

USE

SUMMARY

AN ORDINANCE to amend Chapter 19 of the 2019 Detroit City Code, *Food*, Article II, *City Licenses for Food Service Establishments and Regulation of Vending Machines*, by renaming the article to, *Regulation of Food Service Establishments and Vending Machines*; amending Division 1, *Generally*, by repealing Section 19-2-4, *Enforcement authority*; and amending Division 2, *Food Service Establishments*; Subdivision A, *Additional Requirements*; by amending and renaming Section 19-2-21 to, *Food service establishment license required; permanent structure required; compliance with Codes; exceptions*, and Section 19-2-25 to, *persons providing entertainment, amusement, exhibitions, music, or places for public assembly or dancing to comply with additional rules and regulations*, by amending 19-2-24, *Disorderly conduct, and indecent or obscene conduct, prohibited; gambling prohibited; exception*, 19-2-26, *Persons selling alcoholic liquor to comply with state rules and regulations*, and 19-2-27, *Minimum age of employees where alcoholic liquor sold*, to make necessary technical corrections; by repealing Subdivision B, *License*, containing Section 19-2-41 through Section 19-2-50; and by relocating Subdivision C, *Dining with Confidence* to Subdivision B, *Dining with Confidence*.

rec'd 6-9-25ⁱ

1 **BY COUNCIL MEMBER _____:**

2 **THIS ORDINANCE** amends Chapter 19 of the 2019 Detroit City Code, *Food*, Article II,
3 *City Licenses for Food Service Establishments and Regulation of Vending Machines*, by renaming
4 the article to, *Regulation of Food Service Establishments and Vending Machines*; amending
5 Division 1, *Generally*, by repealing Section 19-2-4, *Enforcement authority*; and amending
6 Division 2, *Food Service Establishments*; Subdivision A, *Additional Requirements*; by amending
7 and renaming Section 19-2-21 to, *Food service establishment license required; permanent*
8 *structure required; compliance with Codes; exceptions*, and Section 19-2-25 to, *persons providing*
9 *entertainment, amusement, exhibitions, music, or places for public assembly or dancing to comply*
10 *with additional rules and regulations*, by amending 19-2-24, *Disorderly conduct, and indecent or*
11 *obscene conduct, prohibited; gambling prohibited; exception*, 19-2-26, *Persons selling alcoholic*
12 *liquor to comply with state rules and regulations*, and 19-2-27, *Minimum age of employees where*
13 *alcoholic liquor sold*, to make necessary technical corrections; by repealing Subdivision B,
14 *License*, containing Section 19-2-41 through Section 19-2-50; and by relocating Subdivision C,
15 *Dining with Confidence* to Subdivision B, *Dining with Confidence*.

16 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT**

17 **THAT:**

18 **Section 1.** Chapter 19 of the 2019 Detroit City Code, *Food*, be amended by amending
19 Article II, Division 1 by repealing Section 19-2-4 and Subdivision B, containing Section 19-2-41
20 through 19-2-50, by amending Division 2, Subdivision A, by amending and renaming Section 19-
21 2-21 and 19-2-25, by amending Section 19-2-24, Section 19-2-26 and Section 19-2-27, and by
22 relocating Subdivision C to Subdivision B, to read as follows:

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ESTABLISHMENTS AND REGULATION OF VENDING MACHINES

~~Sec. 19 2 4. Copy of article to be made available to each licensee.~~

Secs. 19-2-4 -19-2-20. Reserved.

Subdivision A. Additional Requirements

~~(a) — No person shall operate or cause to be operated within the City any business conducted for the purpose of selling or offering for sale food unless such business is operated in a permanent structure or building meeting the requirements of Section 19-2-44 of this Code, excepting approved mobile food services and temporary food operations in connection with festivals and other special events which have prior approval by the Health Department, the Buildings, Safety Engineering, and Environmental Department Business License Center, and the City Council. Unless a cottage food operation is conducted therein, a domestic residence shall not be approved for the manufacture, storage, preparation, or sale of food.~~

(a) No person shall operate or cause to be operated within the City a food service establishment without obtaining a Michigan food service license from the Health Department in

1 accordance with Michigan Food Law, being MCL 289.1101, et seq. To issue, revoke, suspend
2 or deny a food service establishment license, the Health Department shall follow the procedures
3 prescribed in the Michigan Food Law, being MCL 289.4125, et seq., and any administrative
4 rules issued thereunder.

