

ORDINANCE NUMBER O- 15914 (New Series)

Adopted on MAR 7 1983

AN ORDINANCE AMENDING CHAPTER IV, ARTICLES 1, 2, 3, AND 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 41.01.01, 41.03, 41.07.1, 41.07.4, 42.0101, 42.0101.1, 42.0104.1, 42.0104.2, 42.0130, 42.0130.1, 43.0213, 43.0217, 44.0309.5 AND 44.0501, RELATING TO HEALTH AND SANITATION, BY ADDING SECTION 41.03.1 RELATING TO AN ESTABLISHMENT PLAN REVIEW AND SECTION 44.0501.1 RELATING TO PUBLIC SWIMMING POOLS AND BY REPEALING SECTIONS 41.06, 41.07.2 AND 44.0502 RELATING TO HEALTH AND SANITATION FEES.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter IV, Articles 1, 2, 3, and 4 of the San Diego Municipal Code be and it is hereby amended by amending Sections 41.01.1, 41.03, 41.07.1, 41.07.4, 42.0101, 42.0101.1, 42.0104.1, 42.0104.2, 42.0130, 42.0130.1, 43.0213, 43.0217, 44.0309.5 and 44.0501 and by adding Sections 41.03.1 and 44.0501.1 to read as follows:

SEC. 41.01.1 HEALTH DEPARTMENT OR DEPARTMENT
OF PUBLIC HEALTH

The term HEALTH DEPARTMENT OR DEPARTMENT OF PUBLIC HEALTH means the Department of Public Health of The City of San Diego and the San Diego County Department of Health Services when the latter is enforcing the terms of this Chapter for the City of San Diego.

SEC. 41.03 HEALTH PERMITS REQUIRED

No person shall conduct, manage or operate a Health Regulated Business without a current health permit issued by the San Diego County Department of Health Services. A separate health permit shall be required for each establishment. Health permits shall not be transferable from one person to another or from one location to another.

SEC. 41.03.1 ESTABLISHMENT PLAN REVIEW

Every applicant for a permit or license required by Article 2 of this Chapter shall, prior to obtaining a building permit, opening a new establishment, or upon remodeling an old establishment, submit to the County Health Officer a plan of the proposed establishment detailing all equipment, materials and facilities necessary to comply with the California Restaurant Act or Retail Marketing Act, whichever applies, and all applicable City and County Ordinances or regulations, accompanied by a fee as set forth in Title 6, Division 5, Section 65.107, para. (a), of the County Code to cover the cost of said review. The Health Officer shall review said plans and specifications and shall determine whether they are in accordance with the requirements of law. In the event that the plans and specifications do not comply with applicable provisions of law, amended plans and specifications may be submitted to the Health Officer for re-review and approval,

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and the fee for such re-review shall be as set by the County, and shall be payable to the Health Officer in advance.

SEC. 41.07.1 HEALTH PERMIT FEES - GENERAL - ANNUAL
INSPECTION FEE

Except as otherwise specifically provided in this chapter, every person applying for a permit under the provisions of this chapter shall at the time of making application for such permit pay a fee, the exact amount which shall be determined by the County of San Diego and kept on record by the County Department of Health Services and on file in the City Clerk's Composite Rate Book. In any case where the applicant has failed for a period of thirty (30) days to file the application and obtain the required permit, license or registration there shall be added to and collected with the required fee a penalty equal to 10% of the fee and for each additional month or fraction of a month after the expiration of said 30-day period that the applicant fails to file such application and obtain such permit, license or registration, there shall be added to and collected with the fee an additional penalty equal to 10% of the fee; provided, however, in no event shall the total penalty added to the fee pursuant to this section be more than 60% of the fee. The imposition or payment of the penalty imposed by this section shall not prohibit the imposition of any other penalty prescribed by this chapter or a criminal prosecution for violation of this chapter. Institutions exempt from real property assessments and taxation are exempt from paying the fees established by this section.

