

BOH Ordinance #:	1-2024
Introduction Date:	05/20/2024
Hearing Date:	06/17/2024
Passage Date:	06/17/2024
Effective Date:	06/27/2024

AN ORDINANCE AMENDING CHAPTER BH:5 (SANITARY REGULATIONS), BH: 5-11 (DEFINITIONS) SECTION BH:5-12 (LICENSING; FEES) OF THE BOARD OF HEALTH CODE OF THE CITY OF SUMMIT

Ordinance Summary: The purpose of this ordinance is to add the definition of “Mobile Retail Food Establishment” to the Board of Health Code and to add a Mobile Retail Food Establishment License fee. In addition, this ordinance clarifies that a Retail Food Establishment License should be obtained from the City Clerk. Finally, this ordinance amends the term “Retail Food-Handling Establishments” to be consistent with the City Code.

WHEREAS, the Board of Health of the City of Summit has determined there is a need to amend Chapter BH:5 (Sanitary Regulations); Section BH:5-11, (Definitions), Section BH:5-12 (Licensing; Fees) of the Board of Health Code of the City of Summit.

NOW, THEREFORE, BE IT ORDAINED by the Board of Health of the City of Summit in the County of Union, State of New Jersey as follows:

SECTION 1. Chapter BH:5 (Sanitary Regulations); Section BH:5-11 (Definitions) of the Board of Health Code of the City of Summit is hereby amended to read as follows:

FOOD

All confectionery and every article used as food or as drink for human consumption, and all articles used for components of any such article.

MOBILE RETAIL FOOD ESTABLISHMENT

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.

PERSON

An individual, firm, corporation, association, society or partnership and its agents or employees.

~~RETAIL FOOD-HANDLING ESTABLISHMENTS~~

Restaurants, taverns, box-lunch establishments, bakeries, meat markets, delicatessens, luncheonettes, caterers, soda fountains, food vending vehicles, grocery stores and any other place in which food or drink is prepared or stored for public consumption, distribution or sale at retail, including vehicles used in connection therewith and all places where water for drinking or culinary purposes is available for public use.

SECTION 2. Chapter BH:5 (Sanitary Regulations); Section BH:5-12 (Licensing; Fees) of the Board of Health Code of the City of Summit is hereby amended to read as follows:

§ BH:5-12. Licensing; fees.

- A. No person shall conduct, maintain or operate a retail food establishment without first obtaining ~~from this Board~~ a license, certificate or permit ~~so to do~~ from the City Clerk and pay the required fee pursuant to City Code §4-19.
- B. Fees.
- (1) Fees in accordance with the following schedule shall be paid before any license required in this article shall be issued, except that payment of a fee may be waived by the Board of Health at its discretion for any municipal facility, church, school or building which does not receive any remuneration for the dispensing of food or drink upon receipt of a written application for fee waiver from the person conducting, maintaining or operating such an establishment.
 - (a) Temporary event (up to 24 hours): \$75.
 - (b) Annual temporary event: \$300.
 - (c) Farmer's market: \$75.
 - (d) Milk license: \$5.
 - (e) Mobile retail food-establishment fee: \$125.
 - (2) Nonprofit organizations must obtain a license annually. The fee may be waived on application to the Board for a waiver of the licensing fee based on nonprofit status
- C. Reinspection fees for retail food establishments.
- (3) There is hereby established a fee for reinspection of any retail food establishment receiving a posting of conditional satisfactory or unsatisfactory in the amount of \$100 (first conditional or unsatisfactory posting); \$250 (second conditional or unsatisfactory posting within 24 months); \$500 (third and subsequent conditional or unsatisfactory posting within 24 months) and a mandatory Board hearing after the third conditional or unsatisfactory posting within 24 months.
 - (4) This is in recognition of the fact that repeated "conditionally satisfactory" and "unsatisfactory" ratings represent a hazard to the public health and repeat inspections are costly. The repeat inspections and cost reimbursement fees shall not in any way preclude, preempt, interfere with or be a substitute for legal action in the courts or before the Board of Health to assure correction of the violations. Such fees are in addition to the annual license fee and shall not be considered penalties, but such fees shall be charged and shall be paid to offset the costs and expenses of such reinspection by the Board of Health. Reinspection fees as stated above must be paid within 10 days from the initial retail food inspection date. Failure to pay the reinspection fee within

the required time period will result in closure of the establishment pending a Board of Health hearing.

- D. The cost of laboratory tests required because of a complaint or suspect food illness or a retest required because of unsatisfactory results on the prior test shall be assessed to the retail food establishment or added onto the annual license fee. This is in recognition that the food establishment license fees established by this code are not adequate to cover additional costs incurred by the regulatory agency as a result of such tests.
- E. Licenses issued pursuant to 5-12(B) ~~under the provisions of this article~~, unless sooner forfeited or revoked by this Board, shall expire annually on the 31st day of December of each year. A late fee of \$50 per month shall be assessed for each month or portion thereof a license is renewed after January 31.
- ~~F. New food establishments licensed on or after July 1 through December 31 shall pay 1/2 of the annual fee for a license to operate.~~
- ~~G.~~ F. A license may be suspended or revoked for a violation by the holder of any provisions of this article or chapter after an opportunity for a hearing by this Board or its authorized representative.
- ~~H.~~ G. No license is transferable by sale or otherwise.
- ~~I.~~ H. Such license shall be posted in a conspicuous place in such establishment or, if an itinerant establishment, shall be readily available for display.
- ~~J.~~ I. All fees for licenses issued pursuant to 5-12(B) shall be paid to the Board of Health.

SECTION 2: All other provisions of Chapter BH:5, Section BH:5-12 of the Board of Health Code of the City of Summit shall remain unchanged.

SECTION 3: Severability. The provisions of this Ordinance are declared to be severable and if any section, sub-section, sentence, clause, phrase, or any other part of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 4: Repeal of Inconsistent Provisions. All ordinances or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 5: Codification. This Ordinance shall be a part of the Board of Health Code of the City of Summit as though codified and fully set forth therein. The Board of Health Secretary shall have this ordinance codified and incorporated in the official copies of the Board of Health Code. The Board of Health Secretary and the City Solicitor are authorized and directed to change any Chapter, Article and/or Section number of the Board of Health Code of the City of Summit in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Board of Health Code, and in order to avoid confusion and possible accidental

repealers of existing provisions not intended to be repealed.

SECTION 6. This ordinance shall take effect upon final passage and publication as provided by law.

(Last additions in text indicated by underline; deletions by ~~strikeouts~~.)

Dated: June 17, 2024

I, N. Gayle Mauro, Board of Health Secretary of the City of Summit, do hereby certify that the foregoing ordinance was duly passed by the Board of Health of said City at a special meeting held on Monday evening, June 17, 2024.

Approved:

Board of Health President

Board of Health Secretary