

Mark-up of changes to original Code

for

ORDINANCE AMENDING SANTA BARBARA COUNTY CODE

CHAPTER 16, ARTICLE III, RELATING TO COUNTY RETAIL FOOD CODE AND MICROENTERPRISE HOME KITCHEN OPERATIONS

CHAPTER 16 - FOOD AND FOOD PRODUCTS

Article III. – ~~Fees~~County Retail Food Code

Division 1. – General

Sec. 16-17. - Purpose.

The purpose of this article is to adopt by reference the California Retail Food Code, as it may be amended from time to time, to provide clarifying language and implementing regulations consistent with State law to authorize the local enforcement agency to permit microenterprise home kitchen operations in Santa Barbara County pursuant to California Health and Safety Code Section 114367, and to establish and collect fees necessary to pay the reasonable expenses of the health officer in enforcing city, county and state statutes, orders, quarantines, ordinances, rules or regulations relating to the public health.
(Ord. No. 3050, § 2)

Sec. 16-18. - Area of application.

This article shall be valid and enforced within the territory of Santa Barbara County in which the health officer of Santa Barbara County enforces city, county or state statutes, orders, quarantines, ordinances, rules or regulations relating to the public health. For purposes of this ordinance, the Santa Barbara County Public Health Department, Environmental Health Services Division, shall be the "enforcement agency" for purposes of the State and County Retail Food Code. Further, for purposes of this ordinance, the local health officer or Director, Environmental Health Services, and duly authorized agents, shall be designated as the "enforcement officer" for purposes of the State and County Retail Food Code.
(Ord. No. 3050, § 2)

Sec. 16-19. -~~Definitions~~ California Retail Food Code - Adoption by Reference.

The California Retail Food Code, California Health and Safety Code, Division 104, Part 7, Chapters 1-13, Sections 113700-114437, as it may be amended from time to time, is hereby adopted by reference. The California Retail Code, with clarifications and implementing regulations as hereinafter set forth, shall be known as the County Retail Food Code.

~~-(a)~~

~~The term "food" includes all articles used for food, drink, confectionery, or condiment, whether simple or compound, and all substances and ingredients used in the preparation thereof for human consumption.~~

~~(b)~~

~~The term "perishable food" means any food or beverage capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxicants.~~

~~(c)~~

~~The terms "bakery," "food processing establishments," "retail food production and marketing establishment," "public water system," "itinerant restaurant," and "restaurant" shall have the meaning assigned to each in the California Health and Safety Code.~~

~~(d)~~

~~The terms "mobile food preparation unit," "food establishment open to the outside air," "retail dairy," "retail sales area of grower-seller premises," and "roadside stand" shall have the meaning assigned to each in title 17 of the California Administrative Code.~~

~~(e)~~

~~The term "vending machine" means any self-service device offered for public use, which upon insertion of a coin, coins, or token, or by other means, dispenses unit servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation, but not including devices that dispense exclusively bottled drinks, gum, candy, or other not readily perishable food when it is determined by the health officer that such vending machine does not require routine inspection for the protection of the public health.~~

~~(f)~~

~~The term "food vehicle" means any vehicle from which packaged, perishable foods are sold or otherwise offered to the public.~~

~~(g)~~

~~The term "frozen food vehicle" means any vehicle from which predominately frozen foods are sold or otherwise offered to the public.~~

~~(h)~~

~~The term "retail delivery vehicle" means any vehicle from which exclusively nonperishable foods are carried, sold or otherwise offered to the public.~~

~~(i)~~

~~The term "commissary" means any food processing establishment which purveys food primarily for sale or distribution from vehicles required to have a permit under the provisions of the chapter. The term "commissary" also includes "commissary" as defined by section 23536 of the California Health and Safety Code and commissaries that service or purvey food to operators of mobile food preparation units.~~

~~(j)~~

~~The term "public swimming pool" means "swimming pools," "pools," "wading pools," "special use pools," and "temporary training pools" as defined in section 7774 of title 17, California Administrative Code and within the scope of regulation described in section 7775 of the same code.~~

~~(k)~~

~~The term "food vending" means selling or distributing food to the public by means other than those defined above.~~

~~(l)~~

~~The term "health officer" means the Santa Barbara County Health Care Service Director or the Environmental Health Director or his duly authorized agents.~~

~~(m)~~

~~The term "person" means individual, partnership, joint venture, association, trust, corporation, or municipal corporation.~~

~~(Ord. No. 3050, § 2)~~

Sec. 16-20. - Permit to construct required.