Every person applying for a permit under the provisions of this chapter shall at the time of making application for the permit pay a fee for the following:

1. For each establishment, other than vehicle or vending machine, governed by the California State Restaurant Act, California State Retail Food Production and Marketing Establishment Law, Bakery Sanitation Law, and the San Diego Municipal Code and temporary food concessions.

2. For each vehicle under the same ownership and operating out of the same establishment.

3. For each vending machine dispensing milk, ice cream, milk products or other kinds of perishable foods or beverages, or dispensing unbottled or uncanned liquid foods or beverages, except vending machines which dispense unwrapped nonperishable, nonliquid food products.

4. For each duplicate permit replacing a permit previously issued.

SEC. 41.07.4 RENEWAL OF HEALTH PERMIT, TEN PERCENT (10%) PENALTY FOR DELINQUENCY

A permit issued pursuant to this chapter shall expire on the last day of the month of the one year anniversary month in which the permit was issued and shall be renewed annually with the exception that the fee for food vending and sewage pumping vehicles and for food vending machines shall be pro-rated so that the annual renewal date will be January 1 of each year. The fee for vehicles and vending machines that are pro-rated shall be reduced by an amount

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equal to 1/12 of the total annual permit fee for each month less than one year for which the permit is issued. At the time application is made, there shall be paid to the Department of Health Services the required annual fee, which fee is due and payable each year. The annual fee, if unpaid, is delinquent on the first day of the second month after the month in which the permit expires.

If the annual fee and penalty is not paid the first month after it is due, there shall be added to and collected with the annual fee, an additional penalty equal to ten percent (10%) of the annual fee for each month or fraction of a month during which the annual fee or penalty continues to remain unpaid; provided, however, in no event shall the total penalty added to the fee pursuant to this section be more than sixty percent (60%) of the annual fee. The imposition of or payment of the penalty imposed by this section shall not prohibit the imposition of any other penalty prescribed by this chapter, or prosecution for violation of this chapter.

SEC. 42.0101 HEALTH REGULATED BUSINESS
DEFINED - REGULATED

Health regulated businesses shall include any restaurant, itinerant restaurant, vessel, cafe, cafeteria, lunch counter, soda fountain, ice cream parlor, soft drink stand, fruit or produce stand, grocery, bakery, confectionery, delicatessen store, cannery, pet shop, bottled water establishment, candy factory, packing plant, concession (temporary or permanent), winery, liquor

establishment, fish market, vending vehicle, vending machine, mobile food unit, pushcart, or other place where food or beverages are prepared for sale, or are sold, stored, distributed or displayed for sale, or are caused or permitted to be given away. They shall be regulated as herein provided.

Health regulated businesses shall not include private homes or cooperative arrangements by employees who purchase food or beverages for their own consumption and where no employee is assigned full time to care for or operate equipment used in such arrangement; nor shall the term "health regulated business" include churches, church societies, private clubs or other nonprofit associations of a religious, philanthropic, civic improvement, social, political, or educational nature, which purchase food, food products, or beverages or which receive donations of food, food products, or beverages, for service without charge to their members, or for service or sale at a reasonable charge to their members or to the general public at occasional fund-raising events, for consumption on or off the premises at which the food, food products, or beverages are served or sold, if the service or sale of such food, food products or beverages does not constitute a primary purpose of functions of the club or association, and if no employee or member is assigned full time to care for or operate equipment used in such arrangement.

SEC. 42.0101.1 FOOD HANDLING ESTABLISHMENTS -EXEMPT
VEHICLES AND VENDING MACHINES

Notwithstanding the foregoing, the following are exempt from the permit requirements of this chapter and shall not be considered in determining fees for health permits:

Subsections 1 through 8 - no change.

9. Vessels under the jurisdiction of the United States Public Health Service.

10. Wholesale meat trucks.

Last two paragraphs of this section - no change.