5 (b) No person shall operate or cause to be operated within the City any business
6 conducted for the purpose of selling or offering for sale food unless such business is operated in
7 a permanent structure or building meeting the requirements of Chapter 8, *Building Construction*
8 and *Property Maintenance*, Chapter 18, *Fire Prevention and Protection*, Chapter 20, *Health*,
9 and Chapter 50, *Zoning*, of this Code, excepting approved mobile food services and temporary
10 food establishments which have prior approval by the Health Department and the Buildings,
11 Safety Engineering, and Environmental Department Business License Center. Unless a cottage
12 food operation is conducted therein, a domestic residence shall not be approved for the
13 manufacture, storage, preparation or sale of food.

14 (c) All buildings where food or drink is manufactured, handled, prepared, stored,
15 served, offered for sale, or sold shall be free from contaminated surroundings, vermin proof, kept
16 in good repair, and of such size as to properly accommodate the equipment and processes
17 employed therein. Buildings shall be so construed and maintained that all food or drink is
18 protected from contamination by persons, dust, vermin, animals, or other sources of
19 contamination.

20 **Sec. 19-2-24. Disorderly conduct, and indecent or obscene conduct, prohibited; gambling**
21 **prohibited; exception.**

22 (a) A person who ~~receives a license under this article~~ conducts or maintains a food
23 service establishment in the City shall not permit:

1 (1) Any disorderly conduct within such person's place of business as
2 proscribed in Section 31-5-1 of this Code;

3 (2) Such person's place of business to become a resort or meeting place for
4 thieves, prostitutes or other disorderly persons; or

5 (3) Any indecent or obscene conduct within such person's place of business
6 as proscribed in Section 31-5-4 of this Code.

7 (b) A person ~~receiving a license under this article~~ who conducts or maintains a food
8 service establishment in the City neither shall permit any gambling within such person's place
9 of business nor shall permit the use, possession, or presence of gambling apparatus or
10 paraphernalia within such person's place of business, unless the place of business is operated by,
11 or leased from, a person who is licensed to operate a casino by the Michigan Gaming Control
12 Board in accordance with the Michigan Gaming Control and Revenue Act, being MCL
13 432.210 *et seq.*

14 **Sec. 19-2-25. ~~Licenses- Persons~~ providing entertainment, amusement, exhibitions, music,**
15 **or places for public assembly or dancing to comply with additional rules and regulations.**

16 ~~Licenses under this article providing~~ A person who conducts or maintains a food service
17 establishment in the City and provides entertainment, amusement, exhibitions, music, or places
18 for public assembly or dancing shall comply with and abide by all rules and regulations of the
19 Public Health Director, the Chief of Police and ~~other proper authorities relating thereto,~~ the
20 Buildings Safety Engineering, and Environmental Department, including any additional
21 licensing requirements under the Code.

1 **Sec. 19-2-26. Persons selling alcoholic liquor to comply with state rules and regulations.**

2 Every ~~licensee under this article~~ person who conducts or maintains a food service
3 establishment in the City and who is also licensed to sell alcoholic liquor shall abide by and
4 comply with the laws of the United States and this state relative to the sale of such alcoholic
5 liquor and the rules and regulations of the Michigan Liquor Control Commission, and failure so
6 to do shall be ~~sufficient cause for the revocation of the license granted~~ subject to enforcement
7 and penalty under this article.

8 **Sec. 19-2-27. Minimum age of employees where alcoholic liquor sold.**

9 No licensee person who conducts or maintains a food service establishment in the City
10 and who is also licensed to sell or dispense alcoholic liquor shall engage, employ, or permit the
11 use of any minor under the age of 18 years.

12 **Secs. 19-2-28—19-2-50. Reserved.**

13 **Subdivision B. License**

14 ~~**Sec. 19-2-41. Required.**~~

15 ~~It shall be unlawful to conduct or to maintain any food service establishment in the City~~
16 ~~without first having obtained a license from the Buildings, Safety Engineering, and~~
17 ~~Environmental Department Business License Center to operate such business. REPEALED.~~

18 ~~**Sec. 19-2-42. Application; information required; agreements by licensee.**~~

19 ~~(a) — An application for a license under this division shall be made on a form that is~~
20 ~~provided by the Buildings, Safety Engineering, and Environmental Department Business~~
21 ~~License Center. The application shall be considered completed when the appropriate person has~~
22 ~~signed and dated the application in the presence of a notary public, has paid the required license~~
23 ~~fee, and has provided the information that is required on the form, including:~~

1 (1) ~~Where the applicant is an individual:~~

2 a. ~~The applicant's full legal name and any other name used by the applicant~~
3 ~~during the preceding five years;~~

