



Legislation Details (With Text)

File #: 220535 **Version:** 1 **Name:**

Type: Ordinance **Status:** Passed

File created: 6/15/2022 **In control:** Finance, Governance and Public Safety Committee

On agenda: 6/29/2022 **Final action:** 6/23/2022

Title: Amending Chapter 30, Code of Ordinances, "Food Service Establishments," by repealing Section 30-73, "Permits" and 30-75, "Fees," in their entirety and replacing them with two new sections of like subject matter and title for the purpose of adding a new Non-Mobile Food Vendor Permit and associated fees.

Sponsors: Eric Bunch

Indexes:

Code sections:

Attachments: 1. Fiscal Note-220535, 2. 220535 fact sheet, 3. 220535com, 4. Food Vendor Presentation, 5. Authenticated Ordinance 220535

Date	Ver.	Action By	Action	Result
6/23/2022	1	Council		
6/22/2022	1	Finance, Governance and Public Safety Committee	Adv and Do Pass	Pass
6/16/2022	1	Council	referred	

ORDINANCE NO. 220535

Amending Chapter 30, Code of Ordinances, "Food Service Establishments," by repealing Section 30-73, "Permits" and 30-75, "Fees," in their entirety and replacing them with two new sections of like subject matter and title for the purpose of adding a new Non-Mobile Food Vendor Permit and associated fees.

WHEREAS, this ordinance amends the current Kansas City, Missouri Food Code to add a new permit type, Non-Mobile Food Vendor Permit, and its related fees, to be issued to a restaurant type establishment that operates at no more than (3) three predetermined locations; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 30, Code of Ordinances, "Food Service Establishments," is hereby amended by repealing Section 30-73, "Permits" and 30-75, "Fees," in their entirety and replacing them with two new sections of like subject matter and title for the purpose of adding a new Non-Mobile Food Vendor Permit and associated fees, said sections to read as follows:

Sec. 30-73. Permits.

Section 8-301.11 of the 2017 Food Code is amended to read as follows: A PERSON may not operate a FOOD ESTABLISHMENT without a valid PERMIT to operate issued by the REGULATORY AUTHORITY. A PERMIT is required to apply for and obtain and pay for a separate FOOD ESTABLISHMENT PERMIT for each of the types of FOOD ESTABLISHMENT operations listed in subsections (1) through (14):

- (1) Ice Cream Vendor PERMIT: issued to a PERSON who sells prePACKAGED frozen ice cream products or novelties from a motor vehicle designed for that purpose.
- (2) Market Type Establishment PERMIT: issued to an establishment wherein any place or section of a place where FOOD and FOOD products are offered to the CONSUMER and intended for off-PREMISE consumption. The term includes delicatessens that offer prepared FOOD in bulk quantities only. The term does not include establishments, which handle only prePACKAGED, non-TIME/TEMPERATURE CONTROL FOR SAFETY FOODS; roadside markets that offer only fresh fruits and fresh vegetables for sale; restaurant type establishments; or FOOD and BEVERAGE VENDING MACHINES.
- (3) Mobile Food Service PERMIT: issued to a vehicle-mounted restaurant type establishment designed to be readily movable.
- (4) Pushcart PERMIT: issued to a PERSON using a non-self-propelled vehicle limited to serving non-TIME/TEMPERATURE CONTROL FOR SAFETY FOODS or commissary-wrapped FOOD maintained at proper temperatures or limited to the preparation and serving of frankfurters.
- (5) Restaurant Type Establishment PERMIT: issued to a place or section of a place where FOOD is prepared and intended for individual portion service and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the PREMISES and regardless of whether there is a charge for the FOOD. The term includes delicatessens that offer prepared FOOD in individual service portions. The term does not include private homes where FOOD is prepared or served for individual family consumption, market type establishments, the location of FOOD VENDING MACHINES, or supply vehicles.
- (6) Temporary Food Service Establishment PERMIT: issued to a restaurant type establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration. Those establishments whose principle mode of business is not the sale of FOOD or BEVERAGES who in conjunction with their special event occasionally offer non-TIME/TEMPERATURE CONTROL FOR SAFETY FOODS such as pretzels and peanuts free of charge to their clientele no more frequently than once per month are exempt from obtaining a temporary PERMIT. All FOOD served shall be obtained from sources that comply with all laws that relating to FOOD and FOOD labeling.
- (7) Truck Sales Vendor PERMIT: issued to a PERSON who sells prePACKAGED frozen FOODS at retail from a motor vehicle that is equipped with a refrigeration unit capable of maintaining a temperature of 0°F.
- (8) Catering PERMIT: issued to a PERMITTED RESTAURANT TYPE ESTABLISHMENT to conduct FOOD service activities outside of their PERMITTED establishments. CATERING PERMITS will be issued to those establishments who have demonstrated proper FOOD safety knowledge relating to the FOOD preparation and transportation techniques. The REGULATORY AUTHORITY reserves the right to deny or revoke CATERING PERMITS to those establishments that have not demonstrated the ability to safely operate FOOD operations off-site.

