



Legislation Text

File #: 12-0121, Version: 0

City of Baltimore

Ordinance
Council Bill 12-0121

Introduced by: Councilmember Scott, President Young, Councilmembers Kraft, Curran, Henry, Spector, Middleton, Mosby, Holton, Welch, Reisinger, Cole, Stokes, Branch, Clarke
Introduced and read first time: August 13, 2012

Assigned to: Health Committee
Report: Favorable with amendments
Council action: Adopted
Read second time: March 9, 2015

Committee

**An Ordinance Concerning
Food Service Facilities - Public Notice of ~~Inspection Grades~~ Compliance Inspection Ratings**

For the purpose of establishing a program for ~~grading and~~ posting the results of food-service-facility compliance inspections; excepting certain types of facilities from this program; ~~providing for the issuance of grade cards,~~ requiring compliance inspection ratings to be posted on a facility's premises, visible to the general public; providing for the public posting of ~~inspection grades~~ compliance inspection ratings on the Health Department's website; authorizing a deferral of ~~the grade-card posting pending an appeal of inspection results~~ these postings for newly licensed facilities; correcting, clarifying, and conforming related provisions; providing for a special effective date; and generally relating to the regulation of food service facilities.

By repealing and reordaining, with amendments

Article - Health
Section(s) 6-103 and 6-606
Baltimore City Revised Code
(Edition 2000)

By adding

Article - Health
Section(s) 6-701 to 6-706, to be under the new subtitle,
Subtitle 7. Public Notice of ~~Inspection Grades and Suspensions, etc.~~ Compliance Inspection Ratings
Baltimore City Revised Code
(Edition 2000)

~~By renumbering, with amendments~~

~~Article - Health
Section(s) 6-606
to be
Section(s) 6-711 and 6-712
Baltimore City Revised Code
(Edition 2000)~~

Section 1. Be it ordained by the Mayor and City Council of Baltimore, That the Laws of Baltimore City read as follows:

Baltimore City Revised Code

Article - Health

Title 6. Food Service Facilities

Subtitle 1. Definitions; General Provisions

§ 6-103. Rules and regulations.

In the rules and regulations adopted under § 2-106 {"Rules and regulations"} of this article, the Commissioner, consistent with this title and State law:

- (1) must designate the classes of licenses to be issued for various types of food service facilities;
- (2) ~~must establish a system for grading and posting inspection results in accordance with Subtitle 7, Part I {"Grading of Inspections"} of this title~~ must establish a system for posting the ratings resulting from compliance inspections undertaken in accordance with Subtitle 7 {"Public Notice of Compliance Inspection Results"} of this title; and
- (3) [(2)] may include provisions that govern the construction, design, operation, and maintenance of food service facilities.

Subtitle 6. Suspensions and Revocations

§ 6-606. [Notice of suspensions] Public notices.

(a) *Posting of premises.*

- (1) A food service facility [or other establishment] that has had its license suspended [for longer than 24 hours] must post a public notice throughout the suspension period [stating the reason for the suspension].
- (2) The notice must:
 - (i) be in the form and tenor that the Commissioner specifies; and
 - (ii) state the reason for the suspension.

(b) *Published listings.*

- (1) At least monthly, the Commissioner must publish a list of food service facilities [and other establishments] that, during the preceding calendar month, have had their licenses suspended or revoked or that have been closed for health code violations.
- (2) The listing must specify:
 - (i) the name (including trade name) and address of the establishment;
 - (ii) the effective date and term of the revocation, suspension, or closing; and

- (iii) the reasons for the revocation, suspension, or closing.
- (3) The listing must be published by:
 - (i) posting on the Department's website; and
 - (ii) distribution to the neighborhood association(s) listed with the Department of Planning for the area(s) served by the establishment.

**Subtitle 7. Public Notice of Inspection—Grades and Suspensions, etc.
Compliance Inspection Ratings**

Part I. Grading of Inspections

§ 6-701. Scope of Part subtitle.

(a) *General.*

Except as provided in subsection (b) of this section, this ~~Part I subtitle~~ applies to all food service facilities that are subject to this title.