4 b. ~~The applicant's current mailing address and e-mail address; and~~

5 c. ~~Written proof of age in the form of a driver's license, or a picture~~
6 ~~identification document containing the applicant's date of birth issued by~~
7 ~~a governmental agency, or a copy of a birth certificate accompanied by a~~
8 ~~picture identification document issued by a governmental agency;~~

9 (2) ~~Where the applicant is a partnership:~~

10 a. ~~The legal name and any other name used by the partners during the~~
11 ~~preceding five years; and~~

12 b. ~~The current mailing address and e-mail address for the business;~~

13 (3) ~~Where the applicant conducts business under a trade or assumed name:~~

14 a. ~~The complete and full trade or assumed name;~~

15 b. ~~The county where and date that the trade or assumed name was filed;~~

16 c. ~~The name of the person doing business under such trade or~~
17 ~~assumed name, the manager, and other person in charge; and~~

18 d. ~~The current mailing address and e-mail address for the business;~~

19 (4) ~~Where the applicant is a corporation:~~

20 a. ~~The full and accurate corporate name;~~

21 b. ~~The state and date of incorporation;~~

22 c. ~~The full names and addresses of officers, directors, managers, and other~~
23 ~~persons with authority to bind the corporation; and~~

1 d. ~~— The current mailing address and e-mail address for the business;~~

2 ~~(5) — The name, business address, and telephone number of the business; and~~

3 ~~(6) — The name and business address of the statutory agent, or other agent, who is~~
4 ~~authorized to receive service of process.~~

5 ~~(b) — Any information provided in accordance with Subsection (a) of this section shall~~
6 ~~be supplemented in writing and sent by certified mail, return receipt requested, to the Buildings,~~
7 ~~Safety Engineering, and Environmental Department Business License Center within ten business~~
8 ~~days of a change of circumstances that would render false or incomplete the information that~~
9 ~~was previously submitted.~~

10 ~~(c) — Such application shall contain such information as shall be required by the~~
11 ~~Buildings, Safety Engineering, and Environmental Department Business License Center, and~~
12 ~~shall further contain an agreement by which the applicant consents to have the inspectors of the~~
13 ~~Health Department enter, examine and inspect any part of the premises used in conducting such~~
14 ~~business or any product or food manufactured or sold therein and to take samples for the purpose~~
15 ~~of examination. Each application shall further contain an agreement to conform to this Code and~~
16 ~~to the rules and regulations of the state relative to the conduct of the business for which applicant~~
17 ~~is seeking a license. REPEALED.~~

18 **~~Sec. 19-2-43. — Establishment, approval, publication, and payment of annual fee.~~**

19 ~~(a) — A non-refundable fee shall be charged and collected in accordance with Section~~
20 ~~6-503(13) of the Charter for the processing and issuance of a license under this division. Based~~
21 ~~upon the cost of issuance and administration of the licensing regulations, the Director of the~~
22 ~~Buildings, Safety Engineering, and Environmental Department shall establish this fee, which is~~
23 ~~subject to approval by the City Council through adoption of a resolution.~~

1 (b) — After adoption of a resolution by the City Council and approval of the resolution
2 by the Mayor, the fees that are provided for in Subsection (a) of this section shall be:

3 (1) — ~~Published in a daily newspaper of general circulation and in the Journal of the~~
4 City Council;

5 (2) — ~~Made available at the Buildings, Safety Engineering, and Environmental~~
6 Department and at the Office of the City Clerk; and

7 (3) — ~~Reviewed by the Director of the Buildings, Safety Engineering, and~~
8 Environmental Department at least once every two years.

9 (e) — ~~A fee shall be charged each new licensee, any current licensee who applies to~~
10 ~~renew an existing license, or a current licensee applying for a license at another location.~~

11 (d) — ~~Prior to the expiration of a current license, a licensee shall submit an application~~
12 ~~for renewal and pay an annual fee for the renewal of a license. Submission of an application for~~
13 ~~renewal and payment of the license fee before the expiration date of the license shall allow for~~
14 ~~the continued operation of the business for the location until such time that the license renewal~~
15 ~~application is denied, or the license is suspended or revoked.~~

16 (e) — ~~The license fees for food service establishments shall include the license fees~~
17 ~~required for the sale of cigarettes as provided in Chapter 11 of this Code, Cigarettes.~~

18 REPEALED.

19 **~~Sec. 19-2-44. — Inspection and certification of approval; land use; construction requirements;~~**
20 **~~maintenance, fire protection and safety, and health and sanitation requirements.~~**

21 (a) — ~~Upon application and before any license that is required by this article shall be~~
22 ~~issued or renewed, it shall be the duty of the Buildings, Safety Engineering, and Environmental~~
23 ~~Department Business License Center to review its records and, where a requisite inspection has~~

1 not been done, to refer such application to the Directors of the Buildings, Safety Engineering,
2 and Environmental Department Business License Center and the Health Department, and to the
3 Fire Marshal, who shall cause an inspection to be made of the premises of such proposed or
4 existing business.