- (9) Seasonal Vendor PERMIT: issued to an operation that serves only non-TIME/TEMPERATURE CONTROL FOR SAFETY FOODS or prePACKAGED TIME/TEMPERATURE CONTROL FOR SAFETY FOODS offered for retail sale that are properly LABELED and kept in mechanical refrigeration EQUIPMENT capable of maintaining the product at 41°F or below. This PERMIT is valid for a period not to exceed 6 months from date of issuance. SEASONAL PERMITS are not renewed on a consecutive basis.
- (10) Concession Stand/Kiosk PERMIT: issued to an operation that prepares and serves food and beverages with a limited menu approved by the REGULATORY AUTHORITY and with a permanent setup including power and water.
- (11) Farmers Market Vendor PERMIT: issued to an organized, reoccurring operation at a designated location used by local farmers and produces primarily for distribution and sale of locally produced agricultural products, or a limited amount of non-agricultural, locally produced products. This PERMIT authorizes a Farmers Market Vendor to operate no more than twenty-four (24) hours per week, and no more than twelve (12) hours in a twenty-four (24) hour period. Farmers Market Vendors PERMIT allows the holder to sell prePACKAGED, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD and offer TIME/TEMPERATURE CONTROL FOR SAFETY FOOD items for sampling purposes only. No cooking (including BBQ) or food preparation (except for sampling) may be done with this PERMIT. A Farmers Market is not an event.
- (12) Food Sampling PERMIT: issued to a person who is distributing food for the sole purpose of introducing the consumer to either a food product or drink, or method of cooking, or piece of equipment. Food sampling shall be limited to bite sized portions not to exceed 2 oz. per sample. All TIME/TEMPERATURE CONTROL FOR SAFETY FOOD samples shall be disposed within four hours after being removed from active temperature control. Sampling PERMIT allows only vendors with a State Food Distribution PERMIT or a Food Manufacturing License to sell processed foods, unless a license exemption is provided. On-site food preparation is prohibited with a Sampling PERMIT. Any processed foods must be prePACKAGED and properly labeled.
- (13) Outdoor Grill/Smoker PERMIT: issued to a PERMITTED RESTAURANT TYPE ESTABLISHMENT to utilize a grill or smoker on the PREMISES of their PERMITTED establishment. Outdoor grill/smoker PERMITS will be issued to those establishments who have demonstrated proper FOOD safety knowledge relating to FOOD preparation and cross contamination prevention. The REGULATORY AUTHORITY reserves the right to deny or revoke OUTDOOR GRILL/SMOKER PERMITS to those establishments that have not demonstrated the ability to safely operate FOOD operations related to the outdoor grill/smoker.
- (14) Dog-Friendly Patio PERMIT: issued to a PERMITTED RESTAURANT TYPE ESTABLISHMENT that does not allow any FOOD preparation on or in the outdoor area of the PREMISES. The REGULATORY AUTHORITY may issue a DOG-FRIENDLY PATIO PERMIT to those establishments who have demonstrated proper FOOD safety knowledge and cross contamination prevention. The REGULATORY AUTHORITY reserves the right to deny or revoke DOG-FRIENDLY PATIO PERMITS to those establishments that have not demonstrated the ability to safely operate FOOD operations related to the dog-friendly patio.
- (15) Non-Mobile Food Vendor Permit - Issued to a restaurant type establishment that operates at no

more than (3) three predetermined locations. Limited to the service of only non-TIME/TEMPERATURE CONTROL FOR SAFETY FOODS, PREPARED TIME/TEMPERATURE CONTROL FOR SAFETY FOODS maintained at proper temperatures or limited to the preparation of PRE-COOKED FOODS offered for retail sale.

