



Legislation Text

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AN ORDINANCE AMENDING TITLE VIII, BUSINESSES AND OCCUPATIONS THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, TO AMEND CHAPTER 12, RESTAURANTS AND RETAIL SALES AND SERVICES ESTABLISHMENTS, BY ADDING SECTION 14, SHARED KITCHEN LICENSES AND SECTION 15, SHARED KITCHEN USER LICENSES.

NOTE: Additions are shown as **bold and underlined**.

WHEREAS, there exists in the City of Newark certain business establishments called Shared Commercial Kitchens; and

WHEREAS, there is a need to streamline the permit processing for Shared Commercial Kitchens who often lease the use of their space to individuals for special occasions; and

WHEREAS, the City believes that establishing clear delineated procedures for the use of such Shared Commercial Kitchens is in the best interests of the City and the health and safety of the residents of the City of Newark.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Section 1. The Revised General Ordinances of the City of Newark, New Jersey, 2000, as amended and supplemented, to amend Title VIII, Businesses and Occupations, Chapter 12, Restaurants and Retail Sales and Services Establishments, of by adding a new Section 14, entitled "Shared Kitchen Licenses" and a new Section 15, entitled "Shared Kitchen User Licenses."

8:12-14. Shared Kitchen Licenses

8:12-14a. Definitions

"Department of Health" means the City of Newark Department of Health and Community Wellness.

"Equipment" shall mean all permanent fixtures and movable appliances, including, but not limited to, stoves, ranges, hoods, meat blocks, tables, counters, refrigerators, sinks, dish washing machines, steam tables and similar items, other than utensils, used in the operation of a food establishment.

"Food Safety Operations" or "Food Safety Requirements" shall mean all practices involving

sanitation; food storage; food preparation; use of potentially hazardous foods; food service; food handling by personnel; manual cleaning and sanitizing of multi-use eating and drinking utensils and equipment; plumbing and toilet and lavatory facilities; storage of garbage and rubbish; insect and vermin control; poisonous compounds; cleaning operations; outdoor maintenance; dressing rooms, lockers and other storage areas provided for use by shared kitchen users; and other subject matter determined by the department of health to be relevant to food safety.

“Licensed Premises” shall mean any premises licensed or required to be licensed under this Section.

“Potentially Hazardous Food” shall mean any natural or synthetic food or ingredient that requires temperature control because the food exists in a form capable of supporting the rapid and progressive growth of infectious or toxigenic micro organisms, such as Clostridium botulinum or Salmonella enteritidis. The term “Potentially Hazardous Food” includes, but is not limited to, any food that consists, in whole or in part, of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean, heat-treated foods of plant origin, raw seed sprouts, cut melon and unmodified garlic and oil mixtures. The term “Potentially Hazardous Foods” does not include (i) an air-cooled, hardboiled egg with shell intact or any other egg treated to destroy all viable salmonella; (ii) any food with a water activity level of 0.85 or less under standard conditions; (iii) any food with a hydrogen iron concentration (pH) level of 4.6 or below when measured at 75 degree Fahrenheit (24 degree Celsius); (iv) any unopened packaged food in a hermetically sealed container; (v) any food approved by the Department of Health in duly promulgated rules and regulations for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms, or the slower growth of Clostridium botulinum, cannot occur, and; (vi) any food that does not support the growth of microorganisms at a level sufficient to cause illness.

“Shared Kitchen License” shall mean any business licensed or required to be licensed under this Chapter.

“Shared Kitchen User(s) or “User(s)” shall mean any person licensed or required to be licensed under this Chapter.

“Shared Kitchen” means (1) any establishment used as a place of business for the exclusive or primary purpose of utilizing, licensing/leasing or renting its kitchen space to individuals or entities for food preparation, temporary extra production capacity, menu planning, training, taste testing, pop-up dinners, dinner clubs, product development, food packaging, food storage or any other food-related purpose; or (2) any retail or wholesale food establishment licensed or required to be licensed under this Chapter that leases, rents or otherwise makes kitchen space available at such establishment for utilization by individuals or entities for food preparation, temporary extra production capacity, menu planning, training, taste testing, product development, food packaging, food storage or any other food-related purpose that is secondary or incidental to the establishment’s primary business activity or retail or wholesale establishment.

“Shared Kitchen User” or “User” means any person who utilizes, leases or rents kitchen space at any Shared Kitchen licensed or required to be licensed under this Chapter.

8:12-14b. No person shall engage in the business of a Shared Kitchen without first having obtained a Shared Kitchen License or Shared Kitchen Supplemental License under this Section.

8:12-14c (1). Except as otherwise provided in Subsection 8:12-14c4 of this Section, no person shall engage in the business of a Shared Kitchen long-term user or Shared Kitchen short-term user without first having obtained a shared kitchen user license under Section 8:12-15.

(2) If a person holds a valid shared kitchen user license under this Chapter to engage in the business activity of shared kitchen long-term user or shared kitchen short-term user, such person shall not be required to obtain a retail food establishment license to engage in such activity in a properly licensed shared kitchen.