5 (b) After completion of respective inspections, the Buildings, Safety Engineering,
6 and Environmental Department Business License Center, the Fire Department, and the Health
7 Department shall certify, in writing, to the Buildings, Safety Engineering, and Environmental
8 Department Business License Center that the applicant is in full compliance with all pertinent
9 state codes and regulations, and this Code, including, but not limited to, the following
10 requirements:

11 (1) *Land use.* The business meets the requirements of Chapter 50 of this
12 Code, *Zoning*, including verification that the specific land use for its intended
13 location has been established by the City in the respective zoning district and,
14 where the premises is governed by a zoning grant, has obtained a valid annual
15 certificate of maintenance of zoning grant conditions;

16 (2) *Construction requirements.* The premises meets the requirements of:

- 17 a. The Building Code, being Chapter 8, Article II, of this Code;
- 18 b. The Electrical Code, being Chapter 8, Article III, of this Code;
- 19 c. The Mechanical Code, being Chapter 8, Article IV, of this Code;
- 20 d. The Plumbing Code, being Chapter 8, Article V, of this Code;
- 21 e. The Energy Code (Commercial), being Chapter 8, Article VIII of this
22 Code;
- 23 f. The Elevator Code, being Chapter 8, Article IX, of this Code;

1 g. ~~— The Manlifts Code, being Chapter 8, Article X, of this Code;~~

2 h. ~~— The Material Hoists Code, being Chapter 8, Article XI, of this Code;~~

3 i. ~~— The Personnel Hoists Code, being Chapter 8, Article XII, of this Code;~~

4 and

5 j. ~~— The Powered Platform Code, being Chapter 8, Article XIII, of this Code;~~

6 (3) ~~— Maintenance. The premises meets the requirements of the Detroit Property~~
7 Maintenance Code, being Chapter 8, Article XV, of this Code;

8 (4) ~~— Fire protection and safety. The premises meets the requirements and limitations~~
9 of the Detroit Fire Prevention and Protection Code, being Chapter 18, Article I,
10 of this Code; and

11 (5) ~~— Food sanitation and health. The business and premises meet the requirements of:~~

12 a. ~~— Chapter 20 of this Code, Health; and~~

13 b. ~~— This chapter. REPEALED.~~

14 ~~Sec. 19-2-45. Investigation required to confirm no City tax or assessment arrearage.~~

15 (a) ~~— Upon application and before any license that is required by this division shall be~~
16 issued or renewed, it shall be the duty of the Buildings, Safety Engineering, and Environmental
17 Department Business License Center to refer such application to the Office of Chief Financial
18 Officer, which shall cause an investigation to be completed in accordance with Section 2-113 of
19 the Charter to determine whether any property tax, income tax, personal tax or special
20 assessments are unpaid, outstanding or delinquent to the City.

21 (b) ~~— A license shall not be issued or renewed by the Buildings, Safety Engineering,~~
22 and Environmental Department Business License Center until the Chief Financial Officer has

1 given written confirmation that the applicant is not in arrears to the City for taxes or assessments
2 that are delineated in Subsection (a) of this section. REPEALED.

3 **~~Sec. 19-2-46. State license from Health Department required prior to issuance.~~**

4 ~~Before the Buildings, Safety Engineering, and Environmental Department Business~~
5 ~~License Center shall issue or approve any license required by this division, the applicant shall~~
6 ~~furnish a license from the Health Department, stating that the establishment where the applicant~~
7 ~~conducts, or is about to conduct, such business is a proper place in which to conduct such~~
8 ~~business. REPEALED.~~

9 **~~Sec. 19-2-47. Buildings, Safety Engineering, and Environmental Department Business~~**
10 **~~License Center to take action upon application.~~**

11 ~~Upon compliance with Sections 19-2-41 through 19-2-46 of this Code, the Buildings,~~
12 ~~Safety Engineering, and Environmental Department Business License Center shall issue an~~
13 ~~annual license for a business in accordance with Chapter 28 of this Code, Licenses. REPEALED.~~