Permit holder is required to maintain a food commissary permitted through a REGULATORY AUTHORITY. Hand washing sink easily accessible with pressurized hot and cold water is required at serving location with proper overhead protection. All food(s) shall be obtained from sources that comply with all laws relating to food and food labeling. During food service operation permit must be displayed in an area that is conspicuous to the consumer.

Sec. 30-75. Fees.

Section 8-813.11 of the 2017 Food Code is amended to read as follows:

(a) Director’s authority. The Director is authorized to charge for the actual cost of providing the FOOD Code book to any user and the actual cost of providing protection education classes and FOOD HANDLER and/or FOOD MANAGER CARDS.

(b) Fee schedule. All fees shall be paid in accordance with the fee schedule.

<u>2022 FEE SCHEDULE</u>			
Restaurant type establishments	Permit Fee	Plan Review Fee	Each Reinspection Fee
0--5 employees	\$354	\$165	\$129
6--9 employees	\$445	\$200	\$160
10--20 employees	\$529	\$249	\$189
21--40 employees	\$580	\$266	\$219
41--60 employees	\$618	\$284	\$249
Each Additional 10 employees	\$119	\$46	\$35
Market Type Establishments			
Under 3,000 sq. ft.	\$264	\$119	\$177
3,001--30,000 sq. ft.	\$529	\$249	\$207
30,001--40,000 sq. ft.	\$710	\$330	\$235
40,001--60,000 sq. ft.	\$1,063	\$485	\$266
60,001--80,000 sq. ft.	\$1,328	\$615	\$295
Each Additional 10,000 sq. ft.	\$177	\$77	\$59
Truck sales vendor	\$325	N/A	\$129
Mobile food service/processor	\$230	N/A	\$129
Ice cream vendor	\$59	N/A	\$129
6 months Seasonal vendor	\$230	N/A	\$129

Catering Permit	\$444	N/A	\$129
Concession Stand/Kiosk	\$354	\$161	\$129
Farmers Market Permit	\$119	N/A	\$129
Sampling Permit	\$146	N/A	\$129
Non-Mobile Food Vendor	\$230	N/A	\$129

Temporary food service Reinspection Fee		
1 day operation		\$146
2 days operation		\$146
3--14 days operation		\$146
Not for profit-temp food		\$146

Temporary food service Permit Fee	14 Days Prior to Event Day	13-7 Days Prior to Event Day	6-3 Days Prior to Event Day	Less than 3 Days Prior to Event Day
	1 day operation	\$59	\$70	\$85
2 days operation	\$88	\$105	\$127	\$153
3--14 days operation	\$177	\$212	\$255	\$306
Not for profit-temp food service	\$29	\$35	\$42	\$50

- (1) Restaurant type establishments shall pay fees based on the number of its EMPLOYEES and market type establishments shall pay fees based on the total square footage of the market type operation within the building. The appropriate fee shall be determined on the date of the application.
- (2) TEMPORARY FOOD SERVICE ESTABLISHMENTS shall pay fees based on the number of days of operation and each TEMPORARY FOOD SERVICE ESTABLISHMENT at any given event or location is required to obtain and pay for a PERMIT in the amount required by the fee schedule prior to beginning operation.
- (3) Truck sales vendors, MOBILE FOOD ESTABLISHMENT/ PUSHCART and ice cream vendors shall pay the fees in the fee schedule that correspond to truck sales vendors, mobile FOOD ESTABLISHMENT/PUSHCARTS, or ice cream vendors.
- (4) Catering and seasonal vendor PERMIT holders shall pay the fees in the fee schedule that correspond to catering and seasonal vendor PERMITS.

