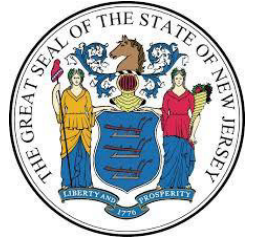




Borough of Bogota
375 Larch Avenue
Bogota, New Jersey, 07603
Phone: (201) 342-1736



Attention: Retail food establishment owner

Regarding: Outdoor Sidewalk Cafes

Applications open April 1 and close October 1

To whom it may concern,

Please read through the Borough of Bogota's Outdoor Sidewalk Cafes Ordinance § 4-14, attached to this package. Licenses issued the prior year do not carry forward into the following year, and a new application must be submitted annually. Please follow the requirements of every section of the ordinance, and submit completed applications to avoid delays in opening your Outdoor Sidewalk Café.

1. Layout Plan § 4-14.4. Application Forms. [Ord. #1205, S1; Ord. #1317, S1]

e. "Three sets of a proposed layout plan containing scaled drawings clearly illustrating the **number**, type of material, color, and location of all tables, chairs, umbrellas, or **other furnishings, or fixtures** intended to be located in the outdoor cafe... **Please include the number of tables/chairs plus any lights, items, heat lamps etc....** that may be located in your outdoor cafe.

2. Insurance Policy § 4-14.6. Standards for Operation. [Ord. #1205, S1]

d. "...**such insurance policy shall name** the Borough of Bogota, 375 Larch Avenue, Bogota, New Jersey 07603, its agents, officers, servants, representatives, and employees **as additional insured** with respect to the operation and maintenance of the outdoor cafe..."

3. Statement indemnifying the Borough of Bogota § 4-14.6. Standards for Operation. [Ord. #1205, S1]

c. Please **complete the statement** on the following page and submit it along with your application.

Applications must be submitted to the Bogota Building Department for review. If approved your application will be put on following Mayor and Council Meeting Agenda to be voted on. You will receive a phone call or email from the Borough if your application is approved.

Establishment Name: _____

Establishment Address: _____

Applicant's Name: _____

Applicant's Phone Number: _____

Applicant's Email Address: _____

Statement indemnifying the Borough of Bogota:

I, _____, the owner of, _____,

located at, _____,

agree to indemnify and hold harmless the Borough of Bogota, its agents, servants, representatives, or

employees from any or all claims, damages, judgment costs, or expenses including attorneys' fees,

which they or any of them may incur or be required to pay because of personal injury, including death or

property damage, suffered by any person or persons as a result of or related in any way to the operation

and maintenance of the outdoor cafe for which the license is issued.

Signature: _____ Date: _____

Chapter 4. General Licensing

§ 4-14. OUTDOOR SIDEWALK CAFES.

§ 4-14.1. Definitions.

[Ord. #1205, S1]

For the purpose of this section, the following words shall have the meanings respectively ascribed in this section.

EATING ESTABLISHMENT

Shall mean any restaurant, cafe, cafeteria, or place of business where food and/or other refreshments are served for on site consumption.

OUTDOOR CAFE

Shall mean any eating establishment where food and other refreshments are served upon the public right-of-way, namely the sidewalks immediately in front or along the side or rear of the eating establishment, or at any other location on the premises of an eating establishment outside of the interior portion of the building occupied by the eating establishment.

SIDEWALK

Shall mean the area of the public right-of-way reserved for pedestrian traffic from the curb to the front line of the building housing a proposed or existing outdoor cafe.

§ 4-14.2. License Required.

[Ord. #1205, S1]

It shall be unlawful for any person, firm, partnership, corporation, association or organization of any kind (hereinafter collectively referred to as "person") to create, establish, operate, maintain, or otherwise be engaged in the business of conducting an outdoor cafe in the Borough of Bogota unless such person shall hold a currently valid license issued pursuant to the terms of this section.

§ 4-14.3. Standards for Licensing.

