



## Legislation Details (With Text)

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**Title:** A RULE AND REGULATION relating to farmers market and temporary food establishment fees; amending R&R 91, Section 1 (part), as amended, and BOH 2.10.020, R&R 05-05, Section 25, as amended, and BOH 2.10.080, R&R 09-05, Section 5, as amended, and BOH 5.04.035, R&R 09-05, Section 6, as amended, and BOH 5.04.036, R&R 11-05, Section 3, and BOH 5.42.015 and R&R 05-06, Section 35, as amended, and BOH 5.64.010, adding a new section to BOH chapter 5.04 and repealing R&R 05-06, Section 11, as amended, and BOH 5.04.400 and R&R 09-05, Section 8, as amended, and BOH 5.04.405; enacted pursuant to RCW 70.05.060, including the latest amendments or revisions thereto.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. R&R 15-04.pdf, 2. BOH15-04 hearing notice - re revised fees for farmers markets and temporary event food establishments.doc, 3. staff report, 4. BOH Presentation Farmers Market Temp Event Fees 10-15-2015 FINAL sent.pptx

Date	Ver.	Action By	Action	Result
10/15/2015	1	Board of Health	Hearing Held	
10/15/2015	1	Board of Health	Passed	Pass

Clerk 09/30/2015

A RULE AND REGULATION relating to farmers market and temporary food establishment fees; amending R&R 91, Section 1 (part), as amended, and BOH 2.10.020, R&R 05-05, Section 25, as amended, and BOH 2.10.080, R&R 09-05, Section 5, as amended, and BOH 5.04.035, R&R 09-05, Section 6, as amended, and BOH 5.04.036, R&R 11-05, Section 3, and BOH 5.42.015 and R&R 05-06, Section 35, as amended, and BOH 5.64.010, adding a new section to BOH chapter 5.04 and repealing R&R 05-06, Section 11, as amended, and BOH 5.04.400 and R&R 09-05, Section 8, as amended, and BOH 5.04.405; enacted pursuant to RCW 70.05.060, including the latest amendments or

revisions thereto.

BE IT ADOPTED BY THE KING COUNTY BOARD OF HEALTH:

SECTION 1. R&R 91, Section 1 (part), as amended, and BOH 2.10.020 are each hereby amended to read as follows:

**Permit fee schedule.**

**Permit Fee Schedule.**

The owner or operator of a food establishment subject to the permit requirement of WAC ((~~246-215-200~~)) 246-215-08300 or 2009 FDA Food Code Paragraph 8-301.11 shall pay to the health officer a food establishment permit fee as set forth in Table 1, based on the establishment type and the risk or tier category for the establishment. Where more than one type of food establishment exists within or as part of another food establishment (for example, a bakery within a grocery store or a deli within a meat market), the owner or operator shall pay the permit fee for each applicable food establishment type; except that the owner or operator of a grocery store with no more than two checkout stands, a general food establishment with no more than two checkout stands and no more than twelve seats for customers for on-site consumption of food or a meat/fish market with no more than two checkout stands shall pay only the highest applicable risk category permit fee without being required to obtain a separate permit for each type of food handling activity at the establishment. For purposes of this section, "highest applicable risk category permit fee" means the fee corresponding to the highest risk category of food handling activity at the establishment.

**TABLE 1**

**Food Establishment Categories and Permit Fees**

Type of Food Establishment	Applicable Fee <sup>1</sup>
<b>General Food Service<sup>2</sup></b>	
Seating Capacity 0 - 250 Risk 1	\$380.00
Seating Capacity 0 - 12 Risk 2	\$576.00

Seating Capacity 0 - 12 Risk 3	\$819.00
Seating Capacity 13 - 50 Risk 2	\$615.00
Seating Capacity 13 - 50 Risk 3	\$868.00
Seating Capacity 51 - 150 Risk 2	\$615.00
Seating Capacity 51 - 150 Risk 3	\$947.00
Seating Capacity 151 - 250 Risk 2	\$753.00
Seating Capacity 151 - 250 Risk 3	\$1,049.00
Seating Capacity over 250 Risk 1	\$390.00
Seating Capacity over 250 Risk 2	\$822.00
Seating Capacity over 250 Risk 3	\$1,158.00
<b>Limited Food Service</b>	\$380.00
<b>Bakery - No customer seating<sup>3</sup></b>	
Risk 1	\$452.00
Risk 2	\$540.00
Risk 3	\$795.00
<b>Bed and Breakfast Operation</b>	\$379.00
<b>Grocery Store - No customer seating<sup>3</sup></b>	
Risk 1	\$371.00
Risk 2	\$687.00
<b>Catering operation</b>	
Risk 1	\$493.00
Risk 2	\$640.00
Risk 3	\$795.00
<b>Meat/Fish Market</b>	\$827.00