(c) Annual PERMITS. All PERMITS are annual PERMITS and shall be valid from January 1 through December 31, except for TEMPORARY FOOD SERVICE ESTABLISHMENT PERMITS, truck sales vendors, MOBILE FOOD ESTABLISHMENT/PUSHCARTS, ice cream vendors, and seasonal vendor PERMITS.

- (1) All PERSONS are required to obtain an annual PERMIT for each type of operation and if a location has multiple operations or more than one type of operation, a PERMIT must be obtained and paid for each operation in the amount required by the fee schedule prior to beginning operation.
- (2) Any PERSON who operates as a truck sales vendor, catering, ice cream vendor, or MOBILE FOOD ESTABLISHMENT/ PUSH CART vendor shall obtain and pay for an annual PERMIT for each vehicle in the amount required by the fee schedule prior to beginning operation.
- (3) If a location has multiple FOOD ESTABLISHMENTS or types of FOOD ESTABLISHMENTS the PERSON must apply, obtain and pay for a separate PERMIT for each operation.

(d) Plan review fees. When a PERSON is required to submit plans for the construction, conversion or remodeling of any FOOD establishment as defined by the Kansas City Missouri FOOD Code to the Health Department for review as specified under section 8-201.11, the PERSON shall pay a plan review fee in the amount set forth in the fee schedule.

(e) Lost PERMIT fee. There shall be a charge to replace a lost PERMIT.

(f) Processing fee for initial PERMIT and change in ownership.

(1) If a PERSON is applying for an initial PERMIT or new PERMIT due to a change in ownership for a restaurant type establishment, market type establishment, or mobile type vendor (including ice cream vendors, pushcarts, and truck sales vendors) the PERSON shall pay a processing fee for each PERMIT. The processing fee is in addition to all other fees.

(2) If a PERSON is applying for an initial PERMIT or a new PERMIT due to a change in ownership for a MOBILE FOOD ESTABLISHMENT/PUSH CART, catering, or ice cream vendor, the PERSON shall pay a processing fee for each PERMIT. The processing fee is in addition to all other fees.

(g) Initial PERMIT fees. If an application is for an initial PERMIT, the PERSON shall estimate the number of EMPLOYEES who will be working at the FOOD ESTABLISHMENT or the square footage. If the estimate is inaccurate, the PERMIT HOLDER shall amend the application and pay the appropriate fee. In the event an initial PERMIT application is filed to begin operation anytime during the period of October 1 through December 31 for a restaurant type or market type establishment, the PERMIT fee shall be pro-rated from the annual PERMIT fee.

(h) Reinstatement fees. For food establishments that have had a PERMIT suspended following action taken in accordance with Sections 8-804.10 through 8-804.50 (C), a processing fee will be assessed in order to process the reinstatement application and reinstate the PERMIT.

(i) Late Fee. PERMIT renewals not submitted to the Health Department by January 31st will be charged a monthly late fee. Establishments that have not paid the appropriate fee by February 1st may be subject to cease operation until all fees have been paid.

(j) Exemption. No charge shall be made for issuance of a PERMIT, license or certificate to a FOOD service establishment operated by a public tax-supported entity, such as a public-school district.

(k) The Director of Health shall have the authority to annually adjust all fees to reflect an increase equal to an increase in the consumer price index (all items/all urban consumers/Kansas City, Missouri-Kansas) published by the United States Department of Labor, Bureau of Labor Statistics if the fees imposed will not cover the cost of the City's FOOD protection program. The authorization for the Director of Health to annually increase fees to cover the costs of the FOOD protection program shall be cumulative and the failure of the City to raise fees in any one year shall not waive the Director of Health's authority to cumulatively raise fees by the consumer price index for missed years as long as the funds are used to fund the City's cost of the FOOD protection program. The adjustments, if made, shall be made annually by the Director of Health in conjunction with the adoption of the annual budget of the City by filing a notice with the City Clerk.

(l) Refunds. There shall be no refund of any fee paid pursuant to this section.

(m) Notwithstanding anything to the contrary within this chapter, the Director of Health or City Council may extend the date by which the fees are to be remitted for any PERMIT prescribed within this chapter.

Approved as to form and legality:

Joseph Guarino
Senior Associate City Attorney