



COUNTY OF LOS ANGELES
Public Health



BARBARA FERRER, Ph.D., M.P.H., M.Ed.
Director

JEFFREY D. GUNZENHAUSER, M.D., M.P.H.
Interim Health Officer

CYNTHIA A. HARDING, M.P.H.
Chief Deputy Director

313 North Figueroa Street, Room 806
Los Angeles, California 90012
TEL (213) 240-8117 • FAX (213) 975-1273

www.publichealth.lacounty.gov

March 27, 2018

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF AN ORDINANCE TO AMEND LOS ANGELES COUNTY CODE
TITLE 8 CONSUMER PROTECTION, BUSINESS AND WAGE REGULATIONS TO
ADD FEES FOR LICENSING OF HEALTH CARE FACILITIES AS FOOD FACILITIES
(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

SUBJECT

Approval to adopt an ordinance to amend Los Angeles County Code Title 8 - Consumer Protection, Business and Wage Regulations regarding the public health permitting of licensed health care facilities as food facilities.

IT IS RECOMMENDED THAT FOLLOWING THE PUBLIC HEARING YOUR BOARD:

Introduce, waive reading, and adopt the attached ordinance (Exhibit A) that amends the Los Angeles County Code (LACC) Title 8 – Consumer Protection, Business and Wage Regulations to add fees related to enforcement activities regarding the public health permitting of licensed health care facilities as food facilities.

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

2 March 27, 2018

CELIA ZAVALA
ACTING EXECUTIVE OFFICER

BOARD OF SUPERVISORS

Hilda L. Solis
First District

Mark Ridley-Thomas
Second District

Sheila Kuehl
Third District

Janice Hahn
Fourth District

Kathryn Barger
Fifth District

PURPOSE/JUSTIFICATION FOR RECOMMENDED ACTION

Pursuant to state and local laws the Department of Public Health (DPH) Environmental Health Division (EH) has statutory authority to carry out activities to protect public health and safety. Specifically, the California Retail Food Code (CRFC) contains provisions for statewide health and sanitation standards for retail food facilities. DPH EH is responsible for enforcing the CRFC in Los Angeles County. DPH EH's regulatory activities are offset by the collection of fees for permits and other services.

Adoption of the recommended ordinance will establish a public health permit for retail food operations within licensed health care facilities, and will establish cost recovery for DPH enforcement activities related to issuing public health permits and conducting inspections and plan check activities. These enforcement activities ensure retail food facilities in health care facilities are in compliance with the CRFC, as well as local health and safety codes.

Implementation of Strategic Plan Goals

The recommended action supports Strategy II.2, Support the Wellness of Our Communities, of the County's Strategic Plan

FISCAL IMPACT/FINANCING

There is no net County cost associated with the recommended action as inspections and enforcement activities will be fully offset by public health permit and service fees. DPH EH handles inspections and enforcement activities related to food operations for licensed health care facilities similar to those for restaurants. The Auditor-Controller has approved the methodology of determining the fees as reasonable, based on its review of the DPH worksheets calculating the fees.

DPH has identified over 600 licensed health care facilities requiring a public health permit and shall assess whether additional staff will be necessary for the increased workload. Any need for additional staffing shall be addressed through the budget process.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

EH is a regulatory agency within DPH whose Registered Environmental Health Specialists (REHS) perform mandated services including, but not limited to, inspections and investigations related to food, housing, drinking water, water pollution, land use, solid waste, vector management, review and approval of plans, and inspections related to licensed health care facilities.

State law authorizes DPH to collect fees to offset “reasonable expenses” that arise from its enforcement activities. As it relates to retail food activities, the “actual expenses” incurred to enforce the California Health and Safety Code and the CRFC are deemed service fees, and not a “tax.” Accordingly, these service fees are exempt from voter approval pursuant to the California Constitution, Article XIII C, Section 1 (e) (1), (3), also known as Proposition 26.

Licensed health care facilities in Los Angeles County are licensed and inspected by the DPH Health Facilities Inspection Division (HFID), under contract with the California Department of Public Health. In 2007, the CRFC was amended to add licensed health care facilities to the definition of “food facility,” requiring licensed health care facility kitchens to comply with the code, including the permitting of these kitchens as food facilities. In their survey of licensed health care facilities, HFID performs a dietary evaluation of the licensed health care facility. A recent assessment, conducted by DPH, identified that this dietary evaluation conducted by HFID during their surveys did not meet the requirements of the 2007 amendment to the CRFC. In addition, HFID staff did not meet the qualifications to conduct the inspection for compliance with CRFC. As a result, DPH determined that the EH Division, which is adequately staffed with REHSs and is responsible for the enforcement of CRFC at food facilities, was better suited to perform the inspection and permitting of licensed health facility kitchens under CRFC.

On February 24, 2017, notification letters were sent to all licensed health care facility operators informing them of the upcoming changes to the food inspection program. On March 1, 2017, EH began conducting site evaluations of licensed health care facility kitchens to evaluate the sites and streamline the permitting process to minimize the impact of implementing the new inspection program for licensed health care facility kitchens. DPH EH continues to provide information regarding these changes to impacted health care food facilities via mailers and scheduled industry meetings.

Pursuant to California Government Code, Section 66018, a local agency must hold a public hearing at a regularly scheduled meeting of the Board of Supervisors, before adopting an ordinance, resolution, or other legislative enactment adopting a new fee, and shall publish notice of the public hearing in a newspaper in accordance with Government Code Section 6062(a).

County Counsel has reviewed and approved Exhibit A as to content and form.

ENVIRONMENTAL DOCUMENTATION

The adoption of the recommended ordinance is for the purpose of meeting operation expenses and is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273(a) of the California Environmental Quality Act Guidelines.

IMPACT ON CURRENT SERVICES FOR PROJECT(S)

There is no anticipated impact on current services as a result of these actions.

If adopted, the amended ordinance will authorize DPH, beginning with FY 2017-18, to assume food facility inspections; plan check inspections at food facilities within licensed health care facilities; and annual billing, collection, accounting, and issuance of public health permits for such facilities, utilizing Environmental Health's EnvisionConnect.

CONCLUSION

DPH will continue to review its inspection, fee, and certification processes to identify efficiencies and ways to improve customer service.

Respectfully submitted,



BARBARA FERRER, Ph.D., M.P.H., M.Ed.
Director

BF:av
#04087

Enclosures

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors
Auditor-Controller