**Vending Machine** \$350.00

**Mobile Food Unit and Commissary**

Risk 1 \$519.00

Risk 2 \$830.00

Risk 3 \$1,070.00

**Nonprofit Institution**

Risk 1 \$380.00

Risk 2 \$576.00

Risk 3 \$819.00

**School Lunch Program<sup>4</sup>** \$578.00

**Seasonal Food Establishment<sup>5</sup>**

Operating for more than ten and up to twelve months One hundred percent of the applicable annual permit fee

Operating for more than seven and up to ten months Seventy-five percent of the applicable annual permit fee

Operating for more than four and up to seven months Fifty percent of the applicable annual permit fee

Operating for four or fewer months Twenty-five percent of the applicable annual permit fee

**Temporary Food Establishment** (other than ((\$281.00))

farmers market or ~~((recurring event limited temporary))~~

farmers market temporary food establishments)<sup>6,7</sup>

Minimal food handling

Single event permit \$120.00

Unlimited event permit - unlimited number of events

per calendar year \$236.00

Moderate food handling

Single event permit \$290.00

Multiple event permit - up to 5 events per calendar year \$640.00

Unlimited event permit - unlimited number of events

per calendar year \$750.00

Complex food handling

Single event permit \$350.00

Multiple event permit - up to 5 events per calendar year \$700.00

Unlimited event permit - unlimited number of events

per calendar year \$850.00

~~((Limited Temporary Food Establishment (other than~~ \$55.00

~~farmers market or recurring event limited temporary~~

~~food establishments))~~

**Farmers Market**

Tier 1 - 0 to 5 permitted farmers market temporary

food establishments ~~\$((0.00))~~ 780.00

Tier 2 - 6 to 15 permitted farmers market temporary

food establishments ~~\$((302.00))~~ 960.00

Tier 3 - 16 or more permitted farmers market temporary

food establishments ~~\$((502.00))~~ 1,200.00

**Farmers Market Temporary Food Establishment<sup>6,7</sup>** ~~((281.00))~~

Minimal food handling

Single event permit \$120.00

Unlimited event permit - unlimited number of events

per calendar year \$236.00

Moderate food handling

Single event permit \$290.00

Multiple event permit - up to 5 events

per calendar year \$640.00

Unlimited event permit - unlimited number of events

per calendar year \$750.00

Complex food handling

Single event permit \$350.00

Multiple event permit - up to 5 events

per calendar year \$700.00

Unlimited event permit - unlimited number of events

per calendar year \$850.00

**Certified booth operator<sup>6,7</sup>** \$95.00

**Temporary event blanket permit<sup>8</sup>** \$215.00 per hour

for all local health officer

services, including but

not limited to plan review

and inspections.

<del>((Farmers Market Limited Temporary Food Establishment</del>	\$55.00
<del>Recurring Event</del>	\$100.00
<del>Recurring Event Temporary Food Establishment</del>	\$281.00
<del>Recurring Event Limited Temporary Food Establishment</del>	<del>\$55.00))</del>

Footnotes to Table 1:

1. All food establishment permit fees set forth in this table are annual fees, except those for temporary ~~((and limited temporary))~~ food establishments (including temporary nonprofit institution food establishments) and seasonal food establishments. An applicant for an annual food establishment permit who submits the application after September 30 shall pay one-half the applicable annual permit fee for the remainder of the permit year.

2. General food service includes a grocery store or bakery offering seating for on-site consumption of food.

3. A bakery or grocery store offering seating for on-site consumption of food shall be classified as a general food service establishment.

4. A school kitchen not qualifying as a school lunch program shall be classified as a nonprofit institution.

5. The applicant for a seasonal food establishment permit shall pay an annual permit fee prorated to a quarterly schedule specified in Table 1.

6. To obtain or maintain a multiple event permit, the owner or operator of a temporary food establishment or farmers market temporary food establishment must:

a. not less than fourteen days before commencing operation at each event, notify the health officer of the event date, location and time of operation; and

b. maintain the presence of a certified booth operator on site while operating at each event.

7. To obtain or maintain an unlimited event permit, the owner or operator of a temporary food establishment or farmers market temporary food establishment must:

a. have incurred no more than one return inspection by the health officer under the most recently issued multiple or unlimited event permit within the current or previous calendar year;

b. not less than fourteen days before commencing operation at each event, notify the health officer of the event date, location and time of operation; and

c. maintain the presence of a certified booth operator on site while operating at each event.

