

The Borough of Hightstown
County of Mercer
Ordinance BH-2025-01

Summary: This ordinance amends and supplements Chapter BH4 of the Borough of Hightstown Board of Health Code, entitled "Retail Food Establishment and Food and Beverage Vending Machine Code." The amendments update references from Chapter XII to Chapter XXIV of the New Jersey State Sanitary Code to reflect current citations and align with state standards. The ordinance also establishes revised administrative procedures for licensing, supervision, and education requirements for food service operators and personnel. It sets updated licensing fees, plan review fees, and late penalties for retail food establishments and vending machines. Additionally, the ordinance includes exemptions for nonprofit entities and streamlines enforcement and appeal procedures for license suspensions or revocations.

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on first reading at a meeting of the Board of Health of the Borough of Hightstown held on May 14, 2025, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a meeting to be held on June 11, 2025 beginning at 7:30 p.m.. via zoom at which time and place all persons interested may appear and address the Board of Health, either for or against, regarding the passage of said Ordinance. Interested parties can join the public meeting as follows: <https://us06web.zoom.us/j/82860885159?pwd=1qUFk9JyKk1clrHbtfxgLLseLyQl0.1or> Meeting ID: 828 6088 5159 Passcode: 304725 or by telephone 646-558-8656 Meeting ID:82860885159# Passcode: 304725#. Copies of the full ordinance are available at no cost via email request to the Borough Clerk at priggio@hightstownborough.com, until June 11, 2025 or until any further consideration of this ordinance is completed thereafter by the Board of Health, to members of the general public who shall request the same. Copies can be mailed by USPS, faxed or e-mailed. The ordinance is also available for review on the Borough website at www.hightstownborough.com.

Peggy Riggio, RMC
Borough Clerk

Ordinance BH-2025-01

Borough of Hightstown
County of Mercer
State of New Jersey

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER BH4, ENTITLED "RETAIL FOOD ESTABLISHMENT AND FOOD AND BEVERAGE VENDING MACHINE CODE" OF THE "BOARD OF HEALTH CODE"

WHEREAS, the Hightstown Board of Health adopted Chapter BH4 of the Board of Health Code entitled "Retail Food Establishment and Food and Beverage Vending Machine Code", which establishes compliance and licensing requirements for Retail Food Establishments; and

WHEREAS, the Board of Health desires to amend and supplement Chapter BH4 to align the provisions of the Code with current citations of the New Jersey State Sanitary Code and to establish standards for efficient administrative functions of the Borough;

NOW THEREFORE BE IT ORDAINED by the Board of Health of the Borough of Hightstown in the County of Mercer and State of New Jersey, as follows:

Chapter BH4 of the Board of Health Code entitled "Retail Food Establishment and Food and Beverage Vending Machine Code" is hereby amended and supplemented as follows (additions are shown with underline; deletions are shown with ~~strikeout~~):

SECTION 1.

§ BH4-1. Adoption of Retail Food Establishment Code.

- A. Adoption by Reference. A Code regulating retail food establishments and food and beverage vending machines and fixing penalties for violations is hereby established. In accordance with N.J.S. 26:3-69.1 et seq. a copy of the Code is incorporated herein and made a part hereof without the inclusion of its text.
- B. Title of Code. The Code established and adopted by this chapter, by reference, is described and commonly known as "The New Jersey State Sanitary Code, Chapter ~~XX~~ XXIV, Sanitation in Retail Food Establishments and Food and Beverage Vending Machines" ~~(1993)~~ as hereafter may be amended by the Board of Health or by the State of New Jersey. The Code is set forth in the New Jersey Administrative Code and is cited as follows: N.J.A.C. 8:24-1.1 et seq. The Code is also commonly referred to as Chapter ~~XX~~ XXIV of the State Sanitary Code or as the "Sanitation in Retail Food Establishments and Food and Beverage Vending Machines Code".
- C. Public Record. Three copies of Chapter ~~XX~~ XXIV of the New Jersey State Sanitary Code have been placed on file in the Office of the Borough Clerk ~~Secretary of the Board of Health~~ and will remain on file for the use and examination of the public.