No person shall engage in the construction or remodeling of a food facility, restaurant, bakery, food processing establishment, commissary, food establishment open to the outside air, retail dairy, roadside stand, retail food production and marketing establishment, retail sales area of a grower-seller premise, public swimming pool, or public water system ~~with more than four connections~~, without having first obtained a Permit to Construct. A retail sales area of a grower-seller premises may be constructed without a Permit to Construct if no permits for the structure are required by the building department.

(Ord. No. 3050, § 2)

Sec. 16-21. - Plans required for permit to construct.

Three sets of plans shall be submitted to the health officer for new construction or remodeling of food facilities, restaurants, food processing establishments, bakeries, commissaries, retail sales areas of grower-seller premises, retail dairies, roadside stands, food establishments open to the outside air, retail food production and marketing establishments, public water systems and public swimming pools. Upon approval of the plans, a Permit to Construct will be issued and will be valid for twelve months, or until

completion of construction or remodeling, whichever comes first. Upon written request therefore, the health officer may, for good cause, extend ~~for the~~ twelve month period for an additional period not to exceed twelve months. A Permit to Construct shall be granted unless it appears, on review of the plans, that applicable state, county or city environmental health requirements will not be met.

(Ord. No. 3050, § 2)

Sec. 16-22. - Repealed.

~~Sec. 16-22. - Resubmittal of plans—Additional plan review fees.~~

~~Where plans submitted pursuant to the preceding section must be extensively revised and resubmitted for approval so as to require additional plan review, an additional plan review fee equivalent to one-half of the initial Permit to Construct fee will be charged. This additional fee shall be paid each time such plans are submitted.~~

~~No additional plan review fees shall be required for plans resubmitted for approval of minor correction indicated on initial plan reviews for a Permit to Construct.~~

(Ord. No. 3050, § 2)

Sec. 16-23. - Health permit required.

No person shall conduct, operate, or open to the public any food facility business, ~~occupation, activity, or vending machine listed in subsections (c), (d), (e), (i), or (k) of section 16-19~~, whether or not at a fixed location, without having first obtained a Health Permit; ~~provided, however, that no Health Permit is required for a public water system with fewer than five connections~~. The Health Permit shall be in addition to the Permit to Construct and to any other license or permit required by the County of Santa Barbara or any other public jurisdiction. A Health Permit shall be granted unless it appears on inspection of the premises or otherwise that applicable state, county or city environmental health requirements will not be met. Such permit shall be valid for twelve months from date of issuance and shall be renewable from year to year on payment, on or before the delinquency date of each such year, of the fee required or payment of such fee plus penalties; ~~provided, however, that such permit for a public water system shall not expire~~. The paid period of a Health Permit shall not be affected by any revocation or period of suspension imposed by the health officer.

(Ord. No. 3050, § 2)

16-24 – Microenterprise Home Kitchen Operations ~~Sec. 16-24. - Vehicle permits and exemptions.~~

No person shall conduct, operate, or open to the public any microenterprise home kitchen operation without first having obtained a Health Permit. For purposes of this ordinance, a microenterprise home kitchen shall be considered a restricted food service facility, and subject to all applicable requirements and restrictions of the California Retail Food Code, Division 104, Part 7, Chapter 11.6, Sections 114367-114367.5, or as subsequently amended.

~~The owner, lessor or lessee of all vehicles defined in subsections (f), (g) and (h) of section 16-19 shall obtain a Health Permit to operate such vehicles. If the lessor obtains a permit and there is a change in the lessee, the lessor shall notify the health officer and obtain a new Health Permit to operate. The health officer may exempt from permit requirements, vehicles operated by owners of restaurants, commissaries, and retail food production and marketing establishments if said vehicles are used exclusively for deliveries of packaged food. No such exemptions may be granted for vehicles which hold or transport perishable foods for periods longer than one hour.~~

(Ord. No. 3050, § 2)

Sec. 16-25. - Separate activities.

If a permittee shall engage in, conduct, manage or carry on at the same time more than one of the activities for which a permit is required by this article, he shall be deemed to be engaging in, conducting, managing, or carrying on each such activity separately and apart from each other activity, whether located on the same premises or not.

Exceptions to this section are as follows:

- (a) On payment of the fee for operation of an organized camp, the operator shall not be required by this article to pay additional fees for permits for services by the health officer to food ~~facilities~~~~establishments~~, public swimming pools or public water systems operated on camp premises. This exemption shall not apply to Permits to Construct.

(Ord. No. 3050, § 2)

- (b) An operator of a ~~food facility~~~~restaurant or retail food production and marketing establishment~~ having a valid Health Permit for the ~~food facility~~~~restaurant or marketing operation~~ shall not be required by this article to pay additional fees for permits for commissary activities conducted on the premises by the same operator.

Sec. 16-26. - Application for health permit.

