

PRINCETON BOARD OF HEALTH ORDINANCE 2018-01 BOH

AN ORDINANCE BY THE PRINCETON BOARD OF HEALTH TO AMEND IN ITS ENTIRETY CHAPTER BH: 4 OF THE PRINCETON BOARD OF HEALTH CODE ENTITLED “FOOD ESTABLISHMENTS” TO INCLUDE UPDATING RETAIL FOOD LICENSING FEES AND TO AMEND RELATED SECTIONS OF CHAPTER 4, OF BOARD OF HEALTH CODE 2016-01, REVISED GENERAL ORDINANCES OF THE BOARD OF HEALTH OF PRINCETON, NEW JERSEY, 2016.

WHEREAS, Chapter 4 of the Princeton Board of Health Code, entitled "Food Establishments," provides an overview of retail food establishment inspection and compliance the; and

WHEREAS, the Princeton Board of Health desires to amend and supplement the aforesaid Chapter 4 to updates of licensing fees and to amend related sections of Chapter 4 and to amend related sections of the chapter;

NOW THEREFORE BE IT ORDAINED by the Princeton Board of Health as follows:

Section 1. Chapter 4 of the Princeton Board of Health Code is hereby amended in its entirety to read as set forth in the attached Exhibit A, which is annexed hereto and made a part hereof.

Section 2. Copies of this Ordinance are on file in the office of the Department of Health where they shall remain available for public inspection.

Section 3. All ordinances and resolutions or parts thereof inconsistent with this Ordinance are repealed.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. This Ordinance shall take effect 30 days after its passage and publication, or as otherwise provided by law, but shall not become operational until January 21, 2017; until said date, the current Chapter 4 of the Princeton Board of Health Code shall remain in full force and effect.

First Reading (Introduction): April 17, 2018

First Publication:

Second Reading (Adoption):

Second Publication:

George DiFerdinando, MD, MPH, Chair
Princeton Board of Health

JoAnn Hill, MPH, Vice-Chair
Princeton Board of Health

Exhibit A

CHAPTER BH: 4 FOOD ESTABLISHMENTS

BH: 4-1. Definitions

Board of Health, or Board means the Board of Health of Princeton, County of Mercer, New Jersey, established in the Municipality of Princeton in reciprocal ordinances of the former Township of Princeton in Ordinance number 2012-22, adopted December 27, 2012 and of the former Borough of Princeton in Ordinance number 2012-19, adopted December 26, 2012, both effective January 1, 2013;

Caterer shall mean one who prepares food at one location and transports it to another location for consumption, or one who prepares food for special functions with facilities provided by those being served, with or without additional equipment of his own.

Code shall mean any systematic body of law, especially one given statutory force.

Food shall mean any raw, cooked, processed, edible substances, water, ice, beverage or ingredient used or intended for use for sale, in whole or in part, for human consumption.

Food Establishment shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda shop, ice cream parlor, tavern, bar, night club, industrial cafeteria, bakery, public food market, meat market, dairy, non-profit caterers, food stands, liquor stores and supermarkets and grocery stores where food is prepared on or off-site for sale.

Health shall mean physical, mental and social well being with the absence of disease.

Health Department means the Princeton Health Department;

Health Officer means the Princeton Health Officer;

License shall mean the formal, written permission to perform certain acts or carry on a certain business embodied in the document granting such permission, issued by the Health Department in accordance with its rules and regulations and the Sanitary Code.

Permit shall mean temporary permission, in writing, to cover the doing of a single act or series of acts and which may be revoked by the Health Department for cause, at any time, although the act or acts for which the permit was granted have not been completed.

Person means any individual, corporation, association, partnership, other legal entity, government, or governmental subdivision or agency;

Potentially Hazardous Foods shall mean a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting: 1. The Rapid and progressive growth of infectious or toxigenic microorganisms; 2. The growth and toxin production of *Clostridium botulinum*; or 3. In raw shell eggs, the growth of *Salmonella enteritis*.

Princeton means the Municipality of Princeton, Mercer County, New Jersey;

Registered Environmental Health Specialist means a New Jersey state licensed inspector who is an authorized agent for the Princeton Board of Health; and

Restaurant shall mean restaurant, hotel, coffee shop, dining room, cafeteria, luncheonette, soda fountain, sandwich stand or any other place where food or drink is prepared, handled, stored, sold or served for consumption on the premises to the public, organization members or employees, with or without charge.