[Ord. #1205, S1]

No license shall be issued hereunder unless the licensee meets the following conditions:

- a. The licensee must operate an eating establishment in the borough's B-1 or B-2 zones. The licensee must have existing approved indoor seating and the total combined indoor and outdoor seating shall not exceed the maximum number of indoor seating allowed by state and local regulation.
- b. The licensee shall demonstrate that a minimum of four (4) feet of unobstructed paved surface will be available for pedestrian traffic around or through such outdoor cafe and that such outdoor cafe be contiguous to an eating establishment as hereinabove defined.
- c. The hours of operation for outdoor cafes shall not extend after 12:00 midnight on Thursdays, Fridays, and Saturdays, and not after 10:00 p.m. on Sundays, Mondays, Tuesdays, and Wednesdays.
- d. All furniture, umbrellas, barriers, and other property used in the outdoor cafe shall be safe, sturdy, structurally sound, and aesthetically pleasing.
- e. Outdoor seating may not displace parking spaces required by building and zoning regulations.
- f. No food or drinks served at an outdoor cafe shall be prepared or stored other than in the interior of the eating establishment.
- g. The licensee shall demonstrate adequate controls to prevent vermin entrance into the interior of the food establishment, such as air curtains and pass through windows.
- h. Tables and chairs must be removed from the public sidewalks when the establishment is not open for business.

§ 4-14.4. Application Forms.

[Ord. #1205, S1; Ord. #1317, S1]

Application for the license required hereunder shall be filed with the borough clerk and shall be signed by the applicant. The application shall contain the following information:

- a. The name, residence address and telephone number of each individual, owner, partner, or if a domestic corporation, the names, residence addresses, and telephone numbers of the directors and officers owning a ten (10%) percent or greater interest in the corporation and the chief operating executive of the corporation and if a nondomestic corporation, the name, residence address, and telephone number of the managing officer for service of process within the State of New Jersey and a copy of the qualification of said nondomestic corporation to conduct business in the State of New Jersey.
- b. A copy of the trade, corporate, business or fictitious name upon which the applicant intends to do business pursuant to this section.
- c. The address and description of each place where the applicant intends to establish or operate an outdoor cafe.
- d. The name and address of the person owning the premises, if other than the applicant, and the consent of the owner of the premises to the application.

- e. Three (3) sets of a proposed layout plan containing scaled drawings clearly illustrating the number, type of material, color, and location of all tables, chairs, umbrellas, or other furnishings, or fixtures intended to be located in the outdoor cafe. The perimeter of the outdoor cafe may, if appropriate, be defined and set off by a portable type enclosure, which may include live plantings. The enclosure shall define the perimeter of the area to be used as an outdoor cafe and shall separate it from the pedestrians traversing the adjacent sidewalk. The enclosure shall not contain doors or windows nor air conditioning or heating equipment and shall be open at all times to the air from a height of not more than three (3) feet. Awnings or outdoor umbrellas extending over the enclosure are permitted, subject to approval by the mayor and council.

The scaled drawings shall also illustrate the following:

1. The location of any doors leading from the eating establishment to the outdoor cafe. No such doors may be obstructed in any manner.
2. The number of feet and location of unobstructed space permitting free passage of pedestrian traffic around or through each outdoor cafe.
3. The location of the place where any food or drink is intended to be prepared.
4. An illustration of the enclosure or protective barrier separating the eating and serving area of each outdoor cafe from pedestrian traffic.
5. The location of all fire hydrants, parking meters, utility poles, benches, handicap ramps, street furniture, trees, and any other fixtures permanently located on the sidewalk in front of the eating establishment or within ten (10) feet thereof on either or any side.
6. The type and location of any proposed outdoor lighting and fixtures.

§ 4-14.5. Approval of Licenses.

[Ord. #1205, S1]

- a. Upon the filing of a complete application, the borough clerk shall submit same for review by the health officer and chief of police, who shall complete their review within fourteen (14) days and submit any objections in writing to the borough clerk.
- b. The mayor and council may approve any license if the application is complete and conforms to the requirements of this section.
- c. Licenses shall expire annually on March 1.

§ 4-14.6. Standards for Operation.

[Ord. #1205, S1]

- a. The license granted pursuant to this section is personal to the applicant and any change or transfer of ownership of the outdoor cafe shall terminate

the license and shall require a new application and a new license in conformance with all of the requirements of this section.