Application for any permit required by this article shall be made on such forms as are prescribed by the health officer.

Sec. 16-27. - Fictitious name.

A permit may be issued pursuant to this article to a corporation duly authorized to transact business in this state, or to a person operating under a fictitious name who has complied with all the provisions of chapter 5 (commencing with section 17900) of part 3 of division 7 of the Business and Professions Code. Otherwise, all such permits shall be issued in the true name of the applicant. Except as above provided, no permittee may operate under any false or fictitious name. A permit issued to a corporation shall designate such corporation by the exact name which appears in the articles of incorporation of such corporation.

Sec. 16-28. - Temporary activities.

If the applicant for a permit under this article shows to the satisfaction of the health officer that because a business or occupation or other activity is of a seasonal nature, or because of statutory or ordinance regulations, or because of termination or loss of lease, or because of acquisition by the public of the premises on which the occupation or business or other activity is situated, or because of similar reasons, such business, occupation or activity can only be carried on for a limited period of time, not more than three-quarters of a year, the permit fee shall be the following fractions of the annual fee:

- One quarter of a year or less One fourth
- More than one quarter but not more than one-half of a year One-half
- More than one-half but not more than three-quarters of a year Three-fourths

Permit fees of twenty-five dollars or less shall not be prorated.

A public swimming pool which operates more than three months of the year shall not be considered a seasonal activity.

Itinerant restaurant fees shall not be prorated.

(Ord. No. 3050, § 2)

Sec. 16-29. - Exemptions from fees.

- (a) No fee shall be charged pursuant to this article for any permits issued to or inspections or other services performed by the health officer for any premises or vehicle belonging to or activity conducted by a public entity.
- (b) The health officer shall issue without a fee a permit to any individual applicant who otherwise would be entitled to such permit if such person files with the health officer a certificate by a licensed physician and surgeon or by the Bureau of Vocational Rehabilitation of the Department of Education of the State of California that the applicant has not more than ten percent visual acuity in his better eye with correction.

(Ord. No. 3050, § 2)

Sec. 16-30. - Collection of fees.

The health officer shall collect the fees established by this article.

(Ord. No. 3050, § 2)

Sec. 16-31. - ~~Lost permit.~~ Repealed

~~Where the health officer finds that a permit has been lost, he shall issue a duplicate permit to the owner thereof upon payment of a replacement fee in the amount provided for by this article.~~

~~*(Ord. No. 3050, § 2)*~~

Sec. 16-32. - Transfer of permit.

Permits are not transferable from one person to another or by the same person from one business location to another; provided, however, that a permit issued to a partnership may be transferred upon a reorganization of the partnership reorganized by addition or departure of a partner, if the partnership, as reorganized, applies for such transfer in the same manner as for a new permit and pays the transfer fee provided for in this article.

(Ord. No. 3050, § 2)

Sec. 16-33. - Posting or carrying permit.

Every person having a permit issued pursuant to this article and engaging in a permitted business or activity at a fixed place of business shall keep such permit while in force posted and exhibited to the public view. Such a person not having a fixed place of business shall carry such permit with him at all times while engaging in the business or activity for which it was granted.

(Ord. No. 3050, § 2)

Sec. 16-34. - Suspension or revocation.

If the health officer determines that any of the provisions of this article or of applicable statutes, quarantine orders, ordinances, resolutions, rules or regulations are not being complied with as directed by a written notice to comply, he may issue and serve upon the permittee a notice of intended suspension or revocation setting forth in clear and concise language the acts and omissions with which the permittee is charged and specifying the provision violated. The notice shall specify a date and time, not more than fifteen days following its service upon the permittee, and place of hearing before the health officer or his agent designated in the notice, and shall be served on the permittee at least five days prior to the hearing. The permittee shall attend such hearing and may show cause, if any, why the permit should not be suspended or revoked.

The health officer may on his own motion or good cause shown by the permittee, continue any such hearing by giving notice to the permittee of the time and place of the continued hearing. At the close of the hearing or at any time within five ten-working days thereafter, the health officer shall order such disposition of the permit, within the terms of the original or any amended notice of intended suspension

or revocation, as he deems proper and such order in writing shall be served upon the permittee. The order of suspension or revocation shall be effective from the time of such service. If the permittee should fail to appeal at any such noticed hearing or continued hearing, the health officer may make all such orders as he might make if the permittee were present.

(Ord. No. 3050, § 2)

Sec. 16-35. - Emergency suspension.

If the health officer determines that the immediate suspension of a permit issued under the provisions of this article is necessary to preserve public health or safety, he shall suspend the permit by serving upon the permittee a notice of suspension effective forthwith, setting forth in clear and concise language the acts or omissions with which the permittee is charged and stating the permittee's rights to a hearing.