Sanitize shall mean the method of removing microorganisms from surfaces as approved by the NJDOH.

State Sanitary Code shall mean the New Jersey State Sanitary Code as enacted by the New Jersey Department of Health, (*Sanitation in Retail Food Establishments and Food and Beverage Vending Machines, N.J.A.C. 8:24-1 et seq.*).

BH: 4-2. License or Permit Required; Operation in Compliance with State Sanitary Code.

- (a) No person, corporation, association, partnership, other legal entity, government, or governmental subdivision or agency shall operate a fixed or mobile retail food establishment as defined in the New Jersey State Sanitary Code (*Sanitation in Retail Food Establishments and Food and Beverage Vending Machines, N.J.A.C. 8:24-1 et seq.*) within Princeton except under a current valid permit or license issued by the Health Department.
- (b) Every retail food establishment shall be operated in compliance with the New Jersey State Sanitary Code.

BH: 4-3. Applications for and Issuance of Food Establishment Licenses and Permits.

Applications for licenses and permits shall be in such form as the Board shall prescribe and shall be accompanied by the applicable fee listed below in **BH: 4-3**. Licenses and permits shall be issued if, after investigation, the Board or its authorized agent determines that the operation of the establishment will comply with the requirements of the New Jersey State Sanitary Code. Licenses and permits shall expire on December 31st of the year in which issued unless an earlier date is specified thereon and shall not be transferable.

BH: 4-4. License and Permit Fees.

The following fees shall be charged for licenses and permits and shall be payable annually to the Health Department, provided that fees for licenses and permits issued for a specific date range as set forth in this section shall be payable upon issuance. Annually renewable license and permit fees are subject to annual review and formal amendment by the Board. Where the operations of an establishment encompass sales for both on-site and off-site consumption, the category that requires the larger fee shall apply. Licensees with catering operations shall notify the Health Department of the existence of such operations. Catering operations within a licensed facility shall be inspected as part of the routine facility inspection, and shall have a separate catering operation fee charged as part of the establishment license fee.

Establishment type	Fees
(a) Food Sales predominantly for on-premises consumption:	
(1) Establishments with 25 customer seats or less	\$300.00
(2) Establishments with 26-75 customer seats	\$375.00
(3) Establishments with 76-150 customer seats	\$400.00
(4) Establishments with more than 150 customer seats	\$700.00
(b) Food Sales predominantly for off-premises consumption:	
(1) 0 - 3,000 square feet per location	\$300.00
(2) 3,001 to 5,000 square feet per location	\$375.00
(3) 5,001 to 10,000 square feet per location	\$400.00
(4) Greater than 10,000 square feet per location	\$700.00
(c) Pre-Packaged Food Establishment (Non-Tobacco Merchants)	\$90.00
(d) Pre-Packaged Food Establishment (Tobacco Merchants)	\$175.00
(e) Mobile Establishments	\$120.00
(f) Food Vending Machines	\$25.00
(g) One Day Event with Baked Goods & Non-Potentially Hazardous Foods	\$45.00
(h) Temporary Establishments	\$50.00 per day
(i) Satellite, Seasonal Risk 1 Facilities (not prepacked food establishment)*	\$150.00
(i) Free Standing Caterers	\$150.00
(j) Catering Operations	\$100.00
(m) Farm Markets*	\$60.00
(k) Late Administrative Fee	\$125.00
(l) Review of Retail Food Establishment Plans for new or modified establishments	
(1) Establishments with 25 customer seats or less / 0 – 3000 Sq. Ft.	\$150.00
(2) Establishments with 26-75 customer seats / 3,001 – 5,000 Sq. Ft.	\$200.00
(3) Establishments with 76-150 customer seats / 5,001 – 10,000 Sq. Ft.	\$250.00
(4) Establishments with more than 151 customer seats / > 10,000 Sq. Ft.	\$300.00

**Satellite locations with limited food preparation, pool snack bars, prepackaged goods and beverage preparation facilities with or without seating*

***Fee is per farm market location*

BH: 4-5. Food Manager Certification.

