

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

COUNCIL BILL NO. CB22-1606

3 SERIES OF 2023

COMMITTEE OF REFERENCE:

4 BUSINESS, ARTS, WORKFORCE & AVIATION SERVICES

5
6 **A BILL**

7 **For an ordinance amending article II of chapter 32 of the Denver Revised Municipal**
8 **Code to modify food licensing categories and fees.**

9 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

10 **Section 1.** Section 32-75 of Article II of Chapter 32 shall be repealed and reenacted to read
11 as follows:

12 **Sec. 32-75. – Food and food handlers.**

13 (a) *Food processing, wholesale, and warehouse establishments.* Food processing,
14 wholesale, and warehouse establishments shall pay the following fees:

15 (1) Application fee \$150.00

16 (2) License fee \$150.00

17 (3) Food processing, wholesale, and warehouse establishments conducting activities
18 identified in the categories of this paragraph (3) may conduct secondary retail sales of food products
19 in that same category at the same location.

20 (i) Basic license (packaged, bottled, and canned)

21 (ii) Produce, bulk, or other unpackaged food; processed prepackaged meat
22 products; dairy products processing, including butter, cheese, or ice cream yogurt, or dairy product
23 specialties (also permits activities covered in (i) above)

24 (iii) Fresh meats which includes cutting, grinding, smoking, curing, cooking or
25 any processing operation (also permits activities covered in (i) and (ii) above)

26 (iv) Milk and dairy products (also permits activities covered in (i), (ii), and (iii)
27 above)

28 (b) *Commissaries.* Commissaries shall pay the following fees:

29 (1) Application fee \$150.00

30 (2) License fee \$150.00

31 (3) Commissaries conducting activities identified in the categories of this paragraph
32 (3) may conduct secondary retail sales of food products in that same category at the same location.

33 (i) Basic license (packaged, bottled, and canned)

1 (ii) Produce, bulk, or other unpackaged food; processed prepackaged meat
2 products; dairy products processing, including butter, cheese, or ice cream yogurt, or dairy product
3 specialties (also permits activities covered in (i) above)

4 (iii) Fresh meats which includes cutting, grinding, smoking, curing, cooking or
5 any processing operation (also permits activities covered in (i) and (ii) above)

6 (iv) Milk and dairy products (also permits activities covered in (i), (ii), and (iii)
7 above)

8 (c) *Retail food establishments*. Unless provided otherwise in this section, retail food
9 establishments shall pay the following fees:

10 (1) Application fee \$150.00

11 (2) The license fee shall be a cumulative fee determined by the following food
12 processing activities, which shall each be set at \$25.00:

- 13 i. Selling prepackaged cold foods
- 14 ii. Scooping ice (including bagged ice for retail sale)
- 15 iii. Heating commercially processed foods or cold holding foods
- 16 iv. Cooking raw animal products
- 17 v. Cooling cooked foods
- 18 vi. Reheating previously cooked foods
- 19 vii. Serving raw or undercooked animal products
- 20 viii. Specialized processes
- 21 ix. Infusing food products with hemp

22 (3) Retail food establishments conducting activities identified in the categories of this
23 subsection (h) may conduct secondary food processing, wholesale sales, and warehouse storage
24 of food products in that same category at the same location.

25 (i) Produce and other bulk or unpackaged food

26 (ii) Milk and dairy products and/or preprocessed, prepackaged meats (also
27 permits activities covered in (i) above)

28 (iii) Fresh meats which includes cutting, grinding and packaging (also permits
29 activities covered in (i) and (ii) above)

30 (iv) Delicatessen and/or bakery (also permits activities covered in (i), (ii) and
31 (iii) above)

32 (v) Multi-use allows two or more activities covered in (i), (ii), (iii) and (iv) above

33 (d) *Temporary retail food establishments*. Temporary retail food establishment license fees,

1 per year, shall be one hundred dollars (\$100.00) plus ten dollars (\$10.00) per day for the first five
2 (5) days of each event. Temporary retail food establishments shall not pay application fees.

3 (e) *Food peddlers*. Food peddlers shall pay the following fees:

4 (1) Application fee \$25.00

5 (2) License fee \$50.00

6 (f) *Ice cream vendors*. Ice cream vendors shall pay the following fees:

7 (1) Application fee \$50.00

8 (2) License fee \$25.00.

9 **Section 2.** Section 32-106.5 of Article II of Chapter 32 shall be repealed.

