2009-10716
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Requested By: BOARD OF SUPERVISORS
Navajo County Recorder - Laurette Justman
06-11-2009 11:10 AM Recording Fee $0.00

ORDINANCE NO. PHSD 01-09

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE NAVAJO COUNTY PUBLIC HEALTH SERVICES DISTRICT, AMENDING ORDINANCE NO. PHSD 01-03, THE "PUBLIC HEALTH SERVICES DISTRICT LICENSING FEES ORDINANCE," AND DECLARING AN EMERGENCY

WHEREAS, on March 10, 2003 the Board of Directors of the Navajo County Public Health Services District adopted the "Public Health Services District Licensing Fees Ordinance," Ordinance No. PHSD 01-03; and

WHEREAS, a fee study performed by Maximus, Inc., determined that the fees and charges set forth in Ordinance No. PHSD 01-03 do not accurately reflect the current actual costs of services provided by the Public Health Services District and are grossly lower than the fees and charges imposed by other Arizona counties for similar services; and

WHEREAS, Maximus, Inc., determined a schedule of fees and charges based on current actual cost data; and

WHEREAS, the Navajo County Finance Director and the Director of the Public Health Services District have recommended to the Board of Directors a schedule of fees and charges that are consistently lower than those determined by Maximus, Inc.; and

WHEREAS, the Finance Director and the Director of the Public Health Services District have recommended certain other technical changes to Ordinance No. PHSD 01-03 to more accurately reflect the statutory and regulatory authority of the Public Health Services District; and

WHEREAS, the County Attorney has reviewed and approved the recommended changes to Ordinance No. 01-03 in the form attached hereto; and

WHEREAS, following a duly noticed public hearing held this date, the Board of Directors finds that the recommended changes to Ordinance No. 01-03 are in the public interest and should be approved,

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the Navajo County Public Health Services District that Ordinance No. 01-03 shall be and hereby is amended in accordance with the form attached hereto; and

BE IT FURTHER ORDAINED that the Board of Directors finds and declares that an emergency exists because the license fees set forth in the amended Ordinance must be implemented as of the start of the new fiscal year on July 1, 2009 and bills for such fees must be mailed immediately, and therefore the amended Ordinance shall be effective immediately.

SO ORDAINED by the Board of Directors of the Navajo County Public Health Services District at Holbrook, Arizona, on June 9, 2009.

NAVAJO COUNTY PUBLIC HEALTH SERVICES DISTRICT

By _____
Jerry Brownlow
Chairman of the Board

Attest:

_____
Melissa Buckley, Clerk of the Board

ORDINANCE NO. PHSD 01-03

Adopted March 10, 2003
Amended June 9, 2009 by Ordinance No. 01-09

PUBLIC HEALTH SERVICES DISTRICT LICENSING FEES ORDINANCE

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE NAVAJO COUNTY PUBLIC HEALTH SERVICES DISTRICT, ESTABLISHING THE FEES TO BE CHARGED FOR REVIEWING PLANS AND ISSUING OPERATING PERMITS TO FOOD ESTABLISHMENTS, PUBLIC AND SEMIPUBLIC BATHING PLACES, WATER HAULERS AND SEPTIC HAULERS; AND PROHIBITING THE OPERATION OF SUCH A FACILITY WITHOUT A LICENSE.

1. PURPOSE / AUTHORITY / SCOPE

The Arizona Department of Health Services ("ADHS") regulates certain Food Establishments and Public and Semipublic Bathing Places pursuant to its authority under Title 36 of the Arizona Revised Statutes and related provisions of the Arizona Administrative Code. The Arizona Department of Environmental Quality ("ADEQ") regulates certain Water Haulers and Septic Haulers pursuant to its authority under Title 49 of the Arizona Revised Statutes and related provisions of the Arizona Administrative Code. The Navajo County Public Health Services District ("the District"), a special taxing district established pursuant to Title 48, Chapter 33 of the Arizona Revised Statutes, regulates such facilities pursuant to its own statutory authority and the authority delegated to it by ADHS and ADEQ. The District is administered by the Director of Public Health ("the Director") appointed by the Board of Directors of the District ("the Board").