(b) *Exceptions.*

This ~~section subtitle~~ does not apply to:

- (1) ~~food service facilities operated in or by primary and secondary schools~~ a food service facility operated by a primary or secondary school;
- (2) ~~hospital-operated cafeterias~~ a hospital-operated cafeteria;
- (3) ~~correctional facilities~~ a correctional facility;

~~(4) charitable organizations, including soup kitchens or other prepared food distribution programs; or~~

~~(5) food service facilities operated by not-for-profit membership organizations for service to their members only;~~

~~(4) a non-profit organization that is an excluded organization, whether or not it has made an election under COMAR 10.15.03.26a to become a licensed food service facility;~~

~~(5) a caterer's preparing food to be served to a specific audience or group of invited guests (but not including any retail food facility serving meals directly to the general public); or~~

(6) a food service facility that is classified as a low- priority facility under § 6-203(b) {“Priority assessment”} of this title.

§ 6-702. **Grading Rating system to be established.**

(a) *Commissioner to establish.*

The Commissioner of Health must establish and implement a system for ~~grading and classifying inspection results for food service facilities~~ rating the results of compliance inspections.

(b) *Nature of system.*

(1) The system must use ~~letters~~ the ratings “Excellent Compliance”, “Good Compliance”, and “Fair Compliance” to identify and represent a facility’s degree of compliance with the ~~federal, state, state and local laws that require these facilities to operate in a sanitary manner so as to protect the public health and safety.~~

(2) For this purpose, ~~the letter “A” is the grade representing~~ “Excellent Compliance” represents the highest degree of compliance with these laws.

§ 6-703. **~~Grade cards~~ Issuance of ratings.**

(a) *General.*

~~Except as otherwise provided in this subsection, the~~ The Department must provide each operating food service facility that it inspects with a dated grade card indicating the facility’s inspection-grade compliance rating.

(b) *Exceptions.*

~~No grade card need be provided if, after an inspection, the Department orders a facility closed.~~

(c) *Issuance—“A” grades.*

~~For any facility that, on inspection, receives an “A” grade, the Department must provide the facility with a letter grade card at the conclusion of the inspection, for immediate posting.~~

(d) *Issuance—Other grades.*

(1) ~~For any food service facility that receives a grade lower than an “A”, the Department must advise the facility of the grade and of the findings on which the grade was based.~~

(2) ~~The Department must conduct the reinspection of the facility no sooner than 7 days after the first inspection.~~

(3) ~~At the conclusion of the reinspection, the Department must provide the facility with a letter grade card indicating the grade that the facility received on that inspection, for immediate posting.~~

(b) *Manner of stating rating.*

The compliance rating must be stated in the following manner, as applicable:

(1) “Excellent Compliance: Inspection revealed minimal or no deficiencies.”.

(2) “Good Compliance: Inspection revealed some deficiencies. Appropriate corrective action was taken or will be taken on an approved schedule.”.

(3) “Fair Compliance: Inspection revealed numerous deficiencies. Immediate corrective action was taken as directed. Other corrective action will be taken on an approved schedule, and additional inspections may be required.”.

§ 6-704. Posting of grades rating on premises.

(a) *On-premises Posting required.*

(1) Immediately on receipt of its ~~letter grade~~ rating card, a food service facility must conspicuously post ~~it~~ the card so that it is visible to the general public and to patrons before they enter the facility.

(2) For facilities that have no individual entrance - for example, a food stand or stall in a public market or food court or a street vendor - the facility must post the rating card, as directed by the Department:

(i) in a conspicuous location visible to the public; and

(ii) so that the public can clearly discern to which facility the rating belongs.

(b) *Maintenance and replacements.*

(1) ~~(2)~~ The facility must ensure that the ~~letter grade~~ rating card is not defaced, marred, camouflaged, or hidden from public view.

(2) The Department shall charge a \$10 fee for replacing a lost or damaged rating card unless:

(i) the card was lost or damaged due to fire, flood, exposure to the elements, or other cause beyond the facility's control;

(ii) the facility notifies the Department immediately upon discovering the loss or damage; and

(iii) the facility returns to the Department whatever remains of the card.

