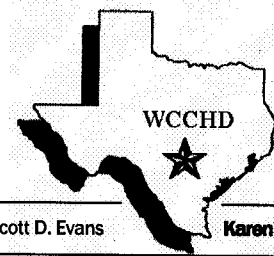


Williamson County & Cities Health District



Board of Health: Mary Faith Sterk, Chair • Margaret R. Fink • Katherine M. Galloway • Angela Tietz • Lettie A. Lee • Scott D. Evans

Karen Wilson, Director

your public health department

March 3, 2003

City of Taylor
P.O. Box 810
Taylor, TX 76574

RE: Revised Food Ordinance

The Board of Health of Williamson County and Cities Health District adopted a revised food order on November 7, 2002. The purpose of this was to bring our order up to current state standards as established in the Texas Food Establishment Rules (TFER), adopted on October 6, 1998.

We are now presenting a proposed ordinance for the cities of Williamson County to adopt which is similar to the order adopted by the Board of Health. The only difference in the order and ordinance will be the requirement of food handler cards by the cities. The Board of Health is restricted from adopting this requirement. The approval of this ordinance would allow uniform enforcement throughout the entire county. Enclosed is a copy of that ordinance for your review.

The proposed changes are as follows:

- Adopt by reference the TFER so that any future changes by the state will automatically be enforced by the order.
- Delete the majority of the definitions section, as most of these are in the TFER.
- The major change is in the enforcement section of the ordinance. This relates to the posting of our "red tags". In the existing ordinance, the tag may only be posted after several warnings. We propose the posting of the "red tag" starting with the first failure. The tag states the following: "This establishment has failed to meet the requirements for safe and sanitary food service and is therefore given an "Unsatisfactory" Grade certificate under the County Regulations." This serves to inform the public that the restaurant has performed below the minimum standards set by the state rules.

Please contact me at (512) 930-4390 or by e-mail at kkelley@wilco.org if I can be of assistance with the details of this proposed ordinance.

Thank you for your attention to this matter.

Kay Kelley, RS

ORDINANCE NO. 2003-14

FOOD SANITATION REGULATIONS

AN ORDINANCE REGARDING THE REGULATION OF FOOD ESTABLISHMENTS INCLUDING FOOD SERVICE ESTABLISHMENTS; RETAIL FOOD STORES; TEMPORARY FOOD ESTABLISHMENTS; MOBILE FOOD UNITS; AND ROADSIDE FOOD VENDORS, PROVIDING A REAPLER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE, EXCEPT WHERE A DIFFERENT PENALTY HAS BEEN ESTABLISHED BY STATE LAW FOR SUCH OFFENSE, OR FOR ANY VIOLATION OF ANY PROVISION WHICH GOVERNS PUBLIC HEALTH OR SANITATION WHICH SHALL BE PUNISHED BY PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE

SECTION 1. ADOPTION OF TEXAS FOOD ESTABLISHMENT RULES AND DEFINITIONS

The City of Taylor adopts by reference the provisions of the current rules or rules as amended by the Texas Board of Health found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and Sections 173 through 175 regarding the regulation of food establishment in this jurisdiction.

The words "authorized agent or employee" mean the designated employees of the regulatory authority.

The words "City Council" mean the Taylor City Council.

The words "food establishment" mean an operation that stores, prepares, packages, serves, or otherwise provides food for human consumption such as a: food service establishment, retail food store, catering operation, institution, temporary food establishment, mobile food unit, and/or a roadside food vendor

The words "food handler" mean any person in a food establishment who handles food or drink during preparation or serving; or who comes in contact with any eating or cooking utensils; or who is employed in an area where food or drink is prepared, served, transferred, stored, packed, sold, or otherwise handled.

The words "health official" mean the authorized representative of the Williamson County and Cities Health District (WCCHD).

The words "state laws and rules" mean the state laws found in Chapter 437 of the Texas Health and Safety Code and the state rules found at 25 Texas Administrative Code Chapter 229, Sections 161 through 171 and Sections 173 through 175.

The words "regulatory authority" mean the WCCHD.

The words "working days" mean the days that WCCHD is open to conduct business with the public.