- (a) Every retail food establishment, excluding those rated as Hazard Class 3 (non-hazardous foods) which do not have any on-site preparation or sale of potentially hazardous foods, shall be required to have at least one certified food manager, as defined in subsection (b) below, present to supervise the licensed premises a minimum of four hours of each eight hour work period during which food is handled on the licensed premises.
- (b) A certified food manager is a member of the management or supervisory staff of the licensed facility who:
(1) has been certified in food safety and sanitation through a course of instruction approved by the New Jersey Department of Health and/or the Health Department; or (2) any other Food Manager Course that is acceptable to the Health Department. Acceptance of a food manager course will be confirmed in writing by the Health Department.
- (c) Certified food managers shall satisfactorily complete a refresher course in food safety and sanitation every three years.
- (d) Upon request, the licensee or permittee operating a retail food handling establishment shall provide to the Health Officer or designee satisfactory proof that all food handlers have been trained in food safety and sanitation in accordance with this section.
- (e) Any violation of the provisions of this chapter shall be grounds for an enforcement action by the Health Department or Board. Such action may include the issuance of a summons in municipal court; or suspension, revocation, or non-renewal of the retail food license or permit by the Board of Health in accordance with Chapter **BH:1** of this Code.
- (f) In the event the Health Officer or designee disapproves of the qualifications of a food manager, the individual or the licensed or permitted facility may appeal that decision in accordance with **BH: 1-11** of this Code.

BH: 4-6. Routine Inspections.

Routine inspections of all food establishment facilities shall take place as determined by and in the discretion of the Health Officer and/or the Registered Environmental Health Specialist.

BH: 4-7. Reinspections.

- (a) Retail food establishments that fail to achieve a “Satisfactory” rating shall be subject to a re-inspection fee of \$300.00 that shall be paid prior to re-inspection of the establishment to determine if the cause for the less than “Satisfactory” rating has been corrected.
- (b) 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 subject to a re-inspection fee of \$600.00. The fee shall be paid prior to the re-inspection of the establishment to determine if the cause for the less than “Satisfactory” rating has been corrected.
- (c) 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 re-inspection fee of \$900.00 shall be charged for the third and for each subsequent event. The fee shall be paid prior to the re-inspection of the establishment to determine if the cause for the less than “Satisfactory” rating has been corrected.
- (d) A fourth occurrence within two years will also require the licensee or permittee to submit to the Health Officer or designee a corrective action plan setting forth the specific dates of the proposed implementation of the plan, the actions to be taken, and the scheduled completion date. The corrective action plan shall include the recertification of the certified food manager (s).
- (e) If the Health Officer disapproves the plan, the Health Officer may take administrative action as deemed appropriate, which may include but not be limited to the issuance of summonses and closure of the facility.

(e) The licensee or permittee of a retail food establishment may appeal the decision of the Health Officer or designee in accordance with the procedures in **BH: 1-11** of this Code.

(f) All rating certificates for food establishments are to be displayed at all times in public view on the premises for which they were issued, subject to approval of the location by the Health Officer or designee.

BH: 4-8. Smoking Prohibited in Outdoor Dining Areas.

(a) All retail food establishments licensed to provide outdoor seating under this Code shall prohibit smoking in the outdoor dining area(s). Such area(s) shall be marked by sign(s) approved by the Health Officer or designee indicating the prohibition of smoking and also that violators are subject to a fine.

(b) Code provisions concerning smoking on and in municipal property are set forth in Chapter BH: 12.

(c) Code provisions concerning the retail sale of tobacco products are set forth in chapter BH: 13.

BH: 4-9. Portable Exterior Food Storage.

(a) Portable exterior food storage shall not be allowed on the property of licensed retail food establishments without prior approval from the Health Department. Portable exterior food storage is defined as food storage in a truck or other mobile unit parked in an exterior area of a licensed retail food establishment for a time period exceeding 48 hours.

(b) Portable exterior food storage shall not be located within 75 feet of a residential building, and noise levels from such exterior food storage units shall be in compliance with municipal noise ordinances.

(i) Portable food storage units shall be free from dust, flies, rodents and other vermin, obnoxious odors, and other conditions that threaten to endanger the health, safety or welfare of the inhabitants of the Princeton; and shall be constructed to prevent damage to the food products from excessive heat or cold.

BH: 4-10. Applicability of Smoke-Free Air Act to Retail Food Establishments.

In accordance with N.J.A.C. 8:24-10.2 (*Smoking in Restaurants and Food Stores*), all retail food establishments shall comply with the New Jersey Smoke-Free Air Act, at N.J.S.A. 26:3D-55 *et seq.* And the rules promulgated thereunder.

BH: 4-11. Violations; Penalties.

Any person who violates a provision of the State Sanitary Code shall be subject to a penalty of not less than \$50.00 or more than \$1000.00 in accordance with N.J.S.A. 26:1A-10, and/or appropriate injunctive relief.