

# **REGULATIONS OF THE EL PASO COUNTY BOARD OF HEALTH**

## **EL PASO COUNTY, COLORADO**

### **Chapter 3**

### **Fee Schedule and Civil Penalties**

**El Paso County Public Health**

## CHAPTER 3

### FEE SCHEDULE AND CIVIL PENALTIES

#### SECTION 3.1: FEES

A. Effective January 1, 2012, the following fees are adopted by the Board of Health pursuant to Subpart 3 of Part 5 of Title 25, C.R.S., and shall be charged by Public Health for services indicated:

<b>2012 FEE SCHEDULE</b>	
<b>SERVICE</b>	<b>FEE</b>
<b>Body Art</b>	
Body Art Infection Control Training	\$20.00 per attendee
Body Art Plan Review (including pre-operational inspections)	\$302.00
Body Art Establishment License	\$285.00
Temporary Event Fee	\$87.00 per vendor
Body Art Change in Ownership	\$176.00
<b>Food Safety</b>	
Food Handler Training	\$13.00 per attendee
Review of Potential Retail Food Establishment Site (1)	\$100.00 (non-refundable)
Preoperational/Change in Ownership Inspection (2)	\$125.00 (non-refundable)
RFE Plan Review Application	\$100.00 (non-refundable)
RFE Plan Review and Pre-opening Inspection	\$49.00 per hour not to exceed \$580.00
RFE Equipment/Product Review Application	\$100.00 (non-refundable)
RFE Equipment/Product Review	\$49.00 per hour not to exceed \$280.00
RFE HACCP Plan Review (Written) (3)	\$49.00 per hour not to exceed \$80.00
RFE HACCP Plan Review (Operational) (4)	\$49.00 per hour not to exceed \$200.00
RFE Other Services Requested	\$49.00 per hour

<b>Individual Sewage Disposal System/Onsite Wastewater System (OWS)</b>	
OWS Installer Exam/3-year License	\$125.00 per 3-year license
New Onsite Wastewater (OWS) Permit	\$440.00/permit + \$23.00 CDPHE Charge PLUS applicable fee for EPC Development Services Department Surcharge/ Review Charge
OWS Return Trip Fee (5)	\$54.00 per hour
Major Repair OWS Permit (6)	\$494.00/permit
Minor Repair OWS Permit (7)	\$188.00/permit
OWS Variances	\$59.00 per hour (nonrefundable)
Altered / Renewed OWS Permit	\$62.00 per permit
Pumper Truck Inspection (Systems Cleaner)	\$90.00 per truck
<b>Recreational Water (Commercial Pools/Spas) (Effective April 1, 2012)</b>	
Plan Review (including pre-operational inspections)	\$241.00
Year Around Pool/Spa Facilities	\$181.00
Inspections – Seasonal Pool/Spa	\$106.00
Follow-Up Inspections	\$43.00 per hour
Additional Services Pool/Spa Program	\$43.00 per hour
<b>Compliance and Enforcement</b>	
Certificate of Non-Compliance Release	\$100.00
<b>Administration</b>	
Copy of State/Local Regulations	\$5.00 per copy
File Search	\$50.00 per search
Non-Sufficient Funds	\$30.00
Other Administrative Requested Services	\$30.00 per hour

(1) An onsite evaluation of a potential retail food establishment location.

(2) An onsite inspection of an approved retail food establishment that has undergone a change in ownership or an establishment that otherwise needs an onsite inspection prior to opening and for which changes to the facility do not meet the requirements of a plan review.

(3) A written document, based on HACCP (Hazard Analysis Critical Control Point) principles developed by the National Advisory Committee on Microbiological Criteria for Food, which formally identifies specific hazards that can adversely affect the safety of a food product and proposes control measures to maintain food safety.

(4) An observed process, based on HACCP principles developed by the National Advisory Committee on Microbiological Criteria for Food, that is conducted at an establishment and which formally identifies specific hazards that can adversely affect the safety of a food product and provides control measures to maintain food safety.

