

Key Points to Montgomery County Ordinance on Retail Food Establishments

I. Permits

- A. **Permit Requirements:** It shall be unlawful for any person to sell food or to operate a retail food establishment who does not possess a valid permit, unless otherwise exempted
- B. **Posting:** All permits shall be posted in view of the public at all times.

C. Application

- 1. Applicants for a permit must fill out an application provided by the Health Department.
- 2. The application shall include the following; the legal name, address, telephone number of the permittee, the name under which said permittee intends to operate, the address of the establishment, the number of food establishment personnel employed, signature of permittee, and any other information required by the Health Department.

- D. **Permit Issuance:** A permit shall be issued subsequent to application and upon determination by the Health Department that the permittee has complied with all the applicable provisions of this Ordinance, and tendered the appropriate fee.

E. Terms

- 1. Permits shall be for a term of one year beginning upon the date of issue.
- 2. Permits shall be renewed annually on or before the last day of the anniversary month which is one year after issuance of the permit.
- 3. A permit for a Temporary Food Service Establishment shall be for a term not to exceed fourteen consecutive days.

- F. **Permits Not Transferable: Permits shall not be transferred.**

II. Construction, Renovation, and Alteration of Food Establishments

- A. **Construction:** All Food Establishments which are constructed or renovated shall conform in their construction to the applicable requirements of 410 IAC 7-20, as amended as well as with this Ordinance and all applicable Building, Zoning, and Fire Code

- B. **Plans:** No construction, renovation, or alteration shall begin without the construction, renovation, or alteration plans being first submitted to and approved by the Health Officer as well as any other permitting authorities required by law.

- C. **Equipment:** All equipment installed in a Food Establishment for use in cleaning of utensils, or in the preparation, storing, handling, cleaning, sanitizing, serving, or displaying of any food or beverage products shall be of a type conforming with all applicable requirements with regard to proper holding temperatures, design, construction, location, and materials.

D. Compliance

- 1. All Food Establishments must fully comply at all times with all local and state Building, Zonings, and Fire codes.

2. Failure of any permittee to fully comply with any applicable Building, Zoning, and Fire Codes shall be the basis for the suspension, immediate closure or revocation of any permit issued.

III. Application and Permit Fees

A. **Fees:** Prior to the issuance of any permit, each permittee shall first tender to the Montgomery County Health Department the applicable permit fee fixed by the Health Department.

B. Application Fees

C. **No Permit:** Should any permittee fail to obtain the permit prior to the opening of the Food Establishment for business, or should any permittee fail to renew his/her permit 14 days past the anniversary date of said permit, then said annual fee shall be 125% of the annual fee set forth above for that particular Food Establishment.

D. Exemptions

1. The permit fee shall not apply to any fruit and vegetable stands maintained and operated by a person who sells directly to a consumer fresh fruits, vegetables, honey, or cider
2. Food Establishments that comply with terms and provisions of I.C. 16-42-5-4 shall be exempt from the provisions of this Ordinance unless they waive said exemption. Exempt organizations such as sport leagues, church-sponsored soup kitchens, churches, and temporary senior citizen feeding sites are exempt from the permit provisions.
3. Food establishments that sell or offer for sale directly to the consumer only prepackaged confections such as candy, chewing gum, nuts, potato chips, pretzels, popcorn, coffee, juice, and soft drink beverages shall be exempt from the provisions of this Ordinance.

IV. Education

- A. **Food Safety:** A food safety course will be required for all employees of a Food Establishment if the following conditions occur.
1. If the establishments are subject to immediate closure by the Health Officer.
 2. If the Health Officer determines the necessity of a Food Safety Course as the result of violations of this Ordinance.
 3. If upon inspection it is determined the remedial efforts have not been made to correct prior violations of this ordinance.

V. Inspections

- A. **Frequency of Inspection:** Each food establishment may be inspected as frequently as deemed appropriate by the Health Department.
- B. **Authority to Inspect and Copy Records:** The permittee shall, upon request of the Health Department, permit access to all areas of every such Food Establishment and shall permit inspection of, access to, and the copying of any and all records relating to food and beverage sanitation.

- VI. **Violations:** The Health Officer may order the suspension of any permit issued for a Food Establishment which order shall include the prohibition of any further sale or serving of food or beverages for the following reasons:
- A. Interference with the Health Officer, or his/her authorized representative, in the performance of his/her duties. Interference shall be defined as the process of obstructing, hampering, or blocking the Health Officer in the performance of his/her duties.
 - B. As a result of the willful and/or continuous violation of any provision of this Ordinance.
- VII. **Enforcement**
- A. If the Health Department suspends any permit, the permittee must obtain a new permit and pay the fee required.
 - B. If a Food Establishment continues to operate without a permit, there will be a penalty of \$200 per day that the Establishment operates, without complying with this ordinance or order of the Health Department.
 - C. This ordinance and any order of the Health Department may be enforced by injunction and any other remedy available at law or in equity in the Montgomery Circuit or Superior Court.
- VIII. **Appeal:** Any permittee may appeal the decisions of the Health Department. If an appeal occurs, the permittee may request a hearing with the Health Board and Health Officer making the final decision.