

CHAPTER 110: FOOD ESTABLISHMENTS

GENERAL PROVISIONS

§ 110.01 SHORT TITLE.

This chapter shall be known, and may be cited, as the Food Establishment Ordinance of the City of Pflugerville.

(Ord. 301-89-07-25, passed 7-25-89)

§ 110.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Terms not defined herein shall be construed in accordance with customary language.

The words “*authorized agent or employee*” mean the designated employees of the regulatory authority.

The words “*City Council*” mean the Pflugerville 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)~~ City of Pflugerville.

Comment [BO1]: Changed to reflect change in agencies that will enforce the ordinance.

The words “*nonprofit food establishment*” means a food establishment operated by a federal tax exempt charitable organization for fundraising or other events.

Comment [BO2]: Added for clarity.

The words “*hearing officer*” mean the ~~Director of WCCHD or his/her designee~~. This individual is responsible for arranging the hearing date, time and place. ~~He/she will also arrange for individual(s) who will hear the appeal.~~

Comment [BO3]: Hearings are not typical in the industry and staff recommends the process laid out in section 110.26.

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 "state rules" mean the state rules found at 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and Sections 173 through 175. These rules are also known as the Texas Food Establishment Rules.

Comment [B04]: Changed for clarity.

The words "regulatory authority" mean the ~~WCCHD~~-City of Pflugerville.

The words "temporary food establishment" mean a food establishment operating for a temporary period of no less than four (4) hours and no more than fourteen (14) consecutive days in conjunction with a fair, carnival, circus, public exhibition, or other public gathering. ~~Nonprofit fund raising events and other events which are open for business for a period of time no longer than four (4) hours are exempt from this definition.~~

Comment [B05]: Removed for clarity. A definition for nonprofit food establishment added above.

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

(Ord. 301-89-07-25, passed 7-25-89; Am. Ord. 369-92-10-27, passed 10-27-92; Ord. 733-04-01-13, passed 1-13-04; Ord. 1025-09-10-27, § 1, passed 10-27-09)

§ 110.03 CONSTRUCTION OF CHAPTER.

Wherever in this chapter a reference is made to a statute, ordinance, rule, or regulation which has been amended or superseded, the reference shall be deemed to mean the amended or superseding provision to the extent that such is a reasonable application.

(Ord. 301-89-07-25, passed 7-25-89)

§ 110.04 APPLICATION OF REGULATIONS.

(A) Except as provided in subsection (B) below, the regulations of this chapter shall apply to all food establishments within the city.

(B) The following are exempt from this chapter:

(1) Governmental entities, provided that they show proof of a contractual relationship with another approved jurisdiction to provide food inspection services.

~~(2) Nonprofit fund raising events and temporary food establishments which are open for business for an event lasting no more than four (4) hours.~~

(2) Temporary food establishments as defined in this chapter.

Comment [B06]: Changed for clarity.

(Ord. 301-89-07-25, passed 7-25-89; Am. Ord. 369-92-10-27, passed 10-27-92; Ord. 733-04-01-13, passed 1-13-04; Ord. 1025-09-10-27, § 2, passed 10-27-09)

PERMITS

§ 110.20 PERMITS.

(A) A person may not operate a food establishment without a permit issued by ~~WCCHD~~ the regulatory authority. 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.

§ 110.21 APPLICATION FOR PERMIT AND FEES.

(A) Any person desiring to operate a food establishment must make a written application for a permit on forms provided by ~~WCCHD~~ the regulatory authority. 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.

(B) Prior to the approval of an initial permit or the renewal of an existing permit, ~~WCCHD~~ the regulatory authority 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 applicant for the permit may appeal the denial of a permit by submitting a request for a hearing in writing to the hearing officer within five (5) working days of denial of the permit. The establishment shall remain closed until the corrections are made to bring the establishment into compliance. or until a decision is made on an appeal.~~

Comment [B07]: Again, hearings are not typical in the industry.

§ 110.22 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~~ the regulatory authority for review before work is begun. Extensive remodeling means that 20% 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~~ the regulatory authority 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.

§ 110.23 REGISTRATION OF FOOD HANDLERS.

(A) 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.~~

(1) Recognition of certificates. The regulatory authority shall recognize certificates from food handlers who attend a state sanctioned food handler's class offered online or at various sites in the county.

~~(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:~~

(2) Education and examination of applicant. No food handler's certificate shall be recognized by the regulatory authority for 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.~~

(a) Complete a state approved class in basic food sanitation. The primary emphasis of this class 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:~~

~~(i) 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~~

~~(ii) A food establishment employee who is certified to TEACH the Texas state Food Protection Manager Certification Program 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.~~

~~(iii) WCCHD reserves the right to suspend this option as a method for obtaining food handler cards.~~

(3) Display of food handler cards certificates. Upon completion of the prescribed orientation and the necessary administrative processing, each individual will be issued a food handler's ~~card~~ certificate 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 Food Protection Manager Certification Program ~~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.

~~(5) 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.

§ 110.24 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.~~

§ 110.25 REVOCATION OF A PERMIT.

~~WCCHD 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 health official 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.~~

§ 110.26 ENFORCEMENT OF ORDINANCE.

