

**CITY OF BALTIMORE**  
**ORDINANCE \_\_\_\_\_**  
**Council Bill 14-0432**

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Introduced by: Councilmembers Curran, Scott, Branch, Stokes, Holton, Henry, Kraft, Middleton,  
Welch, Clarke, Reisinger

Introduced and read first time: September 8, 2014

Assigned to: Health Committee

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Committee Report: Favorable

Council action: Adopted

Read second time: October 27, 2014

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**AN ORDINANCE CONCERNING**

1   **Food Service Facilities – Mirroring State Law**

2       FOR the purpose of redefining “food service facility” to mirror State law; providing, in  
3               accordance with State law, for a certain licensing exception; clarifying the basis for certain  
4               license application fees; defining and redefining certain terms; clarifying, correcting, and  
5               conforming related provisions; and generally relating to the regulation of food service  
6               facilities.

7       BY repealing and reordaining, with amendments  
8               Article - Health  
9               Section(s) 6-101, 6-102, 6-201, 6-203, and 6-402  
10              Baltimore City Revised Code  
11              (Edition 2000)

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

14   **Baltimore City Revised Code**

15   **Article – Health**

16   **Title 6. Food Service Facilities**

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

18       **§ 6-101. Definitions.**

19               (a) *In general.*

20               In this title, the following terms have the meanings indicated.

**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.

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1 (B) *EXCLUDED ORGANIZATION.*

2 “EXCLUDED ORGANIZATION” HAS THE MEANING STATED IN COMAR 10.15.03.02B(28).

3 [(b)] (C) *Food.*

4 (1) *In general.*

5 “Food” means any natural or artificial substance or ingredient, whether raw, cooked,  
6 or processed, that is used or sold or intended for use or sale, in whole or in part, for  
7 human consumption.

8 (2) *Inclusions.*

9 “Food” includes:

10 (i) ice;

11 (ii) beverages; and

12 (iii) chewing gum or any substance used as a component of chewing gum.

13 (3) *Exclusions.*

14 “Food” does not include any:

15 (i) alcoholic beverage, as defined in State Code Article 2B, § 1-102(a)(2); or

16 (ii) drug, as defined in § 21-101(g) of the State Health-General Article.

17 [(c)] (D) *Food service facility.*

18 [(1) *In general.*]

19 “Food service facility” HAS THE MEANING STATED IN COMAR 10.15.03.02B (34)  
20 [means any place in which, with or without charge:

21 (i) food is prepared for sale or service on the premises or elsewhere; or

22 (ii) food is manufactured, processed, stored, packaged, handled, distributed, or  
23 sold].

24 [(2) *Exclusions.*

25 “Food service facility” does not include any private residence in which food is  
26 prepared for consumption, without charge, by residents and their guests.]

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1 [(d)] (E) *Food service manager.*

2 “Food service manager” means an individual designated by a food service facility to  
3 exercise operational supervision of the facility.

4 [(e)] (F) *License.*

5 “License” means a license issued under this title to operate a food service facility.

6 [(f)] (G) *Person.*

7 “Person” includes, except as used in § 6-802 {“Penalties”} of this title, a governmental  
8 entity or an instrumentality or unit of a governmental entity.

### 9 **§ 6-102. Commissioner’s duties.**

10 The Commissioner of Health is responsible for:

11 (1) inspecting, [and] regulating, AND LICENSING FOOD SERVICE FACILITIES [the  
12 preparation, manufacture, processing, storage, packaging, handling, distribution, and  
13 sale of milk, meat, fruits, vegetables, fish, and other food];

14 (2) obtaining food samples and testing their qualities by chemical or microscopical  
15 examination AS THE COMMISSIONER CONSIDERS NECESSARY OR APPROPRIATE; and

16 (3) generally enforcing this title and any applicable State regulations.

### 17 **Subtitle 2. License Required**

### 18 **§ 6-201. In general.**

19 (a) *Operation without license prohibited.*

20 [No] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, NO person may operate a food  
21 service facility without a license to do so from the Commissioner of Health.

22 (B) *EXCEPTION FOR CERTAIN EXCLUDED ORGANIZATIONS.*

23 A FOOD SERVICE FACILITY MAY OPERATE WITHOUT A LICENSE ISSUED BY THE  
24 COMMISSIONER OF HEALTH IF IT:

25 (I) IS OPERATED BY AN EXCLUDED ORGANIZATION; AND

26 (II) HAS, IN ACCORDANCE WITH COMAR 10.15.03.26A, ELECTED TO OPERATE  
27 WITHOUT A LICENSE AND IN COMPLIANCE WITH THE MINIMUM FOOD SAFETY  
28 REQUIREMENTS OF COMAR 10.15.03.26B-E.

29 [(b)] (C) *License not transferable.*

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

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

(a) *Inspection.*

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

(b) *Priority assessment.*

To determine the degree of risk that a food service facility poses for a food-borne disease occurrence, the Commissioner must assess each food service facility and classify it in one of the following priority assessment categories, as defined in COMAR [10.15.03.17] 10.15.03.33:

(1) high priority facilities, which are at high risk for a food-borne disease occurrence;

(2) moderate priority facilities, which are at moderate risk for a food-borne disease occurrence; and

(3) low priority facilities, which are at low risk for a food-borne disease occurrence.

**Subtitle 4. Fees**

**§ 6-402. Processing fees.**

(a) *Application fee.*

When applying for a license to operate a food service facility or applying for a permit to undertake material alterations, the applicant must pay an application fee to help defray the cost of processing the plans and specifications, CONDUCTING A RISK ASSESSMENT, REVIEWING HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) PLANS, [and of] OR undertaking an initial inspection.

(b) *Reinspection fee.*

The applicant must pay an additional fee for each reinspection needed before the license or permit can be approved.

(c) *Fee amounts.*

The amount of these fees are as set from time to time by the Commissioner, with the approval of the City Council.

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

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

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Certified as duly passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Chief Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

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Mayor, Baltimore City