

**ADOPTED ORDINANCE O-24-14
TOWNSHIP OF MONTCLAIR**

ORDINANCE AMENDING CHAPTER 186 HEALTH STANDARDS OF THE CODE OF THE TOWNSHIP OF MONTCLAIR (FOOD HANDLING)

April 24, 2024 (date of introduction)
May 23, 2024 (date of public hearing)

BE IT ORDAINED, by the Mayor and Council of the Township of Montclair that Chapter 186 Health Standards of the Code of the Township of Montclair shall be amended as follows:

§ 186-8. Food handling.

- A. Regulation by State Sanitary Code. The control of all retail food establishments in Montclair shall be conducted as specified in Chapter XII of the New Jersey Sanitary Code, adopted July 6, 1972, as amended and supplemented.¹
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

AGRICULTURAL MARKET - Any retail food establishment which is primarily engaged in the sale of raw agricultural products, may cut the raw agricultural products for sale on the premises and may include as a minor portion of its operation, the sale of factory-sealed or prepackaged food products that do not normally require refrigeration and the sale of other grocery products.

BAKERY - Any retail food establishment engaged in the sale or preparation of bakery products such as bread, cakes and pies; may include as a minor portion of the operation the sale of other grocery products.

BAR/LIQUOR STORE - Any retail establishment engaged in the sale of alcoholic beverages; may include as a minor portion of the operation the sale of factory-sealed or prepackaged food products.

BREWERY: Any food establishment in which beer is produced commercially.

BUTCHER - Any retail food establishment primarily engaged in the sale or preparation of meat products; may include as a minor portion of the operation the sale of other grocery products.

CATERER/COMMISSARY/KITCHEN – Any food establishment engaged in the preparation of food which is then transported to be served or offered for sale elsewhere.

CHILDCARE FACILITY KITCHEN: Any food establishment located within any facility which is maintained for the care, development, or supervision of six or more children who attend for less than 24 hours a day. Class A includes facilities that bring in food prepared from other licensed facilities. Class B includes facilities that prepare food on-site.

COFFEE/TEA SHOP / CAFÉ: Any food establishment serving coffee, tea and other beverages along with baked goods or light meals.

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CONFECTIONERY - Any retail establishment primarily engaged in the sale of non-factory-sealed or prepackaged candy products by weight or piece.

CONGREGATE CARE FACILITY / ASSISTED LIVING: Any food establishment engaged in the preparation of food for individuals who require a coordinated array of supportive personal and health services, which is to be served therein.

CONVENIENCE STORE - Any retail establishment primarily engaged in the sale of newspapers, magazines and notions; may include as a minor portion of the operation the sale of factory-sealed or prepackaged food products or prepared foods such as coffee, tea and rolls.

FARM PRODUCT - Shall mean any agricultural, horticultural, forest product, or other product of the soil or water including but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, fruit juice, ornamental or vegetable plants, nursery products, flowers, firewood and Christmas trees.

FARMERS' MARKET - Shall mean a temporary market established in a public space where farmers/growers/or other food vendors sell a variety of farm products, as defined in this article, directly to the consumer.

FARMERS MARKET VENDOR—Shall mean any farmer, grower or business that participates in a farmer’s market within the Township, selling farm products and/or other prepared food items directly to the consumer.

FISH MARKET - Any retail food establishment primarily engaged in the sale or preparation of fish or fish products; may include as a minor portion of the operation the sale of other grocery products.

FOOD — Includes any substance used or intended to be used as food or drink for human consumption.

FOOD ESTABLISHMENT/ESTABLISHMENT — Any fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial feeding establishment, private, public or nonprofit organization or institution serving food, catering kitchen, commissary, box-lunch establishment, retail bakery, meat market, delicatessen, grocery store, public food market or similar place in which food or drink is prepared or processed for human consumption be it for on- or off-premises consumption.

FOOD HANDLER'S CERTIFICATE — A certificate by the Township of Montclair Health Department certifying successful completion of a course of general instruction in bacteria characteristics and growth, spread of food-borne diseases, methods of preventing food poisoning, proper food-handling techniques, equipment and establishment sanitation, dishwashing and sanitization and insect and rodent control, which said course is given by or has received the approval of the Montclair Health Department.

