

982-2022

To: Mark D. Griffin, Director
Department of Law

From: Dr. David Margolius, Director
Department of Public Health

Re: Food Service Operations and Retail Food Establishments

Date: September 13, 2022

Please prepare an amendment to amend Sections 241.05 and 241.35 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 863-2021, passed October 25, 2021, relating to food shop licenses and fees and categories and fees.

If you have any questions, please contact Meredith Baumgartner-Hand at 216-420-8504.

Cc: Ryan M. Puente, Chief Government Affairs Officer
Elise Hara Auvil, Chief Administrative Officer
Bradford J. Davy, Chief Strategy Officer
Nancy Lanzola, Department of Law
Brian Kimball, Acting Assistant Director
Meredith Baumgartner- Hand, Project Director
Pat Cusick, Acting Commissioner of Environment
Annie Snyder, Environmental Programs Manager
Ken Sharkey, Food Program Manager

**Food Service Operations and Retail Food Establishments
Executive Summary**

Background/Purpose:

To amend Sections 241.05 and 241.35 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 863-2021, passed October 25, 2021, relating to food shop licenses and fees and categories and fees.

Each fiscal year, the Cleveland Department of Public Health is required to conduct a food program cost analysis under OAC 3701-21-2.2 to establish local licensing fees. Amending Section 241.05 and 241.35 will ensure that the Cleveland Health Department is in compliance with the Ohio Administrative Code 3701-21-2.2.

Section 241.05 Food Shop Licenses and Fees

(a) No food shop shall be operated without the person, firm, association, or corporation conducting the business first applying for and obtaining an annual license. All fees and charges assessed under this section shall be paid to the Commissioner of Assessments and Licenses.

(b) The provisions of ORC Chapters 3715 and 3717 pertaining to the licensing, administration and enforcement of food safety programs by the local licensing authority are adopted and incorporated herein by the City of Cleveland.

(c) The holder of a food service operation license as defined by state law shall not be required to obtain a retail food establishment license except when the activities of a retail food establishment and a food service operation are carried on within the same facility by the same person or entity, then the determination of what license applies shall be made according to the primary business of the person or entity as determined by the licensor, the City of Cleveland Director of Public Health, as described in ORC 3717.44.

(d) Each application to the Commissioner of Assessments and Licenses for a mobile food service operation license required under ORC 3717.43 shall be complete and be accompanied by the correct fee. The local license fees are as follows:

Current (2022)

| Risk Level | Fee |
|------------|----------|
| Mobile | \$336.00 |

Proposed (2023)

| Risk Level | Fee |
|------------|----------|
| Mobile | \$365.00 |

(e) Each application to the Commissioner of Assessments and Licenses for a vending food service operation license required under ORC 3717.43 shall be complete and be accompanied by the correct fee. The local license fees are as follows:

Current (2022)

| Risk Level | Fee |
|------------|---------|
| Vending | \$15.25 |

Proposed (2023)

| Risk Level | Fee |
|------------|---------|
| Vending | \$16.28 |

(f) Each application to the Commissioner of Assessments and Licenses for a temporary commercial food shop and temporary non-commercial food shop license required under ORC 3717.43 shall be complete and be accompanied by the correct fee. The local license fees are as follows:

Current (2022)

| Risk Level | Fee |
|----------------------------------|---------|
| 5 day temporary (commercial) | \$90.00 |
| 5 day temporary (non-commercial) | \$45.00 |

Proposed (2023)

| Risk Level | Fee |
|----------------------------------|----------|
| 5 day temporary (commercial) | \$100.00 |
| 5 day temporary (non-commercial) | \$50.00 |

(g) The Commissioner of Assessments and Licenses may also collect fees for collection and bacteriological examination of samples taken from a food shop in an amount equal to the cost of such collection and examination as determined by the Director of Public Health.