SEC. 42.0104.1 REFRIGERATION OF PERISHABLES

Perishable food and beverage products shall be maintained at a temperature of not more than 45 degrees Fahrenheit from the time such food or beverage products are manufactured, processed or otherwise made suitable for human consumption, until delivered or served to the consumer. All packages of perishable food or beverage products shall be conspicuously labeled "PERISHABLE - KEEP REFRIGERATED."

SEC. 42.0104.2 PRE-PREPARED SANDWICHES

Subsections (a), (b) and (1) - no change.

(2) No sandwich shall be sold more than 72 hours after preparation. Each sandwich shall be clearly stamped or marked with the last date the sandwich may be sold and shall bear the name and address of the person or company that prepared it.

(3) From the time of preparation until delivery or service to the retail consumer, the sandwich shall be refrigerated and maintained at a temperature of 45 degrees Fahrenheit or lower, or the growth of pathogenic microorganisms inhibited by a method approved in writing by the Director of Public Health.

(4) Frozen pre-prepared sandwiches shall be frozen from the time of preparation until loaded for delivery to the retailer, thereafter they shall be maintained at a temperature of not more than 42 degrees Fahrenheit until sold to the retail consumer, provided, however, that said sandwiches may be heated prior to sale if maintained at a temperature of at least 140 degrees Fahrenheit after heating until sale, such heated sandwiches may not be sold except on the day on which they are heated. No sandwiches which have been frozen shall be sold more than fifteen (15) days after unfreezing or more than three (3) days after delivery to a food vending vehicle.

Subsections (c) through (e) - no change.

(f) The frozen sandwich packages shall be clearly stamped or marked with the last date the sandwich may be sold and shall bear the name and address of the person or company that prepared it.

SEC. 42.0130 FOOD HANDLING ESTABLISHMENTS - SANITATION
REQUIREMENTS - FOOD VENDING VEHICLES.

Subsections (a), (b), 1 through 2 - no change.

3. Each vending vehicle shall be inspected at least semiannually by the Health Officer. Vending vehicles shall be loaded and ready for operation at the time of inspection. A certificate of inspection, shall be issued to vending vehicles conforming to the requirements of this Code.

Subsection 4 - no change.

5. Every owner or operator of vending vehicles shall have a service room or other sanitary location approved by the Director of Health Services for the preparation of food sold from vending vehicles. Only food prepared in the service room or other approved location shall be sold from a vending vehicle. Service rooms or other approved locations shall comply with regulations for food handling establishments.

6. No hot prepared food, except coffee, tea or packaged cocoa, shall be served from a vending vehicle unless the equipment used to prepare such food is approved by the Director of Health Services.

Subsection 7 - no change.

8. If the Director of Health Services certifies that an owner or operator of vending vehicles continuously maintains all perishable food intended for sale from a vending vehicle at a temperature of not more than 45 degrees Fahrenheit, from the time of preparation until

service to the consumer, such food may be sold for a period not exceeding seventy-two (72) hours after preparation.

9. All perishable food shall be clearly marked with the last date the food may be sold.

Subsection 10 - no change.

11. No person shall operate, or cause to be operated, a food vending vehicle upon which are carried cold perishable foods unless it is furnished with mechanical refrigeration equipment, in good working order, sufficient to maintain perishable food and beverage products at a temperature not in excess of 45 degrees Fahrenheit, except that frozen perishable foods may be refrigerated with dry ice.

SEC. 42.0130.1 FOOD VENDING VEHICLES - SPECIAL
EVENT EXCEPTIONS

Notwithstanding the provisions of Section 42.0130,

(a) The Health Officer may permit vending vehicles upon which food is prepared, processed, or packaged to be operated at fairs, circuses, carnivals, rodeos, parades, sports tournaments, or similar events open to the general public. A separate health permit shall be required for each such vehicle at each event. A fee sufficient to cover costs of investigation and enforcement of the provisions of this division, the exact amount of which shall be determined by the County and shall be paid by the person applying for such permit at the time of making application. The public event permit shall be valid only for the duration of the public event. Whenever such a vending

vehicle under permit remains at one public event location for a period exceeding twenty-four (24) hours continuously, daily disposal of both liquid and solid wastes in a manner approved by the Health Officer shall be provided by the permittee.