(3) If a person holds a valid shared kitchen user license under this Chapter to engage in the business activity of shared kitchen long-term user or shared kitchen short-term user, such person shall not be required to obtain a City of Newark wholesale food establishment license to sell or offer for sale at wholesale any article of food, confection, condiment, drink or ice prepared by such person in a properly licensed shared kitchen. If applicable, all users shall comply with all registration and license provisions of Federal and State law.

(4) If a person holds a valid outdoor Special Event Permit issued under Section 5:10-1 et seq. (Special Events) of the City of Newark Municipal Code, such person shall not be required to obtain a shared kitchen user license under this chapter to rent, lease or otherwise use kitchen space in a properly licensed shared kitchen to prepare any article of food, confection, condiment, drink or ice used or intended for use at the outdoor special event for which such outdoor special event permit has been issued, provided that the Special Events Permit and Identification is provided to and maintained by the Shared Kitchen.

8:12-14d. Shared License Classification. Shared Kitchen Licenses shall be divided into the following classifications:

- (1) Shared Kitchen License: A shared kitchen license shall be required if the person seeking to engage in the exclusive or primary business of a shared kitchen does not hold a valid retail food establishment license for the premises identified in the shared kitchen license application. The holder of a shared kitchen license may engage at such shared kitchen in any business activity authorized by a retail food establishment license if (1) such business activity is secondary or incidental to the primary business activity of shared kitchen; and (2) such secondary or incidental business activity is permitted under the City of Newark's Zoning Ordinance 40:1-1 et seq.**

- (2) Shared Kitchen Supplemental License: A shared kitchen-supplemental license shall be required if the person seeking to engage in the business of a shared kitchen (1) does hold a valid retail or wholesale food establishment license for the premises identified in the shared kitchen license application; and (2) the business activity authorized by the shared kitchen license is secondary or incidental to the primary business activity for which such retail or wholesale food establishment license has been issued as set forth in the license application for such retail or wholesale food establishment license.

8:12-14e. License Application. All license applications for a Shared Kitchen License and Shared Kitchen Supplemental License shall be made to the Division of Tax Abatements and Special Taxes and follow the same procedures required for issuance of a Plenary Business License by securing a Certificate of Occupancy, Fire Certificate, Health Certificate, Trade Waste Permit with service agreement and provide a New Jersey Business Registration Certificate, Identification of Business Owner, Payroll Tax Registration, Police Background Check, and any other documentation required by the Division of Tax Abatements/Special Taxes.

- (1) An application for a Shared Kitchen Supplemental License shall not require a new Certificate of Occupancy, Fire Certificate or Trade Waste Permit if those certificates are held by the primary business.
- (2) It shall be a condition of all licenses under this Section that all information in the license application be kept current. Any change in required information shall be reported to the Division of Tax Abatement and Special Taxes, the Business Administrator and the Department of Health and Community Wellness within 14 days of the such change.
- (3) All approved licenses shall adhere to the requirements established by the Department of Health and Community Wellness pertaining to inspections required to secure a license and post license inspections.
- (4) The fee for a Shared Kitchen License shall be Six Hundred Fifty Dollars (\$650.00) and expire two years from the date of issuance. The fee for a Shared Kitchen -Supplemental License shall be Three Hundred Fifty (\$350.00), and is additional to any other required business license fee.
- (5) All local property taxes, water and sewer charges or bills owed to the City, must be current at the time of all applications for licenses under this Section.

8:12-14f. Penalty

1. Any person who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not exceeding One Thousand (\$1000.00) Dollars or by imprisonment for a term not exceeding ninety (90) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

2. Shared Kitchen Operators or Shared Kitchen Supplemental Operators operating without a license shall be closed pending application and approval of a license by the

Department of Health, the Division of Tax Abatement and Special Taxes and any other applicable licenses according to the provisions of this Chapter.

3. Shared Kitchen Operators and Shared Kitchen Supplemental Operators engaged in operation without a license, which have failed to renew a license within 30 days after notification of renewal from the Division of Tax Abatement and Special Taxes or which have had their license suspended or revoked by the Department of Health shall also be subject to a fine not to exceed Two Hundred Fifty (\$250.00) Dollars per day or by imprisonment for a term not exceeding ninety (90) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

8:12-15. Shared Kitchen User License

8:12-15a. Definitions.

“Additional food preparation equipment” shall mean any food preparation equipment used at a shared kitchen by a shared kitchen user that is not the property of such shared kitchen.

“Department of Health” shall mean the Department of Health and Community Wellness of the City of Newark.

“Equipment” shall have the meaning ascribed to the term in Subsection (a) of Section 8:12-14.

“Food Safety operations” shall have the meaning ascribed to the term in Subsection (a) of Section 8:12-14.

“Potentially Hazardous Food” shall have the meaning ascribed to the term in Subsection (a) of Section 8:12-14.

“Shared Kitchen” shall have the meaning ascribed to the term in Subsection (a) of Section 8:12-14 as amended by this ordinance.

“Shared Kitchen Licensee” shall mean any person licensed or required to be licensed under Subsection (b) of Section 8:12-14.

“Shared Kitchen Long-term User” shall mean a shared kitchen user who utilizes, leases or rents a kitchen space at any licensed shared kitchen for a term of two (2) years.

