

REVISED LEGISLATIVE DIGEST

(Substituted, 9/17/2019)

[Health, Business and Tax Regulations Codes - Food Preparation and Service Establishment Categories, Disclosures, and Permit Fees]

Ordinance amending the Health Code and Business and Tax Regulations Code to replace the requirement that food preparation and service establishments (“food facilities”) post a symbol issued by the Department of Public Health with a requirement to post a color-coded placard indicating whether the establishment has passed (green), conditionally passed (yellow), or failed (red) a health inspection; clarifying some of the terminology pertaining to violations and remedies and penalties for same; defining new categories of food facilities; establishing annual permit fees for new categories of food facilities; and increasing permit fees for temporary permits and food vending machines.

Existing Law

Food service and preparation establishments (“Food Facilities”), which include restaurants and other facilities that prepare and serve food to the public, are subject to inspection by the Department of Public Health (“DPH”). Currently, local law authorizes DPH to award a score to a Food Facility at the conclusion of an inspection. The score can range between 0 to 100 points. Food Facilities are not required to post their score, but must make the inspection score card available to patrons upon request, and must post the inspection report on the premises.

Local law establishes annual permit fees for each category of Food Facility.

Amendments to Current Law

The proposed ordinance would require Food Facilities to post a colored food safety placard. The type of placard a Food Facility would post would depend on the number and severity of violations that are identified during an inspection, and whether the violations, if identified, are corrected at the time of the inspection.

DPH would issue a green “Pass Placard” to a Food Facility following an inspection in which no more than one major violation is documented, provided that the violation is corrected at the time of the inspection. A major violation is a violation that poses an imminent health hazard.

DPH would issue a yellow “Conditional Pass Placard” to a Food Facility following an inspection in which two or more major violations are documented, provided that all violations are corrected at the time of the inspection.

DPH would issue a red “Closed Placard” to a Food Facility following an inspection in which one or more major violations are documented, provided that one or more of the violations is not corrected at the time of the inspection.

The proposed ordinance would eliminate the requirement that Food Facilities post food inspection reports on the premises.

The proposed ordinance would define the following new categories of Food Facilities, and would establish an annual permit fee for each category;

- Catering facility – Cooking (\$1,054)
- Catering Facility – No Cooking (\$618)
- Commissary for Cooking (\$1,027)
- Commissary for Mobile Food Facility Servicing (\$618)
- Cooking School (\$618)
- Host Facility (\$824)
- Limited Service Charitable Feeding Operation (\$0)
- Shared Kitchen Complex, < 2,000 square feet (\$824)
- Shared Kitchen Complex > 2,000 square feet (\$1,030)

The proposed ordinance would increase the fees for food vending machines to \$227 per machine, and the temporary permit for Food Facilities to an amount equivalent to the hourly rate of an Environmental Health Inspector.

Background Information

This substitute ordinance reflects the following changes from the version that was introduced on June 18, 2019: (1) amendments to Article 8 of the Health Code to add new categories of food preparation and service establishments; (2) amendments to the Business and Tax Regulations Code to establish annual fees for the new categories of food preparation and service establishments, and to increase the fees for food vending machines and temporary permits.

Several neighboring counties (Alameda, Santa Clara, Solano, Contra Costa, Butte, Marin, Sonoma, and Sacramento) have adopted placarding systems that use a familiar green, yellow, red color scheme to communicate health and safety information to patrons of Food Facilities. County health departments in the Bay Area are moving towards a unified placarding program to facilitate standardized communication between food safety regulators, businesses, and the public.

The proposed placarding program would reflect safe food handling practices. DPH conducts inspections using risk factors adopted by the U.S. Centers for Disease Control and Prevention. Examples of major violations include, but are not limited to, vermin infestations, a lack of potable water, sewage backups, and adulterated food.