§ BH4-2. Retail Food Establishment.

A. License Required; Issuance of License. No person shall operate a retail food establishment without a license from the Borough Department of Health. The license shall be prominently displayed in the place of business. Applications for licenses shall be submitted at Hightstown Borough Hall, together with the fee set forth in § BH:4-2D. Applications shall be submitted as follows:

- (1) Temporary Food Establishments. Not less than ~~20~~ 30 days prior to the proposed date of operation.
- (2) All Other Applications. On or before January 1 of the year for which the application is made.
- (3) New applications for new establishments or change of ownership of an existing establishment may be made at any time during the year upon payment of the full annual fee.
- (4) All licenses issued under Subsection A(2) and (3) shall expire on January 1 of the year following the year of issuance, or upon transfer of ownership or operation of a licensed premises, whichever comes first.

B. Suspension and Revocation of License.

- (1) A license issued under the terms and provisions of this section may be suspended or revoked by the Health Officer for a violation by the licensee of any State Sanitary Code which is by its terms applicable thereto or in violation of any law of the United States, the State of New Jersey, or any Ordinance of the Borough.
- (2) A license issued under this section shall not be revoked, cancelled or suspended until a hearing is held by the Health Officer. Written notice of the time and place of the hearing shall be served on the licensee at least 10 days prior to the date set for the hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking, canceling or suspending the license. Service shall be deemed effected either upon personal delivery to the person to be notified, or upon deposit in the United States Post Office in a sealed envelope, postage prepaid, addressed to the person to be notified at the business address appearing on the license. At the hearing before the Health Officer, the person aggrieved shall have an opportunity to answer and thereafter be heard, and upon due consideration and deliberation by the Health Officer, the complaint may be dismissed; or if the Health Officer concludes that the charges have been sustained and substantiated, the Health Officer may revoke, cancel or suspend the license in question.
- (3) Following such hearing by the Health Officer, the license holder shall have the right of appeal to the Board of Health. An appeal shall be taken by filing written notice with the Health Officer within five days after the receipt of a written order following a hearing by the Health Officer.
- (4) The Board shall hear such appeal de novo within 30 days from the date of filing the notice of appeal.

~~C. Requirement for Food Service Employee's Educational Course.~~ C. Supervision.

- (1) The operator shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the retail food establishment during

all hours of operation. The person in charge shall be trained in accordance of the provisions stipulated in N.J.A.C. 8:24-2.1 and shall ensure that all employees are properly trained in food safety as it relates to their assigned duties.

- ~~(2) As a condition to the issuance of a license under BH:4-2.1a and 2.1b, and as a condition to the renewal of any such license, the applicant or licensee shall be required to establish, by written certification to the Board, that the person in charge of the retail food establishment has attended a Food Service Employee's Education Course. New establishments may be granted a six month grace period in which to comply with the requirement at the discretion of the Health Officer.~~
- ~~(3) The Board shall advise all applicants and licensees in writing of all such courses, which may be offered by or through the Board or which may be offered through others and approved by the Board. Failure to attend a course shall result in a penalty as defined in BH:1-2 and/or refusal by the Board to issue or renew a license.~~
- ~~(4) "Person in charge" means the proprietor, manager, assistant manager or other person with authority and responsibility for the daily operation of a retail food establishment. In the event of a personnel change resulting in the employment of a new "person in charge", it shall be the responsibility of the licensee to immediately notify the Board and make appropriate arrangements for attendance at an approved course, or to produce satisfactory certification of prior attendance at an approved course.~~
- ~~(5) Retail food establishments which handle only pre-packaged, non-potentially hazardous foods as defined in Chapter XII of the State Sanitary Code will be exempt from the requirement to attend said course at the discretion of the Health Officer.~~

D. Fees for Licensing Retail Food Establishments. The fees for the review and licensing of food establishments and business are hereby fixed as follows:

- (1) Fees shall not be required for licensure or plan review for any food bank, food pantry, mobile food pantry, community dinner or similar service intended to address food insecurity of individuals within the community; when owned and operated by any public school, church or other religious organization, or any other nonprofit corporation or association operating within the Borough of Hightstown. Proof of nonprofit (i.e., proof of federal designation as a 501c (3) organization) status may be required prior to issuance of a license and permit.

