

ORDINANCE NO. 3768

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE TOWNSHIP OF FRANKLIN, COUNTY OF FRANKLIN, STATE OF NEW JERSEY, CHAPTER 138, FOOD ESTABLISHMENTS, MORE PARTICULARLY SECTION 138-4, LICENSE AND COMPLIANCE WITH STATE REGULATIONS REQUIRED; SECTION 138-5, LICENSE FEES; AND SECTION 138-6, LICENSE REVOCATION AND SUSPENSION.

SUMMARY

An ordinance amending Chapter 138, Food Establishments with revisions to language in Sections 138-4 and 138-6 and increase fees for retail establishments in Section 138-5.

BE IT ORDAINED by the Mayor and Council of the Township of Franklin, County of Somerset, State of New Jersey as follows:

SECTION I

Sections 138-4 through 138-6 of Chapter 138, Food Establishments, of the Township of Franklin, are hereby amended as follows:

§ 138-4. License and compliance with state regulations required.

It shall be unlawful for any person to conduct a retail food establishment as defined in and governed by ~~Chapter 12 of the State Sanitary Code~~ Chapter 24 of the State Sanitary Code (N.J.A.C. 8:24-1.1 et seq. established by this chapter without first having procured a license from the Township so to do and without complying with any or all of the provisions concerning the operation and maintenance of the same as contained in the aforementioned State Sanitary Code. Said license shall be effective from January 1 to December 31 of the year of issuance and shall be renewable during the month of January.

§ 138-5. License fees. [Amended 11-14-2000 by Ord. No. 3165]

- A. The fee for the review of building plans prior to or as part of applications for retail establishments shall be \$100.
- B. The annual fee for licensing of retail establishments are hereby fixed as follows:
 - (1) Restaurants:
 - (a) Capacity of one to 49 seats: ~~\$200~~ 250.
 - (b) Capacity of 50 to 100 seats: ~~\$300~~ 350.
 - (c) Capacity of 101 to 150 seats: ~~\$375~~ 450.
 - (d) Capacity of 151 to 200 seats: ~~\$450~~ 550.
 - (e) Capacity of 201 plus seats: ~~\$500~~ 600.
 - (2) Other than restaurants:
 - (a) Less than 5,000 square feet: ~~\$200~~ 250.
 - (b) 5,000 to 10,000 square feet: ~~\$300~~ 350.
 - (c) More than 10,000 square feet: ~~\$600~~ 700.
- C. The fee for nonprofit organizations possessing IRS 501C3 status with retail food operations ancillary to their primary function shall be waived.
 - (1) Mobile trucks: \$150.
 - (2) Vending machines: \$25.

- (3) Temporary retail food establishment: [Added 7-11-1995 by Ord. No. 1906]
 - (a) For one location for more than 14 consecutive days and multiple events: ~~\$150~~ **200**. This license shall be valid from January 1 to December 31.
 - (b) For one location for not more than 14 consecutive days and one event: ~~\$50~~ **75**.
 - [1] The fee for nonprofit organizations possessing IRS 501C3 status conducting temporary retail food operations as described in this section shall be waived.
 - [2] For the purpose of Subsection C(3), a "temporary retail food establishment" shall be defined as any establishment which operates at a fixed location for a temporary period of time in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering, including church suppers, picnics or similar organizational meeting, as well as agricultural markets conducted on a regular basis.
- (4) Infrequent retail food establishment: [Added 7-11-1995 by Ord. No. 1906]
 - (a) Agricultural markets, covered dish suppers or similar types of infrequent church or nonprofit-type institution meal service shall be exempt from having to procure a license as required by § 138-4, provided that all requirements of N.J.A.C. 8:24.1 through 8:24-8.12 are met.
- (5) Day-care/nursery schools [Added 1-14-1997 by Ord. No. 1988]
 - (a) With kitchens: \$100.
 - (b) Without kitchens: \$50.

- D. In the event a prospective licensee shall receive a conditionally satisfactory or temporary license or shall be denied a license, all further inspections necessary in order for the licensee to obtain a permanent annual license shall be charged at the rate of \$25 per inspection.
- E. In the event a licensee shall have received two conditionally satisfactory licenses in the preceding year, the license fee noted in Subsection C(5)(a) or (b) above shall be doubled.
- F. Failure to renew licenses during the month of January as set forth in § 138-4 shall result in a late fee of \$25 or 25% of the license fee set forth herein, whichever shall be greater.

§ 138-6. License revocation and suspension.

- A. Any license issued under the terms and provisions of this Chapter may be suspended or revoked by the Council for the violation by the licensee of any provision of this chapter or ~~Chapter 12 of the State Sanitary Code~~ **Chapter 24 of the State Sanitary Code (N.J.A.C. 8:24-1.1 et seq.** or whenever it shall appear that the business, trade, calling, profession or occupation of the person to whom such license was issued is conducted in a disorderly or improper manner or in violation of any law of the state or any provision of this Code or other ordinance or that the person or persons conducting the retail food establishment are of an unfit character to conduct the same or that the purpose for which the license has been issued is being abused to the detriment of the public or is being used for a purpose foreign to that for which the license was issued.
- B. A license issued under the terms and provisions of this chapter shall not be revoked, canceled or suspended until a hearing thereon shall have been had by the Council.

- C. Written notice of the time and place of such hearing shall be served upon the licensee at least two weeks prior to the date set for such hearing. Such notice shall also contain a brief statement of the grounds to be relied upon for revoking, canceling or suspending such license. Notice may be given either by personal delivery thereof to the person to be notified or by regular and certified mail to such person to be notified at the business address appearing upon the license. At the hearing before the Township Council, the person aggrieved shall have an opportunity to answer and may thereafter be heard, and, upon due consideration and deliberation by the Council, the complaint may be dismissed or, if the Council concludes that the charges have been sustained and substantiated, it may revoke, cancel or suspend the license held by the licensee. [Amended 10-10-2000 by Ord. No. 3162]
- D. If any such license shall have been revoked, neither the holder thereof nor any person acting for him, directly or indirectly, shall be entitled to another license to carry on the same business within the Township unless the application for such license shall be approved by the Council.

SECTION II

Each clause, section or subsection of this ordinance shall be deemed a separate provision to the intent that if any such clause, section or subsection should be declared invalid, the remainder of the ordinance shall not be affected.

SECTION III

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed as the extent of such inconsistency.

SECTION VI

This ordinance shall take effect immediately upon adoption and publication according to law.

ORDINANCE NO. 3768

This is a true copy of an ordinance adopted by the Township Council, Township of Franklin, Somerset County, New Jersey.

Introduced:	June 24, 2008
Amended:	August 12, 2008
Public Hearing:	August 12, 2008
Published:	August 18, 2008
Effective Date:	September 1, 2008

Ann Marie McCarthy, Township Clerk