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FOOD HANDLING SPECIAL PERMIT — A special permit issued by the Montclair Health Department pursuant to Subsection H of this section.

FROZEN DAIRY AND FLAVORED ICE PRODUCTS - Any retail food establishment primarily engaged in the sale or preparation of frozen dairy or flavored ice products.

GROCERY - Any retail food establishment engaged in the sale of a limited variety of bakery and dairy products as well as prepackaged and processed food products.

GROCERY/DELICATESSEN - Any retail food establishment primarily engaged in the sale of prepared foods and/or hot or cold sandwiches and a limited variety of bakery, meat, fish, poultry, dairy or liquor products, as well as prepackaged and processed food products.

HEALTH OFFICER - Any reference to the Township's Health Officer shall refer to the Health Officer or his or her designee.

INSTITUTIONAL KITCHEN - Any food establishment engaged in the preparation of food which is to be served therein or minimally transported for service within the confines of the structure that houses the kitchen.

MINI-MARKET/MINIMART - Any retail food establishment engaged in the sale of a limited variety of bakery, meat, fish, poultry, raw agricultural, dairy or liquor products as well as prepackaged and processed food products.

MISCELLANEOUS LICENSE - This shall consist of any activity delegated to the Division of Health for licensing or regulation. The license fee shall be determined by the Division of Health.

MOBILE FOOD VENDORS - A mobile food vendor is anyone who sells food or beverages from a vehicle such as a truck, van, or pushcart, whether such food or beverages are prepared on-site or prepared elsewhere and transported to the site of the sale. Mobile Food Vendor Class A shall include vendors who sell pre-packaged frozen dairy and/or shaved ice products. Mobile Vendor Class B includes vendors who sell all other food products not included in Class A.

NOT-FOR-PROFIT CORPORATION - Shall mean a federal tax exempt, nonprofit corporation incorporated in New Jersey. A New Jersey corporation which can demonstrate proof of pending federal tax-exempt status shall also be deemed a non-profit corporation for the purposes of this article.

PHARMACY/DRUGSTORE - Any retail establishment primarily engaged in the sale of drugs, cosmetics and devices pursuant to N.J.S.A. Title 24; may include as a minor portion of the operation the sale of food products.

RELIGIOUS INSTITUTION KITCHEN: Any food establishment located within a church, synagogue, mosque, temple, or any building which is used primarily for religious worship and related religious activities.

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SCHOOL CAFETERIA: Any food establishment located within a public or private facility providing education to individuals from kindergarten through high school.

SUPERMARKET - Any retail food establishment engaged in the sale of an extensive variety of bakery, meat, fish, poultry, raw agricultural, dairy or liquor products as well as prepackaged and processed food products.

SUPERVISOR — Any person charged with the responsibility of overseeing the operations, including the supervision of employees engaged in the preparing or processing of food or drink intended for human consumption, be it for on- or off-premises consumption.

TEMPORARY RETAIL FOOD ESTABLISHMENT - Any retail food establishment which operates at a fixed location for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory function, including church suppers, picnics or other organizational meetings; includes mobile retail food establishments and mobile agricultural markets.

UNIVERSITY/ COLLEGE KITCHEN: Any food establishment located within an educational institution or establishment providing higher education or specialized professional or vocational training.