A.R.S. § 36-187 authorizes the Board to adopt a schedule of reasonable fees to be charged by the District for issuing or renewing licenses or permits and performing other statutory and regulatory duties. This ordinance establishes the fees to be charged by the District for (1) reviewing plans and specifications for regulated Food Establishments, and (2) issuing and renewing Licenses to Operate to regulated Food Establishments, Public and Semipublic Bathing Places, Water Haulers and Septic Haulers. It also specifies late charges for failure to pay such fees when due and authorizes the District to

take enforcement action to ensure payment. The fees established herein are based on the expenses incurred by the District in administering the state statutes and regulations and performing related reviews and inspections.

This ordinance applies throughout Navajo County (including incorporated cities and towns), with the exception of land under Tribal sovereignty. The provisions of this ordinance are in addition to those set forth in the provisions of the Arizona Revised Statutes and Arizona Administrative Code applicable to Food Establishments, Public and Semipublic Bathing Places, Water Haulers and Septic Haulers.

2. FOOD ESTABLISHMENTS

A. PLAN REVIEW AND APPROVAL

Food Establishments that are subject to regulation under the Arizona Food Code (Title 8, Chapter 8, Article 1 of the Arizona Administrative Code) must submit plans and specifications for their facilities to the District for review and approval pursuant to subparts 8-201.11 through 8-201.14 of the code. The fee for the District to review plans and specifications depends on the nature and size of the Food Establishment. The fees are shown in Table 1 of this ordinance. The applicable fee shall be paid when the required plans and specifications are submitted for review and approval. The plans and specifications shall be approved when all applicable requirements of the Food Code have been met, as evidenced by the Director's issuance of a Permit to Construct.

Table 1

PLAN REVIEWS	FEE CODE	FEE
• Fixed Establishments (under 30 seats)	EH-26	$150.00
• Fixed Establishment (31 to 100 seats)	EH-27	$175.00
• Fixed Establishment (over 100 seats)	EH-28	$200.00
• Fixed Establishment Remodel	EH-29	$150.00
• Mobile Food Service	EH-30	$150.00
• Retail Food less than 2000 sq. ft.	EH-31	$150.00
• Retail Food greater than 2000 sq. ft.	EH-32	$175.00
• Additional plan check reviews	EH-33	$50.00

B. LICENSE TO OPERATE

Part 8-3 of the Food Code requires each Food Establishment that is subject to regulation under the code to obtain and post in public view a current License to Operate from the District. The annual fee for a License to Operate depends on the nature and size of the Food Establishment. The fees are shown in Table 2 of this ordinance. The issuance of a License to Operate and each renewal thereof shall be conditioned upon compliance with all applicable requirements of the Food Code, as determined by the District.

Table 2

TYPE OF ESTABLISHMENT	FEE CODE	ANNUAL FEE
FOOD SERVICE ESTABLISHMENTS (RESTAURANTS)		
• 1-30 Seats	EH-1	$200.00
• Over 30 Seats	EH-2	$300.00
• Temporary (5 days or less)	EH-3	$50.00
• Temporary (6+ days)	EH-4	$75.00
FOOD SERVICE ESTABLISHMENTS (OTHER)		
• Continental Breakfast	EH-13	$50.00
• Caterer/Commissary	EH-5	$300.00
• Daycare (Sanitation)	EH-6	$50.00
• Food Warehouse	EH-7	$100.00
• Mobile Food Vendor	EH-8	$200.00
• Bar/Lounge	EH-9	$150.00
• Bar/Lounge in a restaurant	EH-10	$150.00
RETAIL FOOD ESTABLISHMENTS		
• Retail Food	EH-14	$150.00
• Meat Establishment	EH-15	$100.00
• Bakery	EH-16	$150.00
• Delicatessen	EH-17	$150.00
• Limited Retail	EH-22	$50.00
• Hotel/Motel (Simple)	EH-18	$175.00
• Hotel/Motel (Complex)	EH-19	$300.00
• Trailer Park/Campground/RV Park	EH-20	$175.00

3. PUBLIC AND SEMIPUBLIC BATHING PLACES: LICENSE TO OPERATE

Each Public or Semipublic Bathing Place that is subject to regulation under Title 9, Chapter 8, Article 8 of the Arizona Administrative Code shall obtain and post in public view a current License to Operate from the District. The annual fee for a License to Operate is $100 (EH-11). The issuance of a License to Operate and each renewal thereof shall be conditioned upon compliance with all applicable requirements of Title 9, Chapter 8, Article 8 of the Arizona Administrative Code, as determined by the District.