(A) Food establishments shall be inspected a determined number of times during a calendar year according to risk factors set by the ~~TDH~~ Texas Department of Health. High-risk establishments,

Comment [B08]: Food handler cards are not state mandated. Staff is in favor of displaying the certificates received from the completion of the State course in lieu of cards. The "train the trainer" section is exclusive to WCCHD and is a viable means of securing a food handler's certificate, but regulations regarding the course are not recommended.

Comment [B09]: Staff does not feel hearings are a necessary part of this ordinance. The process for suspensions and revocations of food establishment permits is spelled out in section 110.26 below.

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.

(B) 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.

(C) 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:

(1) 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.

(2) 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:

(a) The management of the establishment must meet with and submit a written plan of action to the ~~Director of the Environmental Division~~ health official or his appointee. The plan of action shall address critical violations of the previously failed inspections.

(b) A reinstatement fee of \$100 will be paid to the ~~WCCHD Environmental Division located at 303 Main, Georgetown, Texas 78626.~~ City of Pflugerville located at 201-B E. Pecan Street, Pflugerville, Texas, 78660.

(c) A follow-up inspection will be conducted within one working day of fulfillment of the requirements listed under (1) and (2) above.

(d) 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.

(3) 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~~ the regulatory authority to permanently revoke their permit.

§ 110.27 FEES.

The City Council shall establish by resolution a fee schedule to be paid in connection with this chapter. The schedule of fees shall be posted in the office of the City Secretary and may be amended only by action of the City Council.

(Ord. 301-89-07-25, passed 7-25-89; Am. Ord. 369-92-10-27, passed 10-27-92; Ord. 733-04-01-13, passed 1-13-04)

SANITATION REQUIREMENTS

§ 110.40 ADOPTION OF TEXAS FOOD ESTABLISHMENT RULES AND APPLICATION OF STATE LAW.

The City of Pflugerville 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 173 through 175 regarding the regulation of food establishment in this jurisdiction.

(Ord. 301-89-07-25, passed 7-25-89; Am. Ord. 733-04-01-13, passed 1-13-04)

§ 110.41 APPLICATION OF SUBCHAPTER.

The regulations set out in sections 110.40 through 110.51 shall apply to all food establishments, including temporary food establishments and mobile food units, except as specifically otherwise stated in this chapter.

(Ord. 301-89-07-25, passed 7-25-89) Penalty, see § 10.99

§ 110.42 RESTROOMS.

(A) Every food establishment shall provide its employees with at least one restroom with associated handwashing facilities conveniently located within the establishment. Food establishments with five or more employees on duty at one time shall provide two restrooms, one each for males and females. Restrooms required under division (B) and (C) of this section may be utilized as employee restrooms if the restrooms are located within the food establishment or within 75 feet of the main food preparation area of the food establishment.

(B) A new or extensively remodeled food establishment that provides reusable tableware, or serves alcoholic beverages, or has seating for 20 or more persons shall have available for public use at least two restrooms, one each for males and females, which are conveniently accessible from the seating or dining area of such food establishment. Such restrooms shall conform with the requirements of the city construction code related to handicapped access.

(C) If two or more new or extensively remodeled small food establishments share a common seating or dining area, such food establishments may also share public restrooms, provided that the restrooms are in compliance with the requirements of division (B) above.

(Ord. 301-89-07-25, passed 7-25-89; Am. Ord. 733-04-01-13, passed 1-13-04) Penalty, see [§ 10.99](#)

ADMINISTRATION AND ENFORCEMENT

§ 110.70 HEARINGS.

~~(A) 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 as determined by a follow up inspection.~~

~~(B) Prior to revocation of a permit, the holder of the permit or the person in charge shall be notified in writing that the permit is to be revoked 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 request for hearing is filed within the five day period, the revocation of the permit becomes final.~~

(Ord. 301-89-07-25, passed 7-25-89; Am. Ord. 733-04-01-13, passed 1-13-04)

§ 110.71 VIOLATIONS.

(A) Any person who violates a provision of this chapter and any person who is the holder of a permit or who otherwise operates a food establishment that does not comply with the requirements of this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed the maximum amount authorized by law for violation of a city ordinance, as set forth in [section 10.99](#). Each day of such violation shall constitute a separate offense. Such penalty shall be cumulative and not exclusive of any other rights or remedies the city may have.

(B) The city, including the city's police department, and the inspector of food establishments may seek to enjoin violations of this chapter.

(C) Nothing herein contained shall prevent the city or its duly authorized designees from taking other lawful action as is necessary to prevent or remedy any violation of this chapter.

(D) It shall not be necessary for the complaint to allege or to prove that the act or omission was knowingly done or omitted.

Comment [BO10]: Again, staff is recommending against hearings regarding suspension s and revocations. Please refer back to 110.26 for the inspection process .

(Ord. 301-89-07-25, passed 7-25-89; Am. Ord. 369-92-10-27, passed 10-27-92; Ord. 427-95-10-24, passed 10-24-95; Ord. 733-04-01-13, passed 1-13-04; Ord. 1025-09-10-27, § 3, passed 10-27-09) Penalty, see [§ 10.99](#)