

ORDINANCE AMENDING SANTA BARBARA COUNTY CODE

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

ORDINANCE NO. 5133

An ordinance of the County of Santa Barbara amending Chapter 16, Article III.

WHEREAS, the purpose of this ordinance 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; and

WHEREAS, pursuant to California Health and Safety Code Section 114367, the local enforcement agency may permit microenterprise home kitchen operations in Santa Barbara County and establish and collect fees necessary to pay the reasonable expenses of the health officer.

NOW THEREFORE, the Board of Supervisors of the County of Santa Barbara ordains as follows:

An ordinance amending Article III of Chapter 16, entitled Food and Food Products, of the Santa Barbara County Code.

CHAPTER 16 - FOOD AND FOOD PRODUCTS

Article III. – 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. - 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.

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

No person shall engage in the construction or remodeling of a food facility, public swimming pool, or public water system, 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, public water system, 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 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)

Secs. 16-22. - Repealed.

Sec. 16-23. - Health permit required.

No person shall conduct, operate, or open to the public any food facility whether or not at a fixed location, without having first obtained a Health Permit. 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. 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 Operation

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.

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,

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 having a valid Health Permit for the food facility 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. - Repealed

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 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, 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 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. - Repealed.

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 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.

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PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 11th day of May, 2021, by the following vote:

AYES: Supervisors Williams, Hart, and Hartmann

NOES: Supervisors Nelson and Lavagnino

ABSTAIN: NONE

ABSENT: NONE

COUNTY OF SANTA BARBARA

Bob Nelson

Bob Nelson
Chair, Board of Supervisors

Date: 5/11/2021

ATTEST:
MONA MIYASATO
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: *Mona Miyasato*
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

By: _____
Deputy

APPROVED
VAN DO-REYNOSO, MPH, PhD
DIRECTOR
PUBLIC HEALTH DEPARTMENT

By: *Van Do-Reynoso*
Director

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AYES: Supervisors Williams, Hart, and Hartman
NOES: Supervisors Nelson and Lavagnino
ABSTAIN: NONE
ABSENT: NONE

COUNTY OF SANTA BARBARA

Bob Nelson

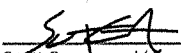
Chair, Board of Supervisors

Date: _____


ATTEST:
MONA MIYASATO
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: 
Scott Greenwood (Jan 27, 2021 12:09 PST)
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER, CPA
AUDITOR-CONTROLLER

By: 
Robert Geis (Jan 27, 2021 13:12 PST)
Deputy

APPROVED
VAN DO-REYNOSO, MPH, PhD
DIRECTOR
PUBLIC HEALTH DEPARTMENT

By: _____
Director