

10/7/2013

ORDINANCE NO. 29177

An ordinance amending Sections 17-2.2 and 17-10.2 of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended; adjusting fees relating to food establishment inspection and regulation; providing for a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (c)(6) of Section 17-2.2, "Additional Requirements," of Article II, "Management and Personnel," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(6) Food service manager registration fees. An applicant shall pay a nonrefundable fee of \$20 [~~400~~] for a food service manager registration. The fee for replacing a lost, stolen, or damaged certificate of registration is \$11 [~~5~~]."

SECTION 2. That Subsection (d)(5) of Section 17-2.2, "Additional Requirements," of Article II, "Management and Personnel," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(5) Food handler certification fees. An applicant shall pay a nonrefundable fee of \$55 for a food handler certificate. The fee for replacing a lost, stolen, or damaged certificate is \$11 [~~5~~]."

SECTION 3. That Subsection (d)(2) of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(2) The applicant shall pay a nonrefundable fee according to the following schedule:

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	<u>Fixed Facility</u>	<u>Mobile Food Preparation Vehicle</u>
Cessation of operation of existing facility or vehicle for 12 or more months	\$ <u>70</u> [300]	\$ <u>86</u> [315]
Change of ownership of existing facility or vehicle	\$ <u>131</u> [300]	\$ <u>86</u> [315]
Change of ownership of newly constructed facility or vehicle or extensively remodeled facility	\$ <u>131</u> [300]	\$ <u>86</u> [315]
Newly constructed facility or vehicle or extensively remodeled facility under same ownership	\$ <u>120</u> [300]	\$ <u>86</u> [315]
Reinstatement fee after lapse of permit for failure to pay annual inspection fee by due date: existing facility or vehicle under same ownership	\$ <u>236</u> [440]	\$ <u>236</u> [440]"

SECTION 4. That Subsection (e)(1) of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(1) A person shall not begin constructing a fixed facility or constructing a mobile food preparation vehicle (whether by manufacturing, retrofitting, or converting), or extensively remodeling a fixed facility, intended for use in the operation of a food establishment (other than a temporary food service establishment) before a copy of plans and specifications of the construction or remodeling are approved, in writing, by the director. A request for approval

of plans and specifications must be accompanied by a nonrefundable plans review fee of \$66 [~~250~~] for a fixed facility or \$66 [~~250~~] for a mobile food preparation vehicle."

SECTION 5. That Subsection (f)(4) of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(4) Periodic inspections. The director shall periodically inspect each separate and distinct facility and vehicle from which a food establishment operates to determine whether the establishment complies with this chapter and other applicable city ordinances and state and federal law. The director shall conduct the periodic inspection as often as the director considers necessary to enforce this chapter or other applicable law, but at least once each six-month period. Whenever a food establishment is inspected by the director and a violation of this chapter or other applicable law is found, the director shall, after the expiration of any time limit for compliance given in a notice or order issued because of the violation, reinspect the food establishment to determine that the violation has been eliminated. A \$110 [~~380~~] fee will be charged for each reinspection that must be conducted before the violation is determined to be eliminated."

SECTION 6. That Subsection (g) of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(g) Annual inspection fees: catering services and mobile food establishments.

(1) Catering service. A catering service shall pay the city a nonrefundable annual inspection fee of \$120 [~~130~~] for each vehicle used to operate the service inside the city.

(2) Mobile food establishment.

(A) A food establishment that operates a mobile food establishment inside the city shall pay the city a nonrefundable annual inspection fee in accordance with the following schedule:

<u>Type of Operation</u>	<u>Each Vehicle</u>
General service	\$ <u>236</u> [150]
Limited service	\$ <u>137</u> [130]
Vegetable or fruit vendor	\$ <u>109</u> [130]

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Mobile food preparation
vehicle

\$218 [~~450~~]

(B) An additional nonrefundable \$138 [~~400~~] fee will be charged for each vehicle requested by a food establishment to be inspected at a location other than a location designated by the director."

