses and telephone numbers of three references who will certify to the applicant's good character and business responsibility.

I. All applicants shall be required to submit, at their own cost and expense, to a criminal background check. The issuance of any license hereunder shall be subject to and conditioned upon approval by the Borough of Prospect Park of the results of such criminal background check. For purposes of this chapter, "criminal background check" shall be defined as a determination of whether an applicant has a criminal record by cross-referencing that applicant's name and fingerprints with those on file with the Federal Bureau of Investigation, Identification Division, and/ or the New Jersey State Bureau of Identification in the Division of State Police.

§209-4. Permitted hours of operation; noise.

A. All holders of mobile ice cream and ice cream products vending licenses under this article shall sell their products in the Borough of Prospect Park only between the hours of 9:00 a.m. and 8:00 p.m., prevailing time.

B. No vendor licensed under this article shall use any excessively loud noisemaking devices to call attention to his/her wares, and any bells, chimes, rattles or other similar devices shall not be operated while said vending vehicle is in a stopped position.

§209-5. Limitation on number of licenses.

The number of licenses for mobile vendors of ice cream and ice cream products shall be two, and each licensee shall have the privilege of operating two vehicles under his/her license. However, every vehicle utilized shall be identified in the application process and subject to inspection by the Borough prior to its use.

§209-6. Violations and penalties.

Any person who violates any of the provisions of this article shall, upon conviction thereof, be punishable as provided in Chapter 1, General Provisions, Article II, General Penalty

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Prospect Park in the County of Passaic in the State of New Jersey, that hereby amends the annual license fee in §255-2(B) of the Code of the Borough of Prospect Park to state as follows:

§255-2(B) The annual license fee shall be \$35 for each place at or from which milk is sold and for each wagon or vehicle used in the distribution thereof. Licenses, when granted, shall be for the calendar year; provided, however, that any license so granted may be revoked by the Board in case the licensee or any of his employees, servants or agents shall violate any of the provisions of this article or any of the provisions of the Act of the Legislature of the State of New Jersey entitled "An Act to Regulate the Production, Distribution and Sale of Milk and Cream," approved March 30, 1914, and the amendments and supplements thereto.

BE IT FURTHER ORDAINED by the Borough Council of the Borough of Prospect Park that the remaining sections of Chapter 206, not specifically referenced herein, shall not be amended or altered by the within ordinance and shall remain unchanged and in full effect; and

BE IT FURTHER ORDAINED by the Borough Council of the Borough of Prospect Park that all Ordinances or parts of Ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

BE IT FURTHER ORDAINED by the Borough Council of the Borough of Prospect Park that if any Section, Paragraph, Clause or Provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the Section, Paragraph, Clause or Provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED by the Mayor and Borough Council of the Borough of Prospect Park that all Borough officials shall take all necessary actions to in order to effectuate the within Ordinance; and

BE IT FURTHER ORDAINED by the Mayor and Borough Council of the Borough of Prospect Park that this Ordinance shall take effect upon approval and publication and according to law.

**Introduction and First Reading:
November 21, 2022**

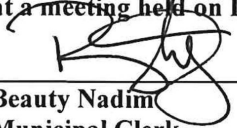
| COUNCIL MEMBER | Motion | Second | Ayes | Nays | Abstain | Absent |
|----------------|--------|--------|------|------|---------|--------|
| Shah | | | ✓ | | | |
| Artis | | | | | | ✓ |
| Hussain | | ✓ | ✓ | | | |
| Matari | ✓ | | ✓ | | | |
| Ortiz | | | | | | ✓ |
| Perez | | | ✓ | | | |

**Second Reading and Adoption:
December 19, 2022**

| COUNCIL MEMBER | Motion | Second | Ayes | Nays | Abstain | Absent |
|----------------|--------|--------|------|------|---------|--------|
| Shah | ✓ | | ✓ | | | |
| Artis | | | ✓ | | | |
| Hussain | | | ✓ | | | |
| Matari | | ✓ | ✓ | | | |
| Ortiz | | | ✓ | | | |
| Perez | | | | | | ✓ |


**Mohamed Khairullah,
 Mayor**

**This Ordinance was duly approved and adopted
 by the Council of the Borough of Prospect Park
 at a meeting held on December 19, 2022**



**Beauty Nadim
 Municipal Clerk**