8. As an alternative to requiring a separate temporary food establishment permit for each participating establishment at a single event or celebration, such as a fair or festival, the health officer may issue a temporary event blanket permit to the event coordinator or other person, who shall be responsible for ensuring compliance with the applicable requirements of BOH title 5 by all participating temporary food establishments at the event. The temporary event blanket permit application and a nonrefundable deposit in the amount of \$215.00 must be submitted to the health officer at least 30 days before the event. For the purposes of this section, "person" means any individual, corporation, company, association, society, firm, partnership, joint stock company or governmental agency, or the authorized agent of any of these entities.

SECTION 2. R&R 05-05, Section 25, as amended, and BOH 2.10.080 are each hereby amended to read as follows:

**Miscellaneous fees.**

A. The food establishment owner or operator shall pay the following miscellaneous fees, as applicable:

1. Variance request fee \$215.00 per hour

2. Reinspection fee for establishments 50 percent of applicable

other than temporary food permit fee.

establishments, farmers markets and

temporary farmers market food



establishments

3. Reinspection fee for temporary food \$160.00 per reinspection.

establishments, farmers markets

and temporary farmers market food

establishments

4. Reinstatement of permit after 100 percent of applicable

suspension permit fee.

((4.)) 5. Penalty for commencing 50 percent of applicable

operation of a food establishment permit fee.

without required permit or plan review.

NEW SECTION. SECTION 3. There is hereby added to BOH chapter 5.04 a new section to read as follows:

**Certified booth operator.** WAC 246-215-01115 is supplemented with the following:

Certified booth operator (WAC 246-215-01115(12.1)).

"Certified booth operator" means an individual who has successfully completed a certified booth operator course administered by the health officer and holds a current, valid certificate of course completion issued by the health officer.

SECTION 4. R&R 09-05, Section 5, as amended, and BOH 5.04.035 are each hereby amended to read as follows:

**Farmers market ((~~or recurring event~~)) coordinator.** WAC 246-215-01115 is supplemented with the following:

Farmers market ((~~or recurring event~~)) coordinator (WAC 246-215-01115(41.1)).

Farmers market ((~~or recurring event~~)) coordinator means an individual authorized by the health officer to be responsible for the operation of the farmers market ((~~or recurring event~~)) in conformance to the

requirements of this title and the lawful orders of the health officer, including providing the common facilities for and monitoring the farmers market ~~((or recurring event))~~ temporary food establishments~~((and limited food establishments))~~.

SECTION 5. R&R 09-05, Section 6, as amended, and BOH 5.04.036 are each hereby amended to read as follows:

**Farmers market ~~((or recurring event))~~ temporary food establishment.** WAC 246-215-01115 is supplemented with the following:

Farmers market ~~((or recurring event))~~ temporary food establishment (WAC 246-215-01115(41.2)).

"Farmers market ~~((or recurring event))~~ temporary food establishment" means ~~((either a temporary or a limited))~~ a temporary food establishment at a farmers market ~~((or recurring event))~~.

SECTION 6. R&R 11-05, Section 3, and BOH 5.42.015 are each hereby amended to read as follows:

**Farmers markets ~~((and recurring events))~~.** WAC ~~((246-215-131))~~ 246-215-09200 is supplemented as follows:

Farmers markets ~~((and recurring events))~~ (WAC ~~((246-215-131(12)))~~ 246-215-09200(4)).

(a) The health officer shall designate each farmers market as tier 1, tier 2 or tier 3 based on the ~~((types of foods offered))~~ number of permitted farmers market temporary food establishments participating at the farmers market and the standards of this section.

(b) ~~((Any farmers market having no participating food establishments as defined under BOH 5.04.040 and WAC 246-215-011(12)).~~

~~((e)))~~ Any farmers market where all participating food establishments are exempt from the food establishment permit requirement under WAC ~~((246-215-191))~~ 246-215-08305 shall be designated as tier ~~((2))~~ 1.

~~((d))~~ ~~Any farmers market where any participating food establishment is required to obtain a farmers market temporary or limited temporary food establishment permit shall be designated as tier 3.~~

~~((e))~~ (c) A farmers market coordinator shall be responsible for the operation of the farmers market in conformance with the requirements of this title and the lawful orders of the health officer, including providing the common facilities for and monitoring the participating food establishments and vendors. The farmers market coordinator shall pay the applicable ~~((tier 1, tier 2 or tier 3))~~ farmers market permit fee as set forth in BOH chapter 2.10.