SECTION 7. That Subsection (h)(2) of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(2) Amount. The amount of the fee for each facility is determined by the floor area of the facility. In determining the floor area, the director shall include each interior part of the facility used to manufacture or process, store, package, prepare, distribute, sell, or serve food. The fees are as prescribed in the following schedule:

(A) For facilities not included in Section 17-10.2(h)(2)(B):

<u>Area in square feet</u>	<u>Annual fee</u>
1 to 2,000	\$ <u>284</u> [390]
2,001 or more	\$ <u>313</u> [425]

(B) If a food establishment is being operated from more than one separate and distinct facility in the same building, for each facility in excess of one:

<u>Area in square feet</u>	<u>Annual fee</u>
1 to 2,000	\$ <u>284</u> [390]
2,001 or more	\$ <u>313</u> [400]"

SECTION 8. That Subsection (i)(1) of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(1) Before the director issues a permit to a temporary food service establishment, the applicant for the permit shall pay the city a nonrefundable permit fee of \$156 [~~490~~], plus \$7 [~~5~~] for each day of operation for each facility from which the establishment is operated. A maximum nonrefundable annual fee of \$124 [~~400~~] for each facility will be collected from concessionaires operating under contract with the city park and recreation department [~~or the municipal produce market~~]. A maximum nonrefundable annual fee of \$132 [~~200~~] for each

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facility will be collected from concessionaires operating at a school stadium. A maximum nonrefundable annual fee of \$123 [~~100~~] for each booth or stall at the first market location and \$120 [~~50~~] for each booth or stall at each additional market location will be collected from a vendor operating at a neighborhood farmers market permitted under Chapter 29A of this code."

SECTION 9. That Subsection (j)(1) of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(1) A food establishment operating from a facility located outside the city that sells, distributes, or transports food inside the city may not conduct operations inside the city unless the establishment annually:

- (A) registers with the director on a form provided for the purpose;
- (B) pays to the city a nonrefundable registration fee of \$10 [~~40~~] and other applicable fees; and
- (C) furnishes the department with:
 - (i) a certificate from a health authority with jurisdiction over the establishment indicating that the establishment complies with applicable public health laws; and
 - (ii) other information that the director determines is necessary to enable the director to implement or enforce this chapter or otherwise protect the public health or safety."

SECTION 10. That Subsection (l)(1) of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(1) If a food establishment changes its name, continuing under the same ownership, the establishment shall inform the director in writing of the change and pay the city a service fee of \$48 [~~65~~], not more than seven days after the change."

SECTION 11. That Subsection (s)(1) of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of CHAPTER 17, "FOOD ESTABLISHMENTS," of the Dallas City Code, as amended, is amended to read as follows:

"(1) A food establishment may apply to the director for a variance modifying or waiving the requirements of the Texas Food Establishment Rules or the requirements of this chapter. The food establishment shall apply for the variance on a form provided by the director and shall include in the application all of the information required by Section 229.171(c)(2) of the Texas Food Establishment Rules. The application must be accompanied by a nonrefundable application fee of:

(A) \$127 for a variance to allow dogs to be present in the outdoor patio area of a food establishment under Subsection (s)(7);

(B) \$95 for a variance to allow the preparation, cooking, and service of raw poultry, raw seafood, and non-fast-cooked food items on a mobile food preparation vehicle under Subsection (s)(8); and

(C) \$100 for all other variances applied for under this subsection."

SECTION 12. That any person who, from October 1, 2013 through the effective date of this ordinance, paid a fee under Chapter 17 of the Dallas City Code at a rate higher than the amount established for the particular fee by this ordinance may apply to the director of code compliance, or his designated representative, for a refund of the difference between the fee paid and the new amount of the fee established by this ordinance. The director of code compliance, or his designated representative, is authorized to refund portions of fees as provided for in this section.

SECTION 13. That a person violating a provision of this ordinance is, upon conviction, punishable by a fine not to exceed \$2,000.

SECTION 14. That CHAPTER 17 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law is continued in effect for that purpose.

SECTION 15. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

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SECTION 16. That this ordinance will take effect on October 28, 2013, and it is accordingly so ordained.

APPROVED AS TO FORM:

WARREN M. S. ERNST, City Attorney

By Lisa Christopherson
Assistant City Attorney

Passed OCT 23 2013

LC/DCC/00548A