- b. Acceptance of the license by the applicant shall operate as a consent to the health, fire, police, and building officials of the borough to inspect the outdoor cafe for continued compliance with the terms and conditions of this section.
- c. No license required by this section shall be granted to any person to operate an outdoor cafe until such person shall have filed with the borough clerk a statement agreeing to indemnify and hold harmless the Borough of Bogota, its agents, servants, representatives, or employees from any or all claims, damages, judgment costs, or expenses including attorneys' fees, which they or any of them may incur or be required to pay because of any personal injury, including death or property damage, suffered by any person or persons as a result of or related in any way to the operation and maintenance of the outdoor cafe for which the license is issued.
- d. No license required by this section shall be granted to any person to operate an outdoor cafe until such person shall have first filed with the borough clerk a comprehensive general liability policy issued to such person by a public liability insurance company authorized to do business in the State of New Jersey affording the coverages set forth below in the amounts specified. Such insurance policy shall name the Borough of Bogota, 375 Larch Avenue, Bogota, New Jersey 07603, its agents, officers, servants, representatives, and employees as additional insured with respect to the operation and maintenance of the outdoor cafe in the following amounts:

Bodily injury:

Each person	\$300,000.00
Each accident:	\$1,000,000.00

Property damage:

Each person	\$300,000.00
Each accident	\$1,000,000.00

The insurance coverage required by this section shall at all times be maintained for the full amount. The policy of insurance required by this section to be filed with the borough clerk shall contain a clause obligating the company issuing the same to give not less than thirty (30) days written notice to the borough clerk before cancellation or amendments of any of the terms thereof. Notice of cancellation shall not relieve the company issuing such policy of liability for any injury or claim arising before the cancellation becomes effective. The cancellation of any such policy shall have the immediate effect of suspending the license of such person to operate the outdoor cafe covered thereby until a new policy complying with the provisions of this section is filed with the borough clerk and a letter confirming the new effective date of the license is issued by the borough clerk.

- e. Every insurance policy required hereunder shall contain a provision for continuing liability thereunder to the full amount thereof notwithstanding any recovery thereon, that the liability of the insured shall not be affected by the insolvency or the bankruptcy of the insured, and that until the policy is canceled the insurance company will not be relieved from liability on

account of nonpayment of premium or of any act or omission by the named insured. Such policy of insurance shall be further conditioned for the payment of any and all judgments up to the limits of such policy.

- f. Each licensee is responsible for keeping the area of the outdoor cafe and the adjacent walks and streets free and clear of any debris or litter generated by the cafe. Areas must be cleaned at the time that business is closed and at the beginning of each business day, but not later than 9:00 a.m.
- g. No vending machines of any kind are permitted on the exterior of any building operating an outdoor cafe.
- h. No signs shall be permitted in the area of the outdoor cafe except signs on the awnings or umbrellas complying with the sign ordinance of the Borough of Bogota.
- i. If the applicant is the holder of an Alcoholic Beverage Control license pursuant to laws of the State of New Jersey, it shall be the applicant's responsibility to cause the Alcohol Beverage Control license to be amended to include the premises utilized for outdoor cafe purposes in order to serve alcoholic beverages therein.
- j. Outdoor cafes shall be permitted to operate from April 1st to October 31st in any calendar year. The license, when issued, shall be valid for one (1) season.
- k. No tables, chairs or other equipment used in the outdoor cafe shall be attached, chained or in any manner affixed to any tree, post, sign, or other fixtures, curb, or sidewalk, within or near the licensed area.

§ 4-14.7. Revocation or Suspension of License.

[Ord. #1205, S1]

- a. Any license issued hereunder is issued solely as a revocable license, which shall be subject to revocation or suspension by the borough council, after a hearing held on notice to the licensee, for failure of any licensee to comply with this section or for violation of any other applicable Federal, State, County or municipal law, regulation, or ordinance. Any license issued hereunder is issued upon the express understanding that the licensee obtains no property right thereunder, nor any interest in the continuation of said license.
- b. It shall be unlawful for any person to operate an outdoor cafe after the suspension or termination of the applicable license.
- c. In addition to the powers of suspension or revocation as set forth above, the borough reserves the right to modify, suspend or revoke any license on ten (10) days written notice if the borough determines that pedestrian traffic is, in fact, impeded or made unsafe because of the operation of the outdoor cafe or because of any other safety issue which the borough determines adversely affects the borough because of such operation. The license may also be suspended or revoked, on ten (10) days written notice, if the borough determines that it is necessary to utilize the area or any part thereof for the maintenance or installation of underground utilities. In the

event of an emergency, which emergency is certified by the borough, the license may be suspended or revoked without notice.

§ 4-14.8. Violations and Penalties.

[Ord. #1205, S1]

- a. Any person who shall violate any of the provisions of this section shall, upon conviction, be punished by a fine not to exceed one thousand (\$1,000.00) dollars and each violation of any of the provisions of this section and each day the same is violated shall be deemed and taken to be a separate and distinct offense.
- b. In addition to the fine provided above, a violation of any of the provisions of this section shall be cause for revocation of the license.