SECTION 2. PERMITS

A person may not operate a food establishment without a permit issued by WCCHD. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this ordinance. All permits expire on December 31 each year. A valid permit must be posted in or on every food establishment regulated by this ordinance.

SECTION 3. APPLICATION FOR PERMIT AND FEES

Any person desiring to operate a food establishment must make a written application for a permit on forms provided by WCCHD. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.

Prior to the approval of an initial permit or the renewal of an existing permit, WCCHD shall inspect the proposed food establishment to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules may be denied a permit or the renewal of a permit.

The following fee schedule applies to permits issued under this ordinance:

FOOD ESTABLISHMENTS:

<u>NO. OF EMPLOYEES</u>	<u>FEES</u>
1 – 15	\$150.00
6 – 30	\$250.00
31 +	\$300.00
½ of application fee due after June 30	

ADDITIONAL INSPECTION FEES:

\$75.00 – each additional inspection increases by \$25.00 and is cumulative

DAYCARES:

<u>LICENSED NO. OF CHILDREN</u>	<u>FEES</u>
13 – 40	\$150.00
41 – 100	\$250.00
101 +	\$300.00

MOBILE FOOD UNITS:

1 st Unit	\$100.00
Each Additional	\$ 75.00

SANITATION INSPECTION:

Includes daycares with fewer than thirteen (13) children, daycares with more than twelve (12) children but no food preparation, foster/adoptive homes -- \$60.00

FOOD HANDLER CLASSES:

\$10.00 – One year card (all new employees & Train the Trainer)

\$15.00 – Two year card

REMOTE CLASS, new establishments:

\$50.00 + card fee per person

(between :9:00 am and 4:00 pm Monday through Friday,
minimum fifty (50) students)

TRAIN THE TRAINER CLASS: \$25.00

TRAIN THE TRAINER VIDEO: \$25.00

SEASONAL PERMITS : Valid for six months - \$60.00

CHANGE OF NAME / OWNERSHIP: \$25.00

ESTABLISHMENT PLAN REVIEW:

\$125.00 - includes actual plan review and two pre-opening inspections

\$ 60.00 – each additional pre-opening inspection

PERMIT REINSTATEMENT FEE AFTER SUSPENSION: \$100.00

SECTION 4. REVIEW OF PLANS

Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to WCCHD for review before work is begun. Extensive remodeling means that twenty (20) percent or greater of the area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. The plans and specifications will be approved by WCCHD if they meet the requirements of the rules adopted by this ordinance. The approved plans and specifications must be followed in construction, remodeling or conversion.

SECTION 5. REGISTRATION OF FOOD HANDLERS

It shall hereafter be unlawful for any person operating any food establishment, to work or employ a food handler until such food handler has received a food handler's registration certificate from the WCCHD that is valid during the time of such employment.

1. Issuance of registration certificates and payment of fees – WCCHD shall issue food handler's registration certificates to food handlers who attend a food handler's class offered throughout the county, or who satisfactorily pass a test from a "trainer" that became certified through this office.

2. Education and examination of applicant – No food handler’s registration card shall be issued by WCCHD to any person required by law or by this article to have or exhibit such certificate until the applicant shall have met the following requirements:
 - a. Complete a class in basic food sanitation. The schedule, time and location of class sites will be announced by the Director, Environmental Division, WCCHD. The primary emphasis of this orientation will be directed toward the food workers’ sanitation practices and behavior when working in a food establishment. It will be the responsibility of the person in charge of the food establishment to ensure that safe food practices are in use at all times.
 - b. Complete a “train the trainer” class. Food establishments who wish to train their own food handlers may do so after meeting the following conditions:
 - A food establishment employee must complete a two (2) hour “train the trainer” class. They may then train their own employees on site and administer the test supplied by WCCHD to their employees, or
 - A food establishment employee who is certified to TEACH the Texas state certified Food Protection Management class must submit an outline of the class they will be teaching and a copy of the test to be given the employees after the class is completed at their site.
 - c. WCCHD reserves the right to suspend this option as a method for obtaining food handler cards
3. Display of food handler cards – Upon completion of the prescribed orientation and the necessary administrative processing, each individual will be issued a food handler’s card that will be posted at the place of employment in a location readily accessible to the health official for verification.
4. Managers and supervisory personnel – Managers, assistant managers, and shift supervisors who have completed the Texas state certified Food Protection Managers course will not be required to obtain a food handler’s card from WCCHD, but must post their certification from the state with the employee’s cards.