14 **~~Sec. 19-2-48. Posting required; non-transferable.~~**

15 (a) ~~Upon issuance by the Buildings, Safety Engineering, and Environmental~~
16 ~~Department Business License Center and after receipt by the applicant, a license that is issued~~
17 ~~under this article shall be posted at all times by the licensee inside the licensed premises in a~~
18 ~~conspicuous location near the entrance.~~

19 (b) ~~All licenses issued under this article are not transferable to another individual,~~
20 ~~partnership, corporation, or other legal entity. REPEALED.~~

21 **~~Sec. 19-2-49. Expiration date and renewal requirements.~~**

22 (a) ~~A license that is issued under this article shall expire on May 31st of each year.~~

1 ~~(b) — A business license that is issued under this division shall remain valid until the~~
2 ~~expiration date unless suspended or revoked in accordance with Chapter 28 of this~~
3 ~~Code, Licenses.~~

4 ~~(e) — A business license that is issued under this division may be renewed only by~~
5 ~~submitting a completed application and paying the required fee as provided for in this division.~~

6 ~~(d) — All applications for renewal of a license that is issued under this division shall be~~
7 ~~filed prior to June 1st of each year. REPEALED.~~

8 ~~**Sec. 19-2-50. Suspension, revocation, or denial of renewal.**~~

9 ~~A license that is issued under this article may be suspended, revoked, or denied renewal~~
10 ~~in accordance with Chapter 28 of this Code, Licenses. REPEALED.~~

11 **Subdivision B. Dining With Confidence**

12 **Sec. 19-2-52. Definitions.**

13 For purposes of this subdivision, the following words and phrases shall have the meaning
14 respectively ascribed to them by this section:

15 *Closed* means that a food service establishment is not permitted to operate by order of
16 the Detroit Health Department due to the following circumstances:

- 17 (1) The food service establishment's license has been suspended or revoked by order
18 of the Director; or
- 19 (2) The food service establishment has been ordered to close immediately by the
20 Director due to clear and present danger to the public health; or
- 21 (3) The food service establishment has failed to obtain a license; or
- 22 (4) The food service establishment has failed to renew its license and pay the required
23 state and City Health Department fees.

1 *Compliance* means that the licensed facility, based on the most recent inspection or
2 follow-up inspection, has met the minimum standards set forth by the Michigan Food law, being
3 MCL 289.1101 *et seq.*, which is adopted by referenced through Section 19-1-1 of this Code, and
4 the Food and Drug Administration's Food Code, which is contained in Article III of this chapter.
5 The licensed facility is considered to be in compliance where:

6 (1) There were no priority or priority foundation violations; or

7 (2) There were no more than five priority or priority foundation violations and all
8 have been corrected; and

9 (3) Such core violations as the Department has required, in its discretion, correction
10 of in order for a facility to achieve compliance have been corrected.

11 *Director* means the Public Health Director of the Detroit Health Department.

12 *Enforcement process* means that the licensed facility, after supervisory review, is
13 currently involved in enforcement proceedings administered by the Detroit Health Department.

14 *Inspection* means the compliance evaluations as required by Section 3125 of the
15 Michigan Food Law, being MCL 289.3125, and any follow-up evaluations resulting therefrom.

16 *Licensed facility* means a licensed food service establishment approved to operate by the
17 Detroit Health Department.

18 *Public information sign* means a color-coded sign issued by the Detroit Health
19 Department providing the food inspection status of a food service establishment as of the date
20 of that establishment's last inspection or, if no color-coded sign is issued, a sign containing the
21 last inspection date and Quick Response Code.

1 *Quick Response Code* means a matrix of squares, commonly referred to as a QR Code,
2 that, when scanned by a smartphone, provides access to additional content or information
3 through the internet.

4 **Sec. 19-2-55 – 19-2-70. Reserved.**

5 **Section 2.** This ordinance is hereby declared necessary to preserve the public peace,
6 health, safety and welfare of the People of the City of Detroit.

7 **Section 3.** All ordinances, or parts of ordinances, that conflict with this ordinance are
8 repealed.

9 **Section 4.** In the event this ordinance is passed by two-thirds (2/3) majority of City
10 Council Members serving, it shall be given immediate effect and become effective upon
11 publication in accordance with Section 4-118(1) of the 2012 Detroit City Charter. Where this
12 ordinance is passed by less than a two-thirds (2/3) majority of City Council Members serving, it
13 shall become effective on the thirtieth (30) day after publication, in accordance with Section 4-
14 118(2) of the 2012 Detroit City Charter.

Approved as to form:



Conrad L. Mallett
Corporation Counsel