Type	Annual Fee
Retail food establishments including restaurants	
0-3,500 square feet	\$175
3,501-5,000 square feet	\$225
5,001-10,000 square feet	\$375
Over 10,000 square feet	\$475
Agricultural establishments	\$75
Pre-packaged products only	\$50
Itinerant food vendor (mobile)	\$75
Liquor stores	\$75
Temporary food establishment (per day)	\$50

Plan review fee for new or renovated retail food establishments

Square Feet of New or Renovated Areas	Plan Review Fee
0-400	\$75
401-800	\$150
Over 800	\$250

§ BH4-3. Food and Beverage Vending Machines.

- A. License Required. It shall be unlawful for any person, whether as principal or agent, clerk or employee either individually or for any other person, or for any corporation or entity to engage in the operation of or maintain or permit on or in any location in the Borough one or more machines or devices offered for public use which, upon insertion of a coin, coins or token, or by other means dispenses 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 Borough of Hightstown and displaying the permit in a prominent location and without complying with any and all of the provisions of Chapter ~~XII~~ [XXIV](#) of the State Sanitary Code as adopted or amended by the Board.
- B. Fees and Licensing for Food and Beverage Vending Machines.
 - (1) The license fee for each food and beverage vending machine shall be \$40 per year.
 - (2) All license and permit fees for food and beverage vending machines shall be paid on or before July 1st of each year.

- (3) All permits and licenses issued under this chapter shall expire on June 30th of each year.
 - (4) Fees shall not be required for any food or beverage vending machine owned and operated by any public school, church or other religious organization, or any other nonprofit corporation or association operating within the Borough of Hightstown. Proof of nonprofit (i.e., proof of federal designation as a 501(c)(3) organization) status may be required prior to issuance of a license and permit.
 - (5) New or additional food or beverage vending machines installed during the year shall require payment of the full annual fee.
- C. Applicability of Chapter ~~XX~~ XXIV of the State Sanitary Code. All procedures in connection with the issuance of licenses shall be made in conformity with the provisions of Chapter ~~XX~~ XXIV of the State Sanitary Code, as adopted or amended. Licenses and permits are non-transferable.
- D. Suspension of Vending Machine License. Licenses issued under authority of this chapter may be suspended, revoked, or reinstated by the Borough Board of Health pursuant to the provisions of Chapter ~~XX~~ XXIV of the State Sanitary Code as adopted or amended by the Borough Board of Health.
- E. Inspections by Board of Health. The Board of Health shall supervise and arrange such inspections of vending machines and maintain such records as are required by Chapter ~~XX~~ XXIV of the State Sanitary Code and any other applicable law or regulation.

§ BH4-4. Delinquent fees.

- A. Delinquent annual renewal applications. In addition to the annual license fee, an additional administrative fee of \$100 will be charged for late applications received by the Borough between the dates of February 1 and December 31 for renewal of a license for operational retail food establishments for the current licensing year.
- B. Delinquent temporary retail food establishments. An additional administrative late fee of \$50 will be charged for applications received by the Borough within seven calendar days prior to the planned event.
- C. Delinquent food and beverage vending machine applications. An additional administrative late fee of \$40 will be charged for renewal applications received by the Borough between the dates of August 1 and June 30 of the licensing year.
- D. Delinquent fees stipulated in BH4-4 A, B, and C may be waived at the discretion of the Health Officer or Borough Clerk.

SECTION 2.

All parts and provisions of an ordinance which are inconsistent with the provisions of this ordinance shall be repealed to the extent of such inconsistency.

SECTION 3.

The provisions of this ordinance shall be severable. In the event that any portion of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

SECTION 4.

This Ordinance shall take effect upon final passage and publication in accordance with the law.

Introduced: May 14, 2025

Adopted:

Attest:

Nancy Distelcamp
Board of Health President

Edyth Duffy
Board of Health Vice President

Robert Gilmartin
Board of Health Recording Secretary