

**CITY OF BALTIMORE
ORDINANCE _____
Council Bill 05-0238**

Introduced by: The Council President
At the request of: The Administration (Department of Health)
Introduced and read first time: August 15, 2005
Assigned to: Education, Housing, Health, and Human Services Committee
Committee Report: Favorable with amendments
Council action: Adopted
Read second time: January 9, 2006

AN ORDINANCE CONCERNING

1 **Food Service Facilities – Licensing and Regulation**

2 FOR the purpose of authorizing the Health Commissioner to designate licensing classes and, with
3 the approval of the ~~Board of Estimates~~ City Council, to set license and processing fees for
4 various types of food service facilities; authorizing the issuance of provisional licenses under
5 certain circumstances; increasing certain civil penalties relating to the operation of food
6 service facilities; correcting, clarifying, and conforming certain language; and generally
7 relating to the licensing and regulation of food service facilities.

8 BY repealing and reordaining, with amendments
9 Article - Health
10 Section(s) 6-103, 6-201, 6-205, 6-402 through 6-404, inclusive, 6-406
11 Baltimore City Revised Code
12 (Edition 2000)

13 BY repealing and reordaining, without amendments
14 Article - Health
15 Section(s) 6-203(a), 6-408, 6-506
16 Baltimore City Revised Code
17 (Edition 2000)

18 BY adding
19 Article - Health
20 Section(s) 6-208
21 Baltimore City Revised Code
22 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by
amendment or deleted from existing law by amendment.

1 BY repealing
 2 Article - Health
 3 Section(s) 6-401
 4 Baltimore City Revised Code
 5 (Edition 2000)

6 BY repealing and reordaining, with amendments
 7 Article 1 - Mayor, City Council, and Municipal Agencies
 8 Section(s) 40-14(e)(7)(Title 6)
 9 Baltimore City Code
 10 (Edition 2000)

11 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
 12 Laws of Baltimore City read as follows:

13 **Baltimore City Revised Code**

14 **Article – Health**

15 **Title 6. Food Service Facilities**

16 ***Subtitle 1. Definitions; General Provisions***

17 **§ 6-103. Rules and regulations.**

18 In the rules and regulations adopted under § 2-106 {"Rules and regulations"} of this article,
 19 the Commissioner, CONSISTENT WITH THIS TITLE AND STATE LAW:

20 (1) MUST DESIGNATE THE CLASSES OF LICENSES TO BE ISSUED FOR VARIOUS TYPES OF
 21 FOOD SERVICE FACILITIES; AND

22 (2) may include provisions[, consistent with this title and State law,] that govern the
 23 construction, design, operation, and maintenance of food service facilities.

24 ***Subtitle 2. License Required***

25 **§ 6-201. In general.**

26 (A) *OPERATION WITHOUT LICENSE PROHIBITED.*

27 No person may operate a food service facility without a license to do so from the
 28 Commissioner of Health.

29 (B) *LICENSE NOT TRANSFERABLE.*

30 A LICENSE MAY NOT BE TRANSFERRED FROM PLACE TO PLACE OR PERSON TO PERSON.

1 **§ 6-203. Inspection and priority assessment of facility.**

2 (a) *Inspection.*

3 On receipt of an application, the Commissioner must inspect the food service facility to
4 determine compliance with all applicable laws, rules, and regulations.

5 **§ 6-205. Scope of license.**

6 [(a) *In general.*]

7 While a license is in effect, it authorizes the operation of the food service facility in
8 accordance with the approved plans and specifications.

9 [(b) *License not transferable.*

10 A license may not be transferred from place to place or person to person.]

11 **§ 6-208. PROVISIONAL LICENSES.**

12 (A) *IN GENERAL.*

13 IF A LICENSED FOOD SERVICE FACILITY IS SOLD OR OTHERWISE TRANSFERRED TO A NEW
14 OWNER, THE NEW OWNER MAY APPLY FOR A SHORT-TERM, PROVISIONAL LICENSE TO
15 PERMIT THE CONTINUED OPERATION OF THE FACILITY PENDING THE COMMISSIONER'S
16 INSPECTION OF THE FACILITY.

17 (B) *TERM AND RENEWAL.*

18 UNLESS SOONER SUSPENDED OR REVOKED:

19 (1) THE TERM OF A PROVISIONAL LICENSE IS 60 DAYS; AND

20 (2) THE LICENSE MAY BE RENEWED FOR ONE ADDITIONAL 60-DAY TERM.

21 ***Subtitle 4. Fees***

22 **[§ 6-401. Definitions.**

23 (a) *In general.*

24 In this subtitle, the following terms have the meanings indicated.

25 (b) *Temporary facility.*

26 “Temporary facility” means a food service facility that operates:

1 (1) in connection with a fair, carnival, festival, block party, or similar gathering; and

2 (2) for no more than 14 consecutive days at a fixed location.

3 (c) *Vending machine.*

4 (1) “Vending machine” means any self-service device that:

5 (i) on insertion of a coin, paper currency, token, card, or key or by other similar
6 means, dispenses unit servings of food; and

7 (ii) does not need to be replenished between each vending operation.

8 (2) “Vending machine” includes a device described in paragraph (1) of this subsection
9 even if it has an optional manual operation.

10 (d) *Wholesaler.*

11 “Wholesaler” means a food service facility that, whether as a broker, commission
12 merchant, jobber, packers’ agent, itinerant vendor, or otherwise:

13 (1) sells food to other food service facilities, including hotels, restaurants,
14 institutions, commissaries, and manufacturers;

15 (2) supplies branch or chain establishments from a central depot or store; or

16 (3) holds or stores food as a bailee.]