(Ord. No. 3050, § 2)

Sec. 16-36. - Hearing of emergency suspension.

At any time within the fifteen day period after a permit has been suspended pursuant to the previous section, the permittee may, on a form provided by the health officer, request in writing a hearing before the health officer. Failure to request a hearing within fifteen days after the permittee has received notice of emergency suspension shall be deemed a waiver of the permittee's right to such a hearing. On receipt of a request for a hearing filed in accordance with the provisions of this section, the health officer shall schedule such hearing within fifteen days and notify the permittee in writing of the date, time and location of the hearing at least five days prior to hearing. The permittee shall attend such hearing and may show cause, if any, why the permit should be reinstated. The health officer may on his own motion or on good cause shown by the permittee, continue any such hearing giving notice to the permittee of the time and place of the continued hearing. At the close of the hearing or any time within ten days thereafter, the health officer shall order such final disposition of the permit as he deems proper and such order in writing shall be served on the permittee. The order of reinstatement or final suspension or revocation shall be effective from the time of such service. If the permittee should fail to appear at any such hearing or continued hearing, the health officer may make all such orders as he might make if the permittee were present.

(Ord. No. 3050, § 2)

Sec. 16-37. - Operation with suspended, revoked or expired health permit.

No person shall conduct any business, occupation or activity, requiring a health permit after said permit has expired or has been suspended or revoked by the health officer.

(Ord. No. 3050, § 2)

Sec. 16-38. - Operation with expired permit to construct.

No person shall construct or remodel any business, occupation or activity for which a Permit to Construct has been obtained if said permit has expired and has not been renewed.

(Ord. No. 3050, § 2)

Sec. 16-39. - Inspections.

Every person owning or operating a public swimming pool, an organized camp, a public water system ~~with more than four or fewer than two hundred connections~~, or a facility that disposes of infectious waste, as defined by Health and Safety Code section 25117.5, shall pay for enforcement of State Department of Health Services rules and regulations and inspection services by the health officer, the annual fee set forth in division 2 hereof.

(Ord. No. 3050, § 2)

Sec. 16-40. - Registration for septic tank cleaning.

No person shall carry on or engage in the business of the cleaning of septic tanks, chemical toilets, cesspools or sewage seepage pits or dispose of the cleanings therefrom without having first obtained a

registration permit therefor from the health officer. Such registration shall be issued on application on the terms and conditions provided by the Health and Safety Code sections ~~25000~~117400, et seq.
(Ord. No. 3050, § 2)

Sec. 16-41. - Noise surveys.

For each noise survey performed by the health officer, the person requesting such survey shall pay the fee prescribed in division 2 hereof.
(Ord. No. 3050, § 2)

Sec. 16-42. - Cross connection certification and renewal.

No person shall engage in the business of testing devices and methods used for the protection of drinking water supplies without having first been certified by the health officer and having paid the fee prescribed in division 2 hereof. Such certification expires in three years unless renewed.
(Ord. No. 3050, § 2)

Sec. 16-43. - Bacteriological analyses of drinking water.

For each sample of drinking water collected and analyzed for bacteriological content by the health officer, the person requesting such analysis shall pay the fee prescribed in division 2 hereof.
(Ord. No. 3050, § 2)

Sec. 16-44. - Repealed by Ord. No. 3170, § 1.

Sec. 16-45. - ~~Delinquency penalty fees.~~ - Repealed.

~~If any fee required by this article is not paid prior to the delinquency date, in addition to such fee, the applicant shall pay a penalty equal to twenty-five percent of the fee, if the fee and the penalty are paid within thirty days after the delinquency date, the fifty percent of the fee in all other cases. The term "delinquency date" shall mean in the case of a newly established business or activity, thirty days after commencement of the business or activity. In the case of a renewal, the delinquency date shall be thirty days after the permit expiration date.~~
~~(Ord. No. 3050, § 2; Ord. No. 3316, § 3)~~

Sec. 16-46. - Penalties.

Any person who violates any provision of this article is guilty of a misdemeanor. Each offense shall be punishable by a fine of not less than twenty-five dollars or more than one thousand dollars or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment. Each day such offense continues shall constitute a separate offense.
(Ord. No. 3050, § 2)

Division 2. - Required Fees

Sec. 16-47. - Fee schedule for public health services.

The board of supervisors on recommendation of the Public Health Department ~~department of health care services~~ may, from time to time by resolution, adopt a schedule or schedules of required fees for specified health services.
(Ord. No. 3170, § 3; Ord. No. 3316, § 2)

Secs. 16-48—16-56. - Repealed by Ord. No. 3316.