(5) "Return Trip" is defined as a revisit to a property by a member of the EHS staff to complete an inspection of an OWS that was installed improperly or not ready for the inspection on the day and time of the request. The fee is based on an hourly rate including travel and inspection time by the EHS staff member.

(6) Repair, alteration or addition to the absorption area.

(7) Repair or replacement of any portion of the system from the structure to the absorption area with the exception of repair or replacement of tank baffles and collapsed lines as depicted in the as-built drawings on file at Public Health.

B. Failure to pay any fee required by subpart A. of this Section is an unlawful act and, except as otherwise provided by Section 2, is subject to the assessment of a civil penalty of not more than \$100 per day, until the fee is paid in full.

C. Effective January 1, 2012, the following Child Care Health and Sanitation Inspection fees are adopted by the Board of Health and shall be charged by Public Health for the services indicated:

<b>2012 CHILD CARE HEALTH AND SANITATION INSPECTION FEES</b>				
<b>TYPE OF FACILITY</b>	<b>ROUTINE</b>	<b>PRE-OPERATIONAL (1)</b>	<b>FOLLOW-UP</b>	<b>ROOM CHANGE(2)</b>
Child Care	\$143	\$143	\$82	\$64 plus pro-rated hourly rate
School Age (Before and After)	\$117	\$117	\$76	\$64 plus prorated hourly rate
Preschool	\$119	\$119	\$83	\$64 plus prorated hourly rate
Group Homes	\$124	\$124	\$93	\$64 plus prorated hourly rate
Residential Summer Camps	\$261	\$261	\$167	\$64 plus prorated hourly rate
Large Summer Camps	\$175	\$175	\$112	\$64 plus prorated hourly rate
Residential/Day Treatment Center	\$182	\$182	\$117	\$64 plus prorated hourly rate
Child Care Plan Review	\$86			

### **Definitions:**

**Routine inspections** are conducted every two years per licensing guidelines for an existing facility.

**Pre-operational inspections** are required per licensing guidelines and are conducted upon request of the owner/operator prior to opening a new facility.

**Follow-up inspections** are conducted at the discretion of Public Health as a follow-up to a routine or pre-operational inspection to assure follow-up and compliance with critical violations and other health hazards identified during a prior routine or pre-operational inspection. **Room change inspections** are required per licensing guidelines and are conducted at the request of the facility when room changes are being made.

**(1) Pre-operational inspection fees** shall be collected in advance of the scheduled visit.

**(2) Costs associated with room changes** - Inspection costs for room changes are directly related to the time needed to inspect all new rooms in an existing facility as required by licensing regulations. A base fee of \$64 applies to a 30 minute site inspection which includes additional associated costs such as mileage and travel time to the site, supplies and administrative time. Additional time required beyond a 30 minute site inspection will be charged at an hourly rate of \$46 per hour, accrued in 15 minute increments.

### **Other Notes:**

1. All fees are on a per visit fee basis.
2. No fees will be assessed for complaint investigations or communicable disease investigation visits.
3. Public Health may require payment at time of service and may send outstanding account balances to collections.

### **SECTION 3.2: RETAIL FOOD ESTABLISHMENT CIVIL PENALTIES**

A. The following civil penalties may be assessed by Public Health for violations of the Colorado Food Protection Act pursuant to Section 25-4-1611, C.R.S.:

1. Inspection violations:
  - a. First notification of noncompliance: None.
  - b. Second follow-up compliance warning: None.
  - c. Second notification of noncompliance: None.
  - d. Third follow-up compliance warning:
    - (1) \$250 for non-critical items.
    - (2) \$500 for critical items.
  - e. Third notification of non-compliance:
    - (1) \$500 for non-critical items.
    - (2) \$1000 for critical items.
2. Operating a retail food establishment without a valid license or certificate of license from the department: \$250.
3. Beginning construction or extensive remodeling of a retail food establishment without Department approval of plans and specifications for such construction or remodeling: \$250.