~~((f))~~ ~~A recurring event coordinator shall be responsible for the operation of the recurring event in conformance with the requirements of this title and the lawful orders of the health officer, including providing the common facilities for and monitoring the recurring event temporary and limited temporary food establishments and payment of the recurring event permit fee as set forth in BOH chapter 2.10.~~

~~(g) By March 31, 2013, and annually thereafter, the)~~ (d) The Seattle-King County department of public health shall report to the board of health on the number of farmers markets in each tier, the frequency and severity of food code violations at farmers markets, and identification of any noteworthy changes from the preceding calendar year. The department shall provide a written report by March 31 each year in electronic format to the board of health administrator who will distribute the report to all board of health members.

SECTION 7. R&R 05-06, Section 35, as amended, and BOH 5.64.010 are each hereby amended to read as follows:

**Food establishment risk categories.** ~~((Every food establishment and))~~ Except for temporary food establishments and farmers market temporary food establishments, every new and renewal application for a food establishment permit shall be subject to a risk assessment by the health officer. The health officer shall designate each food establishment as low ~~((risk (risk category 1)))~~, medium ~~((risk (risk category 2)))~~ or high risk (risk category 1, 2 or 3) based on the types of food dispensed, food preparation steps~~((;))~~ and types of food processing or packaging performed at the establishment~~((; provided, however, that temporary food establishments shall be designated as either high risk or low risk))~~. In determining the most-appropriate risk category for each establishment, the health officer shall apply the ~~((risk category))~~ following standards ~~((of this~~

section.)):

A. Low Risk - Risk Category 1. Any food establishment performing only cold holding or limited food preparation, with no further preparation, shall be designated a low risk or risk category 1 establishment. The following shall also be designated as a low risk or risk category 1 establishment:

1. Any establishment serving ready to eat, pre-packaged potentially hazardous food or prepackaged frozen foods;
2. Any establishment serving espresso or blended drinks, with no other food preparation;
3. Any establishment heating and serving individually, commercially-prepared and prepackaged ready to eat foods for immediate service;
4. Any mobile food establishment serving only espresso or hot dogs or both, with no other food preparation; and
5. Any bed and breakfast operation.

B. Medium Risk - Risk Category 2. Any food establishment performing only cold holding or food preparation, and which does not otherwise qualify as a high risk or risk category 3 establishment, shall be designated as a medium risk or risk category 2 establishment. The following shall also be designated as a medium risk or risk category 2 establishment:

1. Any establishment baking bread or pastries, frying donuts, or grilling sandwiches or toast for immediate service, with no hot-holding of food;
2. Any school or institution satellite operation performing food service limited to reheating or hot holding of prepared foods, with no on-site cooking; and
3. Any grocery store or market selling pre-packaged raw meat or fish products.

C. High Risk - Risk Category 3. The following shall be designated as a high risk or risk category 3 establishment:

1. Any establishment cooking and either cooling, reheating, hot holding, or holding other than cold

holding of food;

2. Any meat or fish market selling meat or fish other than pre-packaged raw product;
3. Any establishment where food preparation includes cutting or processing of raw meat or fish

products;

4. Any establishment with an approved HACCP plan; and
5. Any establishment using time as a public health control.

D. Temporary food establishments and farmers market temporary food establishments shall be designated as engaged in either minimal food handling, moderate food handling or complex food handling as follows:

1. Minimal food handling: a temporary food establishment or farmers market temporary food establishment serving only packaged potentially hazardous food made in a permitted facility, and performing no handling of unpackaged food;

2 Moderate food handling: a temporary food establishment or farmers market temporary food establishment:

- a. serving samples of potentially hazardous foods;
- b. reheating and serving of foods made in a facility permitted by the Washington state Department of

Agriculture or United States Department of Agriculture;

- c. hot holding and serving of foods; or
- d. preparing and serving any foods not qualifying as complex food handling under this section; and

3. Complex food handling: a temporary food establishment or farmers market temporary food establishment:

- a. serving raw animal products;
- b. serving food cooked from raw animal products; or
- c. serving food that has been cooked and cooled before serving.

SECTION 8. R&R 05-06, Section 11, as amended, and BOH 5.04.400 are each hereby repealed.

SECTION 9. R&R 09-05, Section 8, as amended, and BOH 5.04.405 are each hereby repealed.

SECTION 10. **Severability.** If any provision of this rule or its application to any person or circumstance is held invalid, the remainder of the rule or the application of the provision to other persons or circumstances is not affected.