

February 9, 2007

PIM #07-01

MEMORANDUM

TO: District Directors
Environmental Health Managers
Food Standardization Officers
Division of Food and Environmental Services Staff

THROUGH: Robert B. Stroube, M.D., M.P.H.
State Health Commissioner

FROM: Gary L. Hagy, Director
Division of Food and Environmental Services

SUBJECT: Establishment Fees

This PIM revises the Department's policy regarding the collection of establishment permit renewal and plan review fees. It replaces PIM #02-04 which is hereby rescinded. The collection of fees was approved by the General Assembly as part of the budget bill.

Please insert this document in your PIM manual and distribute copies to all persons in your district working in your foodservice protection, hotel, campground, and summer camp programs. Please note that the effective date is immediately.

If you have any questions, please contact me.

Program: Food, Hotel, Campground and Summer Camp

Subject: Fees for Service

Objective: The General Assembly, in the Appropriations Act, authorized the Health Commissioner to develop a plan to collect fees from certain permitted establishments. This PIM establishes the Department's policy regarding these fees.

Authority: The Appropriations Act in 2002, 2004, and 2006, authorized the Health Commissioner to develop: 1) a plan and specification review fee AND 2) an annual permit renewal fee, which may be collected from all establishments except K-12 public schools, "that are subject to inspection by the Department of Health" pursuant to §§ 35.1-13 (hotels), -14 (restaurants), -16 (summer camps) and -17 (campgrounds). The bill authorizes the Commissioner to charge a fee for EACH of these items, not to exceed \$40 per year. When both fees are applied to a single facility, the combined total of the fees may not exceed \$80.

Background: The General Assembly, by passing the above listed Appropriations Acts, removed general funds for the programs in Title 35.1. The only way that we can operate these programs is to collect fees to replace the lost general funds and therefore, the authorization for fees was passed to assist the Department in meeting its statutory requirements.

Procedures: Fees will be charged for permit renewals, new permits, and plan reviews associated with restaurants and hotels. The following outlines the procedures.

Exempt facilities: Public schools, K-12, are exempt from any fees. Private schools, state and private colleges and universities are NOT exempt.

New Establishments: If a new establishment is proposed and plans are required for review, a \$40 plan review fee will be charged to the owner. The \$40 shall be submitted with the plans when they are submitted for review. When the permit is issued for the establishment, a \$40 fee will be collected before the permit is issued.

Existing Establishments: Such fee shall be in effect for 12 months after payment unless there is a change of ownership. For those districts that stagger their food establishment and hotel permits expiration throughout

the year, the fee will be due by the expiration date of the permit. If an existing establishment proposes to modify or change their operation, and plans are required to be submitted, a \$40 plan review fee will be collected when the plans are submitted for review. The authority given to the Commissioner caps the plan review fee at \$40 per year for any single owner. Therefore, if an establishment proposes additional changes during the year and plans are again required, there is no fee for the additional plan reviews. For the purposes of this policy, the year period for calculating plan review fees shall be concurrent with the life of the permit, i.e., when the permit expires and a new permit is issued, a new year is started for purposes of capping plan review fees.

Change in Ownership: When an establishment changes ownership, a new permit must be issued to the new owner and a \$40 permit fee shall be collected from the new owner prior to issuing the new permit. Likewise, if the change in ownership requires submission of plans, the new owner will be charged a \$40 plan review fee regardless of when the previous owner may have paid a plan review fee.

Temporary Food Establishments: A \$40 permit fee will be charged to the temporary food establishment permit holder for the first permit he or she acquires during the calendar year. Additional fees will not be charged for future temporary permits during that calendar year. The permit holder should retain the receipt showing the fee has been paid and show it to local health departments when he or she applies for permits later in the year. If an applicant cannot produce a receipt, and the local health department cannot verify that a fee has been paid that fiscal year, then a \$40 fee will be charged. If the applicant later produces a receipt showing that he or she previously paid a fee, then the latter fee will be refunded. Organizations that are normally exempt under the Code of Virginia §35.1-25 and §35.1-26 are exempt from temporary permit fees if they are participating in a temporary event where they are required to obtain a permit. In addition, an individual who participates in only one event per calendar year and that event is within the locality in which the individual resides, the individual is exempt from the fee requirement. For the purposes of this policy, "locality" shall be interpreted to mean that an individual living in a city or town within a county will be exempt from the fee requirement for a single event held within that county. The same exemption would apply for a county resident participating in an event held within a city or town within that county.

The \$40 fee for temporary food permits will expire on December 31st in the year for which they were paid.

Bed and Breakfast Establishments: A bed and breakfast establishment that serves only breakfast and serves it only to overnight guests will pay one

fee. These facilities are not food establishments under the Food Regulations but they may choose to be permitted if they desire. If they choose to be permitted as a food establishment, then they will still pay only one \$40 fee. If the bed and breakfast establishment serves more than breakfast or does not limit their food service to their overnight guests, then they will be charged two \$40 permit fees, one for the hotel permit and one for the food establishment permit. For plan reviews, if a new establishment is proposed, and plans are submitted for the food service and for the lodging accommodations, then two \$40 plan review fees shall be collected. Likewise, for existing establishments, the number of fees required shall be determined based on the type of plans submitted, i.e., if the plans are for either the lodging accommodations or the food service portion only, one \$40 fee will be charged. If the plans are for both lodging and foodservice, then two \$40 fees will be charged.

Hotels: Hotels will be charged an annual renewal fee of \$40. Hotels shall be notified that their self-renewing permits will not renew until the annual fee is paid.

Relationship to Local Fees: In localities that imposed local fees (permit fees, application fees, inspection fees, risk assessment fees or similar fees), under local ordinance, as of January 1, 2002, the total of the locally imposed fee and the fee authorized by the budget bill shall not exceed \$40. For example, if the locality has a \$25 application or permit fee that was in effect on January 1, 2002, then only \$15 can be collected from the establishments in that locality. If a locality raises, or initiates, fees above that collected on January 1, 2002, then the new fee will not reduce the state's portion, which is the difference between \$40 and the fee charged on January 1, 2002, i.e., the local fee will be in addition to the \$40 fee collected by the health department.

Revocation of Permits: If a permit is revoked, and the former permit holder applies for new permit, then a new \$40 fee will be required.

Withdrawal of Application for a Permit: If an applicant withdraws his or her application before the permit is issued, then the \$40 fee shall be refunded. The plan review fee is non-refundable.

Enforcement:

Plans will not be accepted from the applicant or owner until they are submitted with the appropriate fee. Permits shall not be issued or renewed until the permit fee is paid. In the event an existing establishment fails to pay the renewal fee, the permit shall expire and the owner notified of the expiration. If the owner continues to operate after the permit expiration, then appropriate enforcement action shall be taken, i.e., a summons to appear in general district court should be issued to the owner. If additional

enforcement action is necessary, then consult the Division of Food and Environmental Services or the Office of the Attorney General.

Responsibility:

The district Environmental Health Manager is responsible for the implementation of these procedures by the district Environmental Health Specialists.

Effective Date: February 9, 2007

Approved by: ORIGINAL SIGNED BY ROBERT B. STROUBE, M.D.
State Health Commissioner