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**Food Establishment Rules
For
Bastrop County, Texas**

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Order No. _____

AN ORDER REGARDING THE REGULATION OF FOOD ESTABLISHMENTS INCLUDING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, MOBILE FOOD UNITS, TEMPORARY FOOD VENDORS AND ROADSIDE FOOD VENDORS

As provided by Chapter 437 of the Texas Health and Safety Code, counties and public health districts have the authority to enforce state law and rules concerning food service establishments retail food stores, mobile food units, temporary food vendors, and roadside food vendors.

Therefore it is ORDERED, that Bastrop County Commissioner's Court adopts the following order:

Section 1. ENFORCEMENT OF STATE LAW AND RULES AND DEFINITIONS:

A. Bastrop County Commissioner's Court to adopts by reference the provisions of Chapter 437 applicable to counties and 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 establishments in this jurisdiction.

B. Definitions:

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

The words "food establishment" mean a food service establishment, a retail food store, a mobile food unit, a roadside food vendor, and/or temporary food vendor.

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 Bastrop County Department of Health and Sanitation.

Section 2. AREA OF JURISDICTION

This order shall be applicable in all areas of Bastrop County, Texas, except for the United States Army National Guard at Camp Swift, Elgin, Texas and except for Home Rule Cities unless such city adopts an ordinance at least equivalent to the standards prescribed by this regulation, and including any other area as defined by interlocal agreements between the Bastrop County Commissioner's Court and the governing authority of that area.

Section 3. PERMITS AND EXEMPTION

A. A person may not operate a food establishment without a permit issued by 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 order. A valid permit must be posted in or on every food establishment regulated by this order.

B. A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this order, but is not exempt from compliance with state laws and rules. The regulatory authority may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption.

C. A bed and breakfast establishment with seven or fewer rooms for rent that serves only breakfast to its overnight guests is not a food establishment for purposes of this order. Any other bed and

breakfast is a food establishment and shall follow the applicable state rules and must obtain a permit under this order.

Section 4. 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 the regulatory authority. The application must contain the name and address for 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.
- B. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.
- C. Prior to the approval of an initial permit or renewal of an existing permit, 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.
- D. All fees collected for permits and/or inspections shall be made payable to Bastrop County in accordance with fee schedule established from time to time by the Commissioners Court.

Section 5. Review of Plans

- A. 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 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 the regulatory authority if they meet requirements of state law and rules. The approved plans and specification must be followed in construction. Remodeling or conversion.
- B. Failure to follow approved plans and specifications, when required, will result in a permit denial, suspension, or revocation.

Section 6. INSPECTIONS

- A. Texas Food Establishment Rules, 25 TAC §229.171(h) Inspection frequency, performance-based and risk-based. The regulatory authority should inspect each food establishment at least once every six months. If the regulatory authority cannot meet this frequency, inspection frequency shall be prioritized based upon assessment of a food establishment's history of compliance with these rules and the potential for causing foodborne illness by evaluating:
 - (1) past performance for noncompliance with these rules, including HACCP plan requirements, that are critical;
 - (2) past performance for numerous or repeat violations of these rules, including HACCP plan requirements, that are noncritical;
 - (3) the hazards associated with the particular foods that are prepared, stored, or served;
 - (4) the type of operation including the methods and extent of food storage, preparation, and service;
 - (5) the number of people served;

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- (6) whether the population served is a highly susceptible population; and
- (7) any other risk factor deemed relevant to the operation by the regulatory authority.

- B. If one or more violations occur which do not present an imminent hazard to the public health, the health officer shall immediately notify the permit holder thereof, and shall make a second inspection after the lapse of such time as he deems necessary for the deficiencies to be corrected. Any violations of the same items on the second inspection shall be grounds for revocation of the permit and/or court action.
- C. In other cases involving situations in which an imminent health hazard does exist, such as a sewage back-up into the establishment, or a complete lack of sanitation or inadequate or complete lack of refrigeration, the establishment shall immediately cease food service operations and the permit shall be suspended.
- D. Whenever a food establishment is required to cease operations under the provisions of the section, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exists. Opportunity for reinspection shall be offered within a reasonable time.

Section 7. SUSPENSION OF PERMIT

- A. The regulatory authority 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 required by Paragraph (6)(B) of this order. When a permit is suspended, food operations shall immediately cease.
- B. 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 regulatory authority by the holder of the permit within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if reason for suspension no longer exist.
- C. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing.

Section 8. REVOCATION OF PERMIT

- A. 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 ten 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 ten day period.
- B. If no request for hearing is filed within the ten day period, the revocation of the permit becomes final.

Section 9. ENFORCEMENT

- A. A person commits an offense if the person operates a food service establishment, retail food store, mobile food unit, temporary food vendor, or roadside vendor without a permit as required by this order.
- B. An offense under this section is a Class C misdemeanor.
- C. Each day on which a violation occurs constitutes a separate offense.

Section 10. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this order 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 order.

Section 11. DISCLAIMER

This order shall not create liability on the part of the community or any official or employee thereof for any damages that result from reliance on this order or any administrative decision lawfully made thereunder.

Section 12. EFFECTIVE DATE

This provision of this order shall take effect on: May 8, 2006