Subsection (b) - no change.

SEC. 43.0213 PERMITS

Section A, subsections 1 through 7 - no change.

B. FEES. Each application shall be accompanied by a fee, the exact amount of which shall be determined by the County and kept on record by the County Department of Health Services and on file in the City Clerk's Composite Rate Book, and shall be made payable to the Director of Public Health Services.

Sections C through H - no change.

SEC. 43.0217 EXTENSION OF PERMIT

Any permit issued pursuant to this division may be extended at the option of the Health Officer. Each individual extension granted by the Health Officer shall be for not longer than one hundred twenty (120) days. In no event shall the Health Officer grant an extension which would make the total term of the permit exceed one year. Application for extension shall be made on a form provided by the Health Officer. The fee for submitting such application shall be determined by the County and shall be paid directly to the County Department of Health Service.

SEC. 44.0309.5 SWINE, PERMIT FEE

A fee, the exact amount which shall be determined by the County and kept on record by the County Department of Health Services and on file in the City Clerk's Composite Rate Book, and shall be made payable to the Director of Public Health Services.

SEC. 44.0501 PERMIT REQUIRED

No person shall maintain or operate any pool except a private pool unless an annual operating permit is issued therefor by the Director of Health Services as is set forth in Section 41.07.1 of this Code. A pool shall be considered a private pool if it is maintained by an individual for the use of his family and friends and for swimming instruction programs of short duration which are conducted by or sponsored by the American Red Cross. An annual operating permit issued by the Department of Health Services is required for operation of any public pool including, but not limited to all commercial pools, real estate and community pools, pools at hotels, motels, resorts, auto and trailer parks, auto courts, apartment houses, clubs, public or private schools and gymnasias, and health establishments. Every person applying for a permit as required by this division shall, at the time of making application for such permit, pay an annual inspection fee for the first pool under one (1) ownership and on the same

property, and a fee for each additional pool on the same property and under the same ownership. The amount of these fees shall be determined by the County. The annual operating permit shall be effective for a twelve-month period from the date of issuance.

SEC. 44.0501.1 POOL PLAN REVIEW AND RE-REVIEW

Any person desiring the review and approval of plans and specifications for a public swimming pool by the Director of Public Health pursuant to Section 65505, Title 22 of the California Administrative Code shall submit said plans to the Director accompanied by a fee which shall be established by the County to cover the cost of said review. As soon after the plans and specifications are submitted as is practical, the Director shall review or cause to be reviewed said plans and specifications and shall determine whether they are in accordance with the requirements of Titles 22 and 24 of the California Administrative Code. In the event the plans and specifications do not comply with said Administrative Code provisions, amended plans and specifications may be submitted to the Director for re-review and approval, and the fee for each such re-review shall be determined by the County, payable to the Director in advance.

Section 2. That Chapter IV, Articles 1 and 4 of the San Diego Municipal Code be and it is hereby amended by repealing Sections 41.06, 41.07.2 and 44.0502 as follows:

SEC. 41.06 HEALTH PERMITS - DURATION AND TRANSFER
SEC. 41.07.2 ANNUAL INSPECTION FEE
SEC. 44.0502 RENEWAL OF PERMIT - TEN PERCENT (10%)
PENALTY FOR DELINQUENCY

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: John W. Witt, City Attorney

By *John M. Kaheny*
John M. Kaheny, Deputy

JMK:smm
2/9/83
Or.Dept:Cit.Assist.
O-83-112
Form=o.none

Passed and adopted by the Council of The City of San Diego on MAR 7 1983,
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksmma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VACANT

AUTHENTICATED BY:

BILL CLEATOR
 Deputy Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

(Seal)

By Ellen Bevard, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

FEB 22 1983, and on MAR 7 1983.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

(Seal)

By Ellen Bevard, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-15914 Adopted MAR 7 1983