4. WATER HAULERS: LICENSE TO OPERATE

Each Water Hauler that is subject to regulation under Title 18, Chapter 4, Article 1, R18-4-214 of the Arizona Administrative Code shall obtain and keep in the primary transport vehicle a current License to Operate from the District. The annual fee for a License to Operate is $100 (EH-12). The issuance of a License to Operate and each renewal thereof shall be conditioned upon compliance with all applicable requirements of Title 18, Chapter 4, Article 1, R18-4-214 of the Arizona Administrative Code, as determined by the District.

5. SEPTIC HAULERS: LICENSE TO OPERATE

Each Septic Hauler that is subject to regulation under Title 18, Chapter 13, Article 11 of the Arizona Administrative Code shall obtain and keep in the primary transport vehicle a current License to Operate from the District. The annual fee for a License to Operate is $100 (EH-21). The issuance of a License to Operate and each renewal thereof shall be

conditioned upon compliance with all applicable requirements of Title 18, Chapter 13, Article 11 of the Arizona Administrative Code, as determined by the District.

6. PAYMENT

The fee for a License to Operate issued pursuant to Section 2.B, 3, 4 or 5 of this ordinance is an annual fee. All such fees are based on a fiscal year from July 1 to June 30. If an establishment first commences business after July 1, the fee will be prorated for the balance of the fiscal year.

The District will mail a renewal notice to the license holder on or before July 1. If the renewal fee is not paid by the due date stated in the notice, a $50 (EH-25) late charge shall also be paid. The Director may waive the late charge in appropriate circumstances in the Director's sole discretion.

The fee to replace a lost or destroyed License to Operate is $10.

All fees must be paid by check or money order payable to the "Navajo County Public Health Services District."

6. WAIVER

Fees imposed by this Ordinance may be waived if the Director is satisfied that the applicant is a bona fide non-profit entity. An applicant requesting a waiver shall provide all such information as the Director may reasonably require in order to verify the applicant's non-profit status.

7. NON-TRANSFERABILITY OF LICENSES

A License to Operate issued pursuant to Section 2.B, 3, 4 or 5 of this ordinance shall be non-transferable from person to person or facility to facility.

8. DELIVERY OF NOTICES

Notices and other written communications from the District to an applicant or license holder may be personally delivered to a responsible individual at the licensed facility or mailed to the applicant or license holder at the mailing address stated in the original application (or in a subsequent written change-of-address notice provided to the Director by the license holder).

9. PROHIBITION / ENFORCEMENT

No Food Establishment, Public or Semipublic Bathing Place, Water Hauler or Septic Hauler that is required to obtain a License to Operate shall be operated without the required license. The Director may order the immediate closure of any facility for which a required license has not been obtained and may pursue all available legal remedies to enforce such order. The County Attorney is hereby authorized to assist the Director in the enforcement of this ordinance.

If the renewal fee for a License to Operate issued pursuant to Section 2.B, 3, 4 or 5 of this Ordinance is not paid (together with the applicable late charge, unless waived by the Director) within 30 calendar days after the due date, the Director may suspend the License to Operate until payment is made. The Director shall notify the license holder in writing at least ten calendar days before the effective date of any such suspension. The

facility shall be deemed unlicensed, and the operation thereof shall immediately cease, upon the effective date of the suspension and until the Director has reinstated the license in writing.

If a Food Establishment, Public or Semipublic Bathing Place, Water Hauler or Septic Hauler is issued a Notice of Violation for any violation of this Ordinance or any related regulation, an inspection fee in the amount of $100 (EH-23) to determine whether corrective action has been taken shall be immediately payable in addition to any other applicable fee. If re-inspection is necessary, an additional fee of $100 (EH-24) per inspection shall be immediately payable. Any such inspection or re-inspection fee may be reduced or waived by the Director in appropriate circumstances in the Director's sole discretion.

SO ORDAINED by the Board of Directors of the Navajo County Public Health Services District.