17 **§ 6-402. Processing fees.**

18 (a) *Application fee.*

19 When applying for a license to operate a food service facility or applying for a permit to
20 undertake material alterations, the applicant must pay an application fee [of \$150] to help
21 defray the cost of processing the plans and specifications and of undertaking an initial
22 inspection.

23 (b) *Reinspection fee.*

24 The applicant must pay an additional fee [of \$50] for each reinspection needed before the
25 license or permit can be approved.

26 (c) *FEE AMOUNTS.*

27 THE AMOUNT OF THESE FEES ARE AS SET FROM TIME TO TIME BY THE COMMISSIONER,
28 WITH THE APPROVAL OF THE ~~BOARD OF ESTIMATES~~ CITY COUNCIL.

1 § 6-403. Annual license fees.

2 [Except as specified in] SUBJECT TO § 6-404 {“Reduced fee for certain tax exempt entities”}
3 and § 6-405 {“Waived fee for certain day care centers”} of this subtitle, the [following]
4 annual license fee [is imposed] for each [location] CLASS of [a]food service facility IS AS SET
5 FROM TIME TO TIME BY THE COMMISSIONER, WITH THE APPROVAL OF THE ~~BOARD OF~~
6 ESTIMATES CITY COUNCIL[:].

7	(1) Wholesalers	\$ 500
8	(2) Caterers	550
9	(3) High priority facilities	450
10	(4) Moderate priority facilities	350
11	(5) Low priority facilities	185
12	(6) Temporary facilities	50
13	(7) Vending machines	10]

14 § 6-404. Reduced fee for certain tax exempt entities.

15 (a) *Scope of section.*

16 This section applies to an entity described in subsection (b) of this section only as long as
17 that entity maintains tax exempt status under § 501(c)(3) of the Internal Revenue Code.

18 (b) [*Commissioner to set fees*] *MAXIMUM FEE.*

19 For the following tax exempt entities, the annual license fee [is as set from time to time
20 by the Commissioner, with the approval of the Board of Estimates, but] MAY not [to]
21 exceed \$50:

22 (1) any charitable food facility that provide meals to low-income individuals for no
23 charge, such as soup kitchens, soup pantries, or shelter homes;

24 (2) any youth organization whose membership is composed of minors and that
25 operates temporary facilities for the purpose of raising funds to support the
26 organization; and

27 (3) any child group day care center that is licensed to provide care and supervision to
28 school age and preschool age children.

1 **§ 6-406. Late fees.**

2 (A) *IN GENERAL.*

3 Any licensee who is required to pay a license FEE and who fails to renew the license
4 within 5 days of its expiration must pay an additional LATE fee [of \$25] for each day after
5 the expiration date that the license remains unrenewed.

6 (B) *AMOUNT.*

7 THE AMOUNT OF THE LATE FEE IS AS SET FROM TIME TO TIME BY THE COMMISSIONER,
8 WITH THE APPROVAL OF THE ~~BOARD OF ESTIMATES~~ CITY COUNCIL.

9 **§ 6-408. Use of fee proceeds.**

10 (a) *In general.*

11 (1) The Commissioner must promptly account for and pay to the Director of Finance all
12 fees received under this subtitle.

13 (2) The Director of Finance must credit these fees to a special fund entitled “Food
14 Service Facilities”, to be used:

15 (i) to cover the cost of licensing, inspecting, and regulating food service
16 facilities; and

17 (ii) to help defray the cost of environmental health inspection programs that affect
18 food service facilities.

19 (b) *Accounting to Council.*

20 The Director of Finance must submit a quarterly accounting of this fund to the Chair of
21 the Budget and Appropriations Committee of the City Council.

22 ***Subtitle 5. Miscellaneous Regulations***

23 **§ 6-506. Litter and rubbish prohibited.**

24 (a) *In general.*

25 Each food service facility must keep its entire premises, including all abutting sidewalks,
26 alleys, footpaths, gutters, and other public rights-of-way, free of litter and rubbish.

27 (b) *Complaints; hearing.*

28 (1) If, during any license year, the Commissioner receives 10 or more complaints of the
29 facility’s having violated this section, the Commissioner must conduct a hearing
30 under Subtitle 6 {“Suspensions and Revocations”} of this title to determine if the
31 license should be suspended, its renewal denied, or other penalties imposed.

1 (2) For purposes of this subsection, the Commissioner may accept a complaint only if it:

2 (i) is in writing;

3 (ii) is made by an adult;

4 (iii) includes the complainant’s name and address; and

5 (iv) is submitted independently of any other person’s complaint about the facility.

6 (c) *Litterer remains subject to prosecution.*

7 Nothing in this section precludes the imposition of penalties under any other law that
8 governs the disposition of litter, trash, garbage, or other waste.

9 **Baltimore City Code**

10 **Article 1. Mayor, City Council, and Municipal Agencies**

11 **Subtitle 40. Environmental Control Board**

12 **§ 40-14. Violations to which subtitle applies.**

13 (e) *Provisions and penalties enumerated.*

14 (7) **Health Code**

15 Title 6: Food Service Facilities

16 SUBTITLE 2. LICENSE REQUIRED

17 § 6-201. IN GENERAL \$300

18 SUBTITLE 5. MISCELLANEOUS REGULATIONS

19 § 6-506. LITTER AND RUBBISH PROHIBITED \$200

20 ALL OTHER PROVISIONS \$100

21 **SECTION 2. AND BE IT FURTHER ORDAINED**, That the catchlines contained in this Ordinance
22 are not law and may not be considered to have been enacted as a part of this or any prior
23 Ordinance.

24 **SECTION 3. AND BE IT FURTHER ORDAINED**, That this Ordinance takes effect on the 30th day
25 after the date it is enacted.

Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City