4. Refusing to entry to department personnel in the performance of their duties in accordance with sections 25-4-1604 (1) (e) and 25-4-1606 (2), C.R.S.: \$500.
  5. Selling or serving food prepared in a private home to any person in a retail food establishment: \$500.
  6. Failure to pay any civil penalty fee after notification: Twice the unpaid amount up to a maximum of \$1000.
- B. Public Health may impose higher penalties, as provided pursuant to Section 25-4-1611, C.R.S., or seek authority to pursue injunctive relief or other appropriate relief, upon approval of the Board of Health.
  - C. To encourage compliance with the Colorado Food Protection Act, Public Health may allow the owner of a retail food establishment to use an assessed civil penalty fee, or any part thereof, to pay for employee training, or for the cost of needed improvements to the establishment.
  - D. Public Health may waive civil penalty fees, or any part thereof, upon a written request by the owner of a retail food establishment that demonstrates that any violations that caused the penalties to be assessed have been corrected, and that extenuating circumstances existed that reasonably justified the failure to achieve compliance in a timely manner.
  - E. Public Health is authorized to administratively impose these penalties in enforcement proceedings pursuant to the Administrative Hearing Procedure.
  - F. Whenever a retail food establishment remains non-compliant after the assessment of one or more civil penalties, Public Health is authorized to schedule a hearing for the suspension or revocation of the owner's Colorado retail food establishment license pursuant to the Administrative Hearing Procedure.
  - G. Each administrative enforcement proceeding, and any penalty imposed as a result thereof, is separate from, and cumulative to, any other enforcement proceeding or penalty imposed hereunder.

### **SECTION 3.3: ASSESSMENT OF CIVIL PENALTIES**

- A. Except as to subsection B. below, this Section 3 shall not apply to civil penalties imposed pursuant to the Colorado Food Protection Act relating to retail food establishments.
- B. Except as otherwise required by a specific law, Public Health, any Hearing Officer, or the Board of Health, as applicable, may upon good cause shown and within their sound discretion in accordance with the standards provided herein, choose not to impose a civil penalty for any violation of the Board of Health Regulations; reduce any previously imposed civil penalty; or, reduce the number of days of violation from the maximum allowed by the applicable Regulation.
- C. For aggravated circumstances involving a violation of a Board of Health Regulation wherein a person became seriously ill or died as a result of such violation, the maximum civil penalty allowed pursuant to the applicable Regulation shall normally be imposed, absent compelling mitigating circumstances. Normally in such cases, the civil penalties shall be imposed for at least one (1) day out of each seven (7) days of actual violation, up to the maximum of imposing a civil penalty for each day of violation.

- D. For circumstances involving a violation of a Board of Health Regulation wherein a person became ill with a non-serious illness, or there existed a substantial threat of illness or death as a result of such violation, or the violator has repeatedly been in violation of the same, or similar Regulation, a civil penalty of 10% to 90% of the maximum penalty allowed pursuant to the applicable Regulation shall normally be imposed, depending on aggravating and mitigating circumstances. Normally in such cases, the civil penalties shall be imposed for at least one (1) day out of each thirty (30) days of actual violation, up to the maximum of imposing a civil penalty for each day of violation.
- E. For circumstances involving a violation of a Board of Health Regulation wherein no person became ill, and there existed no substantial threat of illness or death as a result of such violation, or the violation was inadvertent, a civil penalty of 5% to 10% of the maximum penalty allowed pursuant to the applicable Regulation shall normally be imposed, depending on aggravating and mitigating circumstances. Normally in such cases, the civil penalties shall be imposed for at least one (1) day out of the entire period of actual violation, up to the maximum of imposing a civil penalty for each day of violation.
- F. Mitigating circumstances to be considered in imposing civil penalties and the appropriate number of days for imposition of the penalties shall include, but not be limited to: No person was actually injured or became ill as a result of the violation; the violation was inadvertent; the violator cooperated in resolving the violation in an expeditious manner once it was identified; economic hardship on the violator; and, similar circumstances.
- G. Aggravating circumstances to be considered in imposing civil penalties and the appropriate number of days for imposition of the penalties shall include, but not be limited to: Serious illness or death was caused as a result of the violation; the violator did not cooperate in correcting the violation in an expeditious manner after becoming aware of the violation; the violator achieved an economic benefit or competitive advantage by committing the violation; the violations were repetitive; and, similar circumstances.