- C. No new establishment or establishment which has changed ownership shall operate for more than 60 days without the supervisor(s) employed in that establishment applying for a food handler's certificate.
- D. No new establishment or establishment which has changed ownership shall operate for more than six months without the supervisor(s) employed in that establishment being holder(s) of valid food handlers certificate(s).
- E. Six months from the effective date of this section and thereafter, except as provided in Subsections C, D and H of this section, no establishment shall be in operation or open for business in the preparing or processing of food or drink intended for human consumption without having a supervisor who has a valid food handler's certificate on the premises at all such times the establishment is in operation or open for business.
- F. A food handler's certificate shall be issued to any person successfully completing a course of instruction given or approved by the Montclair Health Department. The cost of such course shall be borne by the applicant and will cost \$30 per person. A food handler's certificate shall be valid for a period of five years. Any person possessing a food handler's certificate on the effective date of this amendment which is more than five years beyond its original issuance date shall be required to apply for a renewal certification within 60 days from the effective date of this amendment.
- G. No person to whom a food handler's certificate is issued shall give, loan, transfer or permit the same to be used by any other person, for any purpose whatsoever.
- H. Agricultural markets, covered-dish suppers or similar type of church or nonprofit-type institution meal services shall be exempted from the requirements of Subsections C, D and E of this section if, because of the infrequency, incontinuity, unique or limited nature of food

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preparation or processing, the Montclair Health Department determines that the public health will not be jeopardized by the absence of a certified food handler from the premises. Organizations holding exempt functions as defined in this section shall notify the Montclair Health Department about planned exempt functions at least one week prior to the event. The Montclair Health Department will conduct voluntary food-handling courses for those organizations requesting training or where a determination is made that such training is necessary.

- I. Any person, firm, corporation or other organization violating any provision of this section shall, upon conviction thereof, be subject to a penalty of not more than \$1,000.

§ 186-9. Licenses.

- A. Issuance. No person shall conduct, maintain or operate a retail food establishment in the Township of Montclair who does not possess a license from the Department of Health. Such license shall not be transferable and shall continue in force and effect until the 31st day of December next ensuing the date of granting thereof.

B. Fees.

- (1) License fees shall accompany the application for the license and shall be as follows:

- (a) Temporary food-handling permits:

[1] One day ~~to ten days~~: ~~\$10~~ \$150

~~[2] Two days or more, maximum 10 days: \$10 per day.~~

- (b) Retail food establishments:

[1] Category 1: ~~\$100.~~ \$200. Includes liquor stores, convenience stores, pharmacy/drugstores, mobile food vendor class A, childcare facility class A.

[2] Category 2: ~~\$200.~~ \$400. Includes bakery, butcher, fish market, agricultural market, frozen dairy, grocery/delicatessen/restaurant/luncheonette/café (not more than 16 persons), confectionary, coffee/tea house, school cafeteria, brewery, religious institution kitchen, childcare facility class B.

[3] Category 3: ~~\$300.~~ \$600. Includes supermarket, restaurant/cafeteria (more than 16 persons), caterer/commissary kitchen, congregate care kitchen, university/college cafeteria/kitchen.

[4] ~~Category 4: \$450.~~

~~Category designations shall be determined by the Health Officer in accordance with New Jersey State Health Department guidelines.~~

- (c) Farmer's Market Vendors:

[1] \$300 per year

- (d) Late fees: ~~\$100~~ \$50 for any renewal application received by the Health Department later than November 30 of the year preceding the year for which the license is issued.

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- (e) The classification of each establishment shall be determined by the Montclair Township Health Officer. Establishments meeting the criteria for more than one classification shall be charged the greater fee.
- (2) All licenses shall expire on the 31st day of December of the calendar year in which they are issued. Licenses shall be displayed under glass in a conspicuous place in the establishment.
- (3) Fees for reinspection of any food establishment, as the same is defined in this article, which are necessitated by a conditional or unsatisfactory rating given at the time of inspection of said establishment licensed or to be licensed by the Township of Montclair, shall be in the amount of the license fee applicable to the facility of the premises.
- (4) Any retail food establishment requiring an inspection for licensure or as a result of an emergency during off-duty hours, such as weekends, evenings or holidays, shall reimburse the Township for reasonable costs of the inspection, including the salary or wages of the inspector called as a result of the emergency.

§ 186-10. Fee for license to sell ice.

The fee for a license to sell or distribute ice in the Township of Montclair shall be ~~\$10~~ \$100 for each vehicle or place used in the distribution thereof; and license plates supplied by the Department of Health shall be attached and displayed on each vehicle.

[Deleted Language Stricken – New Language Underlined]