

**ORDINANCE NO. 2024-03**

**AN ORDINANCE OF THE BOROUGH OF SOUTH TOMS RIVER, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 4 OF THE BOROUGH CODE ENTITLED "LICENSE AND BUSINESS REGULATIONS"**

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Borough Council of the Borough of South Toms River, County of Ocean, State of New Jersey that Chapter 4 of the Borough Code entitled "Rental Licenses" is hereby amended and supplemented so as to establish section 15 entitled "Mobile Food Vendors" which shall read as follows:

**SECTION 1.**

**4-15 MOBILE FOOD VENDORS.**

**4-15.1 Definitions.**

**EDIBLE GOODS**

Any food prepared or cooked on- or off-site, including but, not limited to, salads, hot dogs, hamburgers, sandwiches, tacos, pizzas and ice cream.

**MOBILE FOOD VENDOR**

Any business which sells edible goods from a nonstationary location within the Borough. The term shall include, but not be limited to:

(1) **MOBILE FOOD TRUCK**

A self-contained motorized unit selling items defined as "edible goods."

(2) **CONCESSION TRAILER**

A vending unit which is pulled by a motorized unit and has no power to move on its own.

**NONREFRIGERATED**

Edible goods that are not required to be kept at a temperature below 41° F. according to the Federal Food and Drug Administration and the applicable statutes and regulations of the State of New Jersey.

**4-15.2 Permit and Application.**

- a. License Required. Every mobile food vendor shall have a permit issued by the Borough to conduct business in

the Borough and shall further renew said license annually.

b. Application. Every mobile food vendor shall submit a permit application to the Borough Clerk for a permit on a form promulgated by the Borough containing the following information:

1. Name of applicant.
2. Legal name of business or entity.
3. State of incorporation or filing of a partnership or articles of association.
4. If applicable, copy of charter or articles of incorporation and current listing of the directors, partners, or principals.
5. Sales tax number, with a copy of sales tax permit.
6. Signed permission form or provide a notarized affidavit from the private property owner granting permission for unit placement.
7. Name, phone number and driver's license number of business owner and all employees operating within the mobile food vendor unit.
8. Proposed itinerary, with route, vending locations and times of operation.
9. Contact name and phone number for mobile food vending unit while en route.
10. Description of products being sold.
11. Site plan where the mobile food vending unit will be located on the property.
12. Vehicle identification number and description of mobile food vending unit.
13. Signed affidavit with photo identification that each individual applicant:
  - (a) Has no unpaid civil judgments against him or her in any state or U.S. possession which arise from a business activity which would have been covered by this

section if in effect at the time in the jurisdiction where such judgments are of record.

- (b) A statement of all convictions in any state, the United States, or U.S. possession within the last 10 years.

14. Certification and permitting from the Ocean County Board of Health allowing the use of the mobile food vending unit.

- c. The Mayor and Council shall have the ability to waive, on a per-day or per-event basis (as applicable), the permit, permit fee, and/or location restriction requirements set forth herein, however, any mobile food vendors receiving or otherwise operating as a result of such waiver remain subject to all non-waived as well as the mobile food vendor requirements of § 4-15.7 when operating within the Borough.

#### **4-15.3 Permit Fees.**

- a. The application fee for a mobile food vendor shall be \$100.00. Each mobile food vendor shall be permitted separately.
- b. Upon renewal, the applicant shall pay the renewal fee of \$150 and update any changes in the permitting documentation upon permit renewal. The applicant must submit the application and the renewal fee within 30 days before expiration of the permit or must reapply as a new applicant.

#### **4-15.4 Permit Denial.**

A permit may be denied where:

- a. An applicant is found to have an unpaid civil judgment(s) against him which relates to the duties and responsibilities of the permitted occupation, which shall be determined by the nature and 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; or
- b. An applicant has been convicted of a crime which directly relates to the duties and responsibilities of the licensed occupation, which shall be determined by the

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nature and seriousness of the crime, the relationship of the crime to the purpose of the permit and the extent that the permit would allow someone to engage in further criminal activity; or

- c. The required information is incomplete or incorrect or shows that a person is not otherwise entitled to conduct business as a mobile food vendor; or
- d. The opportunity to issue a permit has been denied due to previous violations as described in this section; or
- e. The issuance of such a permit would be contrary to the public health, safety or welfare of the citizens and visitors of the Borough.

