

Monmouth County Regional Health Commission #1
ORDINANCE NO. 15-01

AN ORDINANCE AMENDING AN ORDINANCE ESTABLISHING A CODE REGULATING
RETAIL FOOD ESTABLISHMENTS, AND FIXING FEES FOR LICENSING AND PLAN REVIEW
THEREOF, AND PENALTIES FOR VIOLATIONS THEREOF

BE IT ORDAINED BY THE MONMOUTH COUNTY REGIONAL HEALTH COMMISSION NO. 1, CREATED AND OPERATING UNDER N.J.S.A. 26:3-83 ET SEQ., AND THE SEVERAL ACTS AMENDATORY THEREOF AND SUPPLEMENTARY THERETO AND COMPRISED OF THE BOARDS OF HEALTH OF THE BOROUGHES OF ALLENHURST, BRIELLE, DEAL, FAIR HAVEN, HIGHLANDS, INTERLAKEN, LITTLE SILVER, LOCH ARBOUR VILLAGE, MONMOUTH BEACH, RED BANK, RUMSON, SEA BRIGHT, SEA GIRT, SHREWSBURY, SPRING LAKE, SPRING LAKE HEIGHTS, TINTON FALLS, AND WEST LONG BRANCH, AND THE TOWNSHIPS OF MIDDLETOWN, OCEAN, AND WALL, EACH AND ALL IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY, THAT:

Section 1. A code regulating retail food establishments and fixing penalties for violations is hereby established pursuant to Revised Statutes 26:3-69.1 to 69.6 and Revised Statutes 26:3-92 and 26:3-93. A copy of the said Code is annexed hereto, and made a part hereof without the inclusion of the text thereof herein set forth.

Section 2. The said Code established and adopted by this Ordinance is commonly know as the "Chapter 24-Sanitation in Retail Food Establishments and Food and Beverage Vending Machines," New Jersey State Sanitary Code.

Section 3. Three copies of the said 'Chapter 24-Sanitation in Retail Food Establishments and Food and Beverage Vending Machines,' New Jersey State Sanitary Code, have been placed on file in the Office of the Health Commission upon the introduction of this Ordinance and will remain on file there until final action is taken on this Ordinance for the use and examination of the public.

Section 4. The said Regional Commission, and its agents or employees, including but not limited to, its Health Officer, shall have the right of entry, at any reasonable hour, into and upon any public or private building, or premises for the purpose of enforcing the provisions of such Code and of this Ordinance, or determining whether such provisions or the rules and regulations of this Regional Commission are being compiled with and obeyed. No person shall oppose such entry or hinder or interfere with this Regional Commission or any of its agents or employees, or Health Officer, all as aforesaid, in the performance of their duties.

Section 5. The said Regional Health Commission Food Establishment Ordinance No. 1 hereby fixes the following fees:

5.1 **Minimum Fees for Licensing of Retail Food Establishments** are hereby fixed as follows:

5.1a Mobile Vehicles \$150.00 per year

5.1b Special Events Lasting One Week in Duration or Less

Vendors \$100.00 per vendor/event
(25 payable to the municipality and \$75.00 payable to MCRHC)

5.1c Establishments Other Than Licensed Restaurants:

(1) Minimum Fee for Minor Amounts of Pre-Packaged, Non-Potentially Hazardous Foods \$75.00 per year

Minimum Fee for All Establishments (including retail food portion of an establishment) \$150.00 per year

(2) Between 4,000 and 10,000 square feet \$400 per year

(3) Over 10,000 square feet \$700 per year

(4) Farmer's Market Vendors \$350.00 per year

5.1d Restaurants:

(1) Seating Capacity Up to 50 \$150 per year

(2) Seating Capacity From 51 to 100 \$250 per year

(3) Seating Capacity Over 100 \$400 per year

(4) Special Food Handling Procedures (with plan from a certified HACCP processing authority) \$250.00 (i.e. Sushi)

(5) Special Food Handling Procedures \$500.00
(All Others)

5.1e Food License Late Fee:

A late fee charge will be levied by the licensing municipality on those food establishment owners and/or operators who do not renew their license within 90 days after the expiration date. The late fee charge will be in addition to the cost of the establishment's annual food licensing fee. The late fee charge is set as follows: the late fee equals 20% of the food establishment's annual licensing fee per month, except that the minimum late fee charge shall be set no lower than \$20.00 per month.

5.1f Re-inspection Fee

(1) Retail food establishments which fail to achieve a “Satisfactory” and/or are issued a “Conditional or Unsatisfactory” rating after the first re-inspection, shall be subject to a Re-inspection Fee of \$175.00 which shall be paid to the MCRHC prior to re-inspection of the establishment to determine if the cause for the less than “Satisfactory” rating has been corrected.