(h) Except for plans pertaining to mobile or temporary food service operations or vending devices, the Commissioner of Assessments and Licenses shall collect fees in the amounts stated below, for plan reviews of food shops prior to submission of plans to the Department of Public Health:

Current (2022)

| Plan Review Fee | Commercial | Non- Commercial |
|----------------------|------------|-----------------|
| New Operations | \$450.00 | \$225.00 |
| Extensive Alteration | \$225.00 | \$112.50 |

Proposed (2023)

| Plan Review Fee | Commercial | Non- Commercial |
|----------------------|------------|-----------------|
| New Operations | \$450.00 | \$225.00 |
| Extensive Alteration | \$225.00 | \$112.50 |

(i) The Commissioner of Assessments and Licenses shall submit all applications for a food shop license to the Director of Public Health for approval or disapproval of the application.

(j) The Commissioner of Assessments and Licenses is authorized to collect license fees for retail food establishments and food service operations and deposit the fees into a fund created under ORC 3717.25 and 3717.45.

(k) For purposes of this section, non-commercial operations are defined in OAC Chapter 901:3-4-01(D) and OAC 3701-21-01(M).

(l) If a renewal application is not filed with the licensor or postmarked on or before the first day of March or, or in the case of a mobile or seasonal food shop, the first day of operation in a new licensing period, the licensor shall assess a penalty if the licensor charges a license renewal fee. The amount of the penalty shall be twenty-five percent of the renewal fee. If an applicant is subject to a penalty, the licensor shall not renew the license until the applicant pays the penalty as stated in ORC 3717.43(D).

Section 241.35 Categories and Fees

(a) Each application to the Commissioner of Assessments and Licenses for a food service operation license required under ORC 3717.43, or for a retail food establishment license required under ORC 3717.23 shall be complete and be accompanied by the correct fee. The local license fees are as follows:

(1) Commercial food service operations and retail food establishments less than twenty-five thousand (25,000) square feet of floor space:

Current (2022)

| Risk Level | Fee |
|------------|-----------------|
| Level I | \$150.00 |
| Level II | \$166.00 |
| Level III | \$300.00 |
| Level IV | \$376.00 |

Proposed (2023)

| Risk Level | Fee |
|------------------|-----------------|
| Level I | \$194.00 |
| Level II | \$214.00 |
| Level III | \$382.00 |
| Level IV | \$478.00 |

(2) Commercial food service operations and retail food establishments greater than twenty-five thousand (25,000) square feet of floor space:

Current (2022)

| Risk Level | Fee |
|------------|-----------------|
| Level I | \$208.00 |
| Level II | \$218.00 |
| Level III | \$724.00 |
| Level IV | \$766.00 |

Proposed (2023)

| Risk Level | Fee |
|------------------|-----------------|
| Level I | \$266.00 |
| Level II | \$280.00 |
| Level III | \$914.00 |
| Level IV | \$968.00 |

(3) Non-commercial food service operations and non-commercial retail food establishments less than twenty-five thousand (25,000) square feet of floor space:

Current (2022)

| Risk Level | Fee |
|------------|-----------------|
| Level I | \$75.00 |
| Level II | \$83.00 |
| Level III | \$150.00 |
| Level IV | \$188.00 |

Proposed (2023)

| Risk Level | Fee |
|------------|-----------------|
| Level I | \$97.00 |
| Level II | \$107.00 |
| Level III | \$191.00 |
| Level IV | \$239.00 |

(4) Non-commercial food service operations and non-commercial retail food establishments greater than twenty-five thousand (25,000) square feet of floor space:

Current (2022)

| Risk Level | Fee |
|------------|-----------------|
| Level I | \$104.00 |
| Level II | \$109.00 |
| Level III | \$362.00 |
| Level IV | \$383.00 |

Proposed (2023)

| Risk Level | Fee |
|------------|-----------------|
| Level I | \$133.00 |
| Level II | \$140.00 |
| Level III | \$457.00 |
| Level IV | \$484.00 |

(b) The risk level categories described herein shall have the meaning established in any rules promulgated under ORC Chapters 3715 and 3717.