#### **4-15.5 Permit revocation or suspension; appeals.**

The Mayor and Council may, upon its own motion or upon the complaint in writing of any person, investigate the actions of the licensee, and shall have power to suspend for the unexpired portion of the license period, or revoke, any license issued under the provisions of this section or any ordinance that may be hereafter adopted by the Borough, where the licensee, or any person acting for them or any of them in performing or attempting to perform any of the acts mentioned herein, is deemed guilty of:

- a. Making any false premises or misrepresentations; or
- b. Conviction of the licensee for any felony or high misdemeanor or a misdemeanor or disorderly persons offense involving moral turpitude; or
- c. The violation of any part of the provisions of this section or other ordinances or regulations relating thereto.

#### **4-15.6 Location Restrictions.**

- a. No more than two mobile food vendors shall be located within 40 feet of each other except during Borough-sponsored or other community events.
- b. No person shall sell or offer for sale any item upon any premises if requested by the property owner or a Borough official not to do so, or if there is placed at or near the entrance thereof a sign bearing the words "no peddlers or vendors," "no trespassing," or "no solicitors."
- c. A mobile food vendor shall not conduct sales at a stationary location:

1. For a duration exceeding 8:00 a.m. to 8:00 p.m. per location on public property per day. Allowances may be granted for additional time depending on the type of activity or event.
2. On any public street where the operation impedes vehicular or pedestrian traffic.

#### **4-15.7 Mobile Food Vendor Requirements.**

- a. Each unit shall be equipped with a portable trash receptacle and shall be responsible for proper disposal of solid waste and wastewater in the sanitation facility legally accessed by the food service establishment. All disturbed areas must be cleaned following each stop to a minimum 20 feet of the sales location.
- b. A mobile food vendor may not have a drive-through.
- c. A mobile food vendor may be allowed to have multiple locations within a day but not exceeding 12 hours of operation per location. A list of the locations must be submitted to and approved by the Board of Health.
- d. Continuous music or repetitive sounds shall not project from the mobile unit.
- e. A five-foot clear space can be maintained around the mobile food vending unit.
- f. The mobile unit will be subject to inspection upon permit application through Code Enforcement and the Board of Health and may be subject to random inspection and upon reissuance of the permit.
- g. Mobile food vendors are responsible for complying with all statutes and regulations of the State of New Jersey, including, but not limited to, any restrictions on food or drink sales within a state park or state-owned lands.
- h. A "No Smoking" sign must be posted next to the order window or area.
- i. An approved portable-type ABC fire extinguisher tagged by a licensed company shall be kept accessible as directed by the Chief of Police or designee. A portable Type K fire extinguisher is also required in the kitchen for cooking operations.

- j. A kitchen fire suppression system and kitchen ventilation system must be NFPA 17A and NFPA 96 compliant and shall be required when the cooking process produces grease-laden particles within the mobile unit.
- k. All cooking appliances shall be UL-approved appliances.
- l. If cooking and using propane, a gas-pressure test must be performed by a licensed plumber.

#### **4-15.8 Violations and Penalties.**

It shall be unlawful for any individual to:

- a. Sell edible goods in the Borough without obtaining a permit as required herein.
- b. Sell edible goods in the Borough after the expiration of a permit issued by the Borough.
- c. Transfer an existing permit issued by the Borough.
- d. Display a valid permit issued by the Borough in the name of another individual, organization or entity.
- e. Represent that the issuance of a permit by the Borough constitutes the Borough's endorsement or approval of the product for sale.
- f. Operate a mobile food vendor operation that is not in compliance with the State or Federal statutes and regulations.

Any person or entity found guilty of violating any provision of this Article shall be subject to a fine of not more than \$1,000.

**SECTION 2.** This Ordinance shall be part of the code of the Borough of South Toms River as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Borough Clerk and the Borough Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Borough of South Toms River

in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

**SECTION 3.** If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

**SECTION 4.** All Ordinances or parts of Ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed, but only to the extent of such inconsistencies.

**SECTION 5.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 6.** This ordinance shall take effect after second reading and publication as required by law.

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**NOTICE**

**NOTICE IS HEREBY GIVEN** that the foregoing ordinance was introduced and passed by the Borough Council on first reading at a meeting of the Borough Council of the Borough of South Toms River on the 25<sup>th</sup> day of **March, 2024**, and will be considered for second and final passage at a meeting of the Borough Council to be held on the 8<sup>th</sup> day of **April, 2024**, at 7PM. at the Municipal Building located at 19 Double Trouble Road, South Toms River, New Jersey, at which time and place any person desiring to be heard upon the same will be given the opportunity to be so heard.



**JAMIE JUBERT**, Acting Municipal Clerk  
Borough of South Toms River



**MAYOR OSCAR CRADLE**  
Borough of South Toms River

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