(2) A second occurrence of a “Conditional” or “Unsatisfactory” rating for a food establishment within two years of the first “Conditional “ or “Unsatisfactory” rating shall be charged a fee of \$350.00. The fee shall be paid to the MCRHC prior to the re-inspection of the establishment to determine if the cause for the less than “Satisfactory” rating has been corrected.

(3) For a third or more occurrences of a “Conditional” or “Unsatisfactory” rating for a food establishment within two years of the first “Conditional “ or “Unsatisfactory”, a fee of \$700.00 shall be charged for each subsequent event. The fee shall be paid to MCRHC, prior to the re-inspection of the establishment to determine if the cause for the less than “Satisfactory” rating has been corrected.

(4) A fourth occurrence within two years will require the owner/representative to submit a corrective action plan with specific dates for compliance to the Health Officer or an authorized agent. If the submitted plan is unacceptable, the Health Officer or authorized agent may take administrative action as deemed appropriate, which may include the issuance of summonses, hearing before the MCRHC and/or possible closure of the establishment.

(5) The owner or representative of a retail food establishment may request that an appeal be taken of the decision of the Health Officer or authorized agent before the Commission on this section.

(6) The location of all rating certificates for food establishments are to be in a prominent location as determined by the authorized agent of the Commission.

5.2 **Fees for the Plan Review of Retail Food Establishments** are hereby fixed as follows:

5.2a Establishments Other Than Restaurants:

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| (1) Between 0 and 4000 square feet (including the retail food portion of the establishment) | \$275 per plan |
| (2) Between 4,001 and 10,000 square feet | \$500 per plan |
| (3) Over 10,001 square feet | \$825 per plan |
| (4) Farmer’s Market | \$50 per plan |

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| <u>5.2b</u> | Restaurants: | |
| | (1) Seating capacity Up to 100 | \$275 per plan |
| | (2) Seating Capacity Over 100 | \$550 per plan |
| <u>5.2c</u> | Limited establishment alterations | \$150 per plan |

Section 6. All retail food establishments shall be operated in compliance with the provisions of the aforesaid Code of this Ordinance and Title 24, Revised Statutes of New Jersey.

Section 7. This Ordinance may be enforced by and in the name of this Regional Health Commission by proceedings instituted and prosecuted in a court having jurisdiction of such proceedings in the Regional.

Section 8. Any person who violated any provisions of this Ordinance or Code established herein shall, upon conviction thereof, be liable to a penalty of not less than Fifty (\$50.00) nor more than One Thousand (\$1,000.00) for each violation, each day a particular violation continues shall constitute a separate offense. Upon refusal or neglect, upon and after conviction, to pay the amount of said penalty or fine, the person so convicted shall be subject to be committed to the County Jail for a period not exceeding ninety (90) days, all in the discretion of the Municipal Magistrate or other officer before whom the complaint shall be brought.

Section 9. In the event that any violation of this Code shall also be a violation of a New Jersey State Law, for which a greater penalty is provided for than that contained in the aforesaid Code and this Ordinance, The Municipal Magistrate, before whom the complaint is brought, based upon such violation, shall in his or her discretion, have the right to impose, in the place and in lieu of any penalty provided for herein, that is so provided for in the New Jersey State Law which has been so violated.

Section 10. Every act in such Code or herein designated as being unlawful is hereby prohibited and every act herein expressly prohibited, is hereby designated as being unlawful.

Section 11. All Ordinances, Codes, or parts of same inconsistent with any of the provisions of this ORDINANCE AND THE CODE established hereunder are hereby repealed to the extent of such inconsistency.

Section 12. In the event that any section, sentence or clause of this Ordinance or Code shall be declared unconstitutional by a court of competent jurisdiction, such declaration shall not in any manner prejudice the enforcement of the remaining provisions.

Section 13. The license fees covered pursuant to Section 5.1 et. Seq. of this Ordinance (with the exception of Sections 5.1b and 5.1f) shall be paid to such respective local Board of Health of such municipality participating in the Regional Health Commission within which such fees are assessed and collected.

Section 14. The plan review fees covered pursuant to Section 5.2 et. Seq. of this Ordinance shall be paid directly to the Monmouth County Regional Health Commission No. 1 within that health agency's jurisdiction which such fees are assessed and collected.

Section 15. The license of any retail food establishment covered under this Ordinance is not transferable upon the sale of such retail food establishment and the new owner of any such retail food establishment must apply for a new license and pay the appropriate fee provided for in Section 5.1 et. Seq. of this Ordinance.

Section 16. This Ordinance and the Code herein established shall take effect on January 1, 2016.

Paul D. Roman, President, MCRHC #1

David A. Henry, Secretary/Health Officer MCRHC #1

Vote: Ayes 8
 Nays 0
 Abstain 0

Original Adoption: July 27, 1983
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Amended May 21, 2003
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