Issuance and effective period of food handler’s cards – After the above has been accomplished, the applicant shall thereupon be issued a food handler’s registration certificate by WCCHD, which shall be valid for the time period stipulated on the certificate.

SECTION 6. SUSPENSION OF A PERMIT

WCCHD may, without warning, notice, or hearing suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon service of the notice in writing to the person in charge. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within five (5) working days of a request for a hearing.

Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the hearing officer by the holder of the permit within five (5) working days. If no written request for hearing is filed within five days, the suspension is sustained. WCCHD may end the suspension at any time if reasons for suspension no longer exist.

SECTION 7. REVOCATION OF A PERMIT

The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the five (5) working days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such five (5) day period.

If no request for hearing is filed within the five day period, the revocation of the permit becomes final.

SECTION 8. ENFORCEMENT OF ORDINANCE

Food establishments shall be inspected a determined number of times during a calendar year according to risk factors set by the TDH. High-risk establishments, that prepare and serve potentially hazardous food and/or serve a highly susceptible population, shall be inspected a minimum of four (4) times a calendar year. Establishments that serve only prepackaged, non-potentially hazardous foods shall be inspected a minimum of two (2) times a calendar year.

Additional inspections of food establishments shall be performed as deemed necessary to protect against public health hazards or nuisances. Additional fees are charged to the establishment for these visits. Visits associated with unsubstantiated complaints received by this office will not require an additional fee.

Following are guidelines for enforcement of these rules in an establishment that earns more than thirty (30) demerits on multiple inspections during a twelve (12) month period:

- First failure – “UNSATISFACTORY” placard shall be posted on front door or window and shall not be covered from sight, defiled, or removed until an inspection is performed earning thirty (30) or fewer demerits. The follow-up inspection will occur within (two) working days of the failed inspection.
- Second failure within twelve (12) months of first failure – “UNSATISFACTORY” placard shall remain/be posted on front door or window and shall not be covered from sight, defiled, or removed until an inspection is performed earning thirty (30) or fewer demerits. The permit shall be suspended and the operations of the establishment shall cease immediately. The establishment shall remain closed for a minimum of 48 hours and fulfill the following requirements before reopening:

1. The management of the establishment must meet with and submit a written plan of action to the Director of the Environmental Division or his appointee. The plan of action shall address critical violations of the previously failed inspections.
 2. A reinstatement fee of \$100.00 will be paid to the WCCHD Environmental Division located at 303 Main, Georgetown, TX, 78626.
 3. A follow-up inspection will be conducted within one working day of fulfillment of the requirements listed under 1 and 2 above.
 4. The establishment shall be placed on a thirty (30) day inspection schedule until two (2) consecutive inspections result in a score of thirty (30) or fewer demerits.
- Third failure within twelve (12) months of first failure – “UNSATISFACTORY” placard shall remain/be posted on front door or window and shall not be covered from sight, defiled, or removed. The person in charge shall be notified in writing of the intent of WCCHD to permanently revoke their permit.

SECTION 9. PENALTIES

In addition to any other penalties herein before provided and unless another penalty is in this Ordinance provided, whoever shall do any act or thing required by the terms of this Ordinance, or in anywise violate the provisions thereof, shall be fined not less than \$ _____ nor more than Two Thousand \$2,000.00 . It shall not be necessary for the complaint to allege or to prove that the act or omission was knowingly done or omitted.

SECTION 10. REPEALING CLAUSE

All ordinances and parts of ordinances in conflict with this Ordinance are hereby expressly repealed in so far as the same are in conflict with this Ordinance.

SECTION 11. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 12. INTRODUCTION

In accordance with Article 8 of the City Charter, Ordinance No. 2003-14 was introduced before the Taylor City Council on the 25th day of March, 2003.

PASSED, APPROVED and ADOPTED on the _____ day of _____ 2003.

Jeffrey M. Berger, Mayor

ATTEST:

Barbara S. Belz, City Clerk

APPROVED AS TO FORM:

Ted W. Hejl, City Attorney