§ 6-705. Public posting by Commissioner.

(b) *By Commissioner.*

The Commissioner must post and maintain and post on the Department's website ~~a searchable database of food service facilities that contains~~ the following information, in a searchable format:

- (1) the name (including trade name) and address of each food service facility subject to this subtitle;
- (2) the date of the facility's most recent compliance inspection; and
- (3) the ~~letter grade issued on~~ rating resulting from that inspection.

§ 6-706. § 6-705. Deferring posting for initial inspection.

(a) ~~When authorized.~~

~~If, on a reinspection, a food service facility still receives a grade lower than an "A" and if the facility timely requests a hearing under Title 2, Subtitle 3 {"Administrative Hearings"} of this article, the facility may defer posting the letter grade card until the hearing date scheduled by the Department.~~

(b) ~~Substitute sign.~~

~~If a facility chooses to defer posting the letter grade card, the facility must remove the card currently posted and substitute a sign, provided by the Department, that advises the public that:~~

- ~~(1) the facilities inspection result is under review; and~~
- ~~(2) the results of the inspection can be obtained from the Department.~~

(c) ~~Qualifications.~~

~~(1) The deferment terminates if the facility:~~

- ~~(i) fails to appear at the hearing scheduled under Title 2, Subtitle 3 {"Administrative Hearings"} of this article;~~
- ~~(ii) requests a postponement of the hearing to a date on which the facility is unable to proceed;~~
~~or~~
- ~~(iii) otherwise employs dilatory tactics to delay the hearing.~~

~~(2) In any of these events, the facility must immediately post the letter grade card issued at the reinspection.~~

For a newly established food service facility or for a facility that has undergone a change in ownership, the licensee may elect to defer posting of a rating that results from the initial compliance inspection performed after issuance of the first license to the new or newly-owned facility.

§ 6-707. § 6-706. No effect on other enforcement.

Nothing in this ~~Part I subtitle~~ affects the Department's authority to take any other action necessary to protect the public health or to enforce the provisions of this title or of any other law, rule, or regulation applicable to food service facilities.

§§ 6-707 to 6-710. {Reserved}

~~Part II. Suspensions, etc.~~

§ 6-711. [§ 6-606. Notice of suspensions] Posting premises with notice of suspension.

(a) ~~[Posting of premises] When required.~~

~~[(1)] A food service facility or other establishment that has had its license suspended for longer than 24 hours must post a public notice of the suspension throughout the suspension period [stating the reason for the suspension].~~

(b) ~~Form and tenor.~~

~~[(2)] The notice must:~~

- ~~(1) be in the form and tenor that the Commissioner specifies; and~~
- ~~(2) state the reason for the suspension.~~

§ 6-712. Published listings of revocations, suspensions, and closings.

(a) ~~[(b) Published listings] Commissioner to publish monthly listing.~~

~~[(1)] At least monthly, the Commissioner must publish a list of food service facilities and other establishments that, during the preceding calendar month, have had their licenses suspended or revoked or that have been closed for health code violations.~~

(b) ~~Contents of listing.~~

~~[(2)] The listing must specify:~~

- ~~(1) [(i)] the name (including trade name) and address of the establishment;~~
- ~~(2) [(ii)] the effective date and term of the revocation, suspension, or closing; and~~
- ~~(3) [(iii)] the reasons for the revocation, suspension, or closing.~~

(c) ~~How published.~~

~~[(3)] The listing must be published by:~~

- ~~(1) [(i)] posting on the Department's website; and~~
- ~~(2) [(ii)] distribution to the neighborhood association(s) listed with the Department of Planning for the area(s) served by the establishment.~~

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 30th day after the date it is enacted September 1, 2015.

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

City Council President, Baltimore

Certified as duly delivered to Her Honor, the Mayor,

this ____ day of _____, 20__

Chief Clerk

Approved this ____ day of _____, 20__

Mayor, Baltimore City