“Shared Kitchen Short-term User” shall mean a shared kitchen user who utilizes, leases or rents kitchen space at a shared kitchen for 90 or fewer consecutive days.

“Shared Kitchen User” shall have the meaning ascribed to it in Subsection (a) of Section 8:12-14.

“Shared Kitchen User Licensee” shall mean any person licensed or required to be licensed under Subsection (c)(1) of 8:12-14.

8:12-15b. Shared Kitchen User License required - Covered activities.

- 1. A shared kitchen user license under this Section is authorized to engage in any of the following business activities ("covered business activities"): (1) shared kitchen long-term user; or (2) shared kitchen short-term user. The business activity authorized under the shared kitchen user license shall be indicated on the face of such license.**
- 2. Shared Kitchen Long-term User. A shared kitchen user license under this Section authorizing the holder of such license to engage in the business of shared kitchen long-term user is subject to no limitation on (1) the number of calendar days that such long-term user may utilize, lease or rent a properly licensed shared kitchen during the applicable two-year license period, or (2) the number of properly licensed shared kitchens that such long-term user may utilize, lease or rent during the applicable two-year license period. Nothing in this Subsection shall be construed to prohibit a shared kitchen from renting, leasing or otherwise authorizing the use of such licensee's shared kitchen for a period of less than two years.**
- 3. Shared Kitchen Short-term User. A shared kitchen user license under this Section authorizing the holder of such license to engage in the business of shared kitchen short-term user entitles such licensee to utilize, lease or rent space at a properly licensed shared kitchen, or any combination or properly licensed shared kitchens, for a period not to exceed 90 consecutive calendar days as measured from the date that such shared kitchen user license is issued. Nothing in this subsection shall be construed to prohibit a shared kitchen licensee from renting, leasing or authorizing the use of such licensee's shared kitchen for a period of less than 90 consecutive calendar days.**
- 4. All applications for a Shared Kitchen User License shall be made to the Division of Tax Abatements and Special Taxes and shall follow the requirements of securing a Health Certificate, Background Check and Payroll Tax Registration. Each applicant shall submit as part of its application all the current certificates of the Shared Kitchen Operator, including Certificate of Occupancy, Trade Waste Permit, Fire Certificate, Health Certificate and a New Jersey Business Registration Certificate and shall include with its application the lease, license agreement or rental agreement with the Shared Kitchen Operator.**
- 5. All applications for Shared User License must be accompanied by a menu approved by the Health Department containing the food items the applicant intends to prepare, store, taste test, develop, package or otherwise handle or use for the food related purposes at the Shared Kitchen.**
- 6. An application under this Subsection shall not be required to procure a Trade Waste Permit, Certificate of Occupancy and Fire Certificate, provided that the shared kitchen operator has the aforementioned certificates and permits.**
- 7. The fee for a Shared Kitchen User License - Long-Term shall be Three Hundred Fifty Dollars (\$350.00) and expires two years from the date of issuance. The fee for a Shared Kitchen User License- Short -Term shall be One Hundred Twenty Five Dollars (\$125.00)**

and expires 90 days from the date of issuance.

8. All applications for a Shared Kitchen User License shall list the name and address of the Shared Kitchen that is being leased and the Division of Tax Abatements/Special Taxes shall organize all approved Shared User Licenses under the name of the Shared Kitchen Operation that is being leased.
9. All local property taxes, water and sewer charges or bills owed to the City, must be current at the time of all applications for licenses under this Section.

8:12-15c. Penalty

1. Any person who violates any provision of this Chapter shall, upon conviction thereof, be punished by a fine not exceeding One Thousand (\$1000.00) Dollars per day or by imprisonment for a term not exceeding ninety (90) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

2. Shared Kitchen Long-Term Users or Shared Kitchen Short-term Users utilizing a Shared Kitchen without a license shall not be allowed to utilize a Shared Kitchen until approval of a license according to the provisions of this chapter.

3. Shared Kitchen Long-Term Users or Shared Kitchen Short-term Users utilizing a Shared Kitchen without a license, which have failed to renew a license within 30 days after notification of renewal from the Division of Tax Abatement/Special Taxes or which have had their license suspended or revoked by the Department of Health shall also be subject to a fine not to exceed Two Hundred Fifty (\$250.00) Dollars per day or by imprisonment for a term not exceeding ninety (90) days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 2. Severability.

If any provision of this ordinance or application thereof to any person(s) or circumstance is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or application of the ordinance that that can be given effect without the invalidated provision or application, and to this end the provisions of this ordinance are declared severable.

Section 3. Effective Date.

This ordinance shall be effective upon final passage and publication, in accordance with the laws of the State of New Jersey.

STATEMENT

An Ordinance amending Section 12 entitled Restaurants and Retail Sales and Services Establishments of Title VIII entitled Businesses and Occupations by adding a new Section 14 entitled Shared Kitchen Licenses and a new Section 15 entitled Shared Kitchen User Licenses as the City

believes establishing clear delineated procedures for the use of such Shared Commercial Kitchens is in the best interests of the City and the health and safety of the residents of the City of Newark.