10 ~~**Sec. 32-106.5. -- Retail food establishments.**~~

11 ~~Retail food establishments shall pay the following fees:~~

12 ~~(1) Application fee:~~

13 ~~(a) Unless otherwise stated in this section\$200.00~~

14 ~~(b) Restaurants with a seating capacity of 1 to 25 patrons150.00~~

15 ~~(c) Restaurants with a seating capacity of 26 to 100 patrons200.00~~

16 ~~(d) Restaurants with a seating capacity of 101 to 500 patrons250.00~~

17 ~~(e) Restaurants with a seating capacity of more than 500 patrons300.00~~

18 ~~(f) Restaurant-type operation located on premises where the primary business is not~~
19 ~~the operation of a restaurant, including the offering for sale of food or drink for consumption on or~~
20 ~~off the premises, stand-up counters, prepared food items sold with the aid of a pushcart, wagon,~~
21 ~~carriage or vehicle of any kind or description, and similar food or drink sellers who do not provide~~
22 ~~seating arrangements for patrons150.00~~

23 ~~(2) Restaurant license fees, per year:~~

24 ~~(a) Restaurants with a seating capacity of 1 to 25 patrons\$125.00~~

25 ~~(b) Restaurants with a seating capacity of 26 to 100 patrons200.00~~

26 ~~(c) Restaurants with a seating capacity of 101 to 500 patrons300.00~~

27 ~~(d) Restaurants with a seating capacity of more than 500 patrons400.00~~

28 Plus \$50.00 per outlet

29
30 ~~Outlet for purposes of this sub-section (d) shall mean a separate and distinct food~~
31 ~~service area operating in conjunction with a commissary as determined by the director of excise~~
32 ~~and licenses.~~

33 ~~(e) Restaurants where patrons drive from the street onto a parking lot where "drive in~~

1 ~~service" is provided by such restaurant and no seating is provided inside the restaurant200.00~~

2 ~~(f) Restaurant-type operation located on premises where the primary business is not~~
3 ~~the operation of a restaurant, including the offering for sale of food or drink for consumption on or~~
4 ~~off the premises, stand-up counters, prepared food items sold with the aid of a pushcart, wagon,~~
5 ~~carriage or vehicle of any kind or description, and similar food or drink sellers who do not provide~~
6 ~~seating arrangements for patrons125.00~~

7 ~~(3) Temporary retail food establishment license fees, per year, shall be one hundred dollars~~
8 ~~(\$100.00) plus ten dollars (\$10.00) per day for the first five (5) days of each event. Temporary retail~~
9 ~~food establishments shall not pay application fees.~~

10 ~~(4) Food peddlers license, per year, shall be fifty dollars (\$50.00) per year. Food peddlers~~
11 ~~shall pay a twenty five dollar (\$25.00) application fee.~~

12 ~~(5) Ice cream vendor's license fees, in addition to applicable mobile food unit and pushcart~~
13 ~~fees, shall be twenty five dollars (\$25.00) per year with a fifty dollar (\$50.00) application fee.~~

14 ~~(6) Other retail food establishment license fees, per year. The number of employees~~
15 ~~considered for the determination of the appropriate license category shall be the full-time equivalent~~
16 ~~number of employees directly related to the processing, storing, handling or packaging of food~~
17 ~~intended for human consumption. The manager of public health and environment shall certify to the~~
18 ~~department of excise and licenses the kinds and types of activities permissible under each license~~
19 ~~category, taking into account the number of full-time equivalent employees utilized in the operation.~~

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| | Annual Fee | | |
|--|--------------------|---------------------|----------------------|
| Retail food | 1 to 9 employees | 10 to 29 employees | 30 or more employees |
| (a) Produce and other bulk or unpackaged food (covers activities in (a) above) | \$95.00 | \$160.00 | \$235.00 |
| (b) Milk and dairy products and/or preprocessed, prepackaged meats (also permits activities covered in (a) above) | 110.00 | 200.00 | 305.00 |

| | Annual Fee | | |
|--|------------------|--------------------|----------------------|
| Retail food | 1 to 9 employees | 10 to 29 employees | 30 or more employees |
| (c) Fresh meats which includes cutting, grinding and packaging (also permits activities covered in (a) and (b) above) | 135.00 | 285.00 | 425.00 |
| | | | |
| (d) Delicatessen and/or bakery (also permits activities covered in (a), (b) and (c) above) | 200.00 | 295.00 | 445.00 |
| | | | |
| (e) Multi-use allows two or more activities covered in (a), (b), (c) and (d) above, and may also provide seating capacity for patrons as set forth in section 32-106.5(2) | 200.00 | 295.00 | 445.00 |

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Any retail license issued in category (a) through (e) will permit the secondary wholesale sales of food products in those categories. However, an establishment shall be licensed in the category of its principal and primary business function based upon the number of employees as defined in chapter 23.

Section 3. Article II of Chapter 23 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 23-31. - Fees.

Application and license fees under this article are prescribed in Chapter 32 section 32-75.

Section 4. Division 2 of Article III of Chapter 23 shall be amended by adding the language underlined and deleting the language stricken to read as follows:

Sec. 23-55. - Fees.

Application and license fees under this division shall be as prescribed in Chapter 32 section 32-106.5.

Section 5. This ordinance shall be effective June 8, 2023.

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1 COMMITTEE APPROVAL DATE: December 7, 2022

2 MAYOR-COUNCIL DATE: December 13, 2022

3 PASSED BY THE COUNCIL: _____ January 3, 2023

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR Jan 4, 2023

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____ ; _____

10 PREPARED BY: Reginald Nubine, Assistant City Attorney DATE: December 15, 2022

11 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
12 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.

15 Kerry Tipper, Denver City Attorney

16 BY: Anshul Bagga, Assistant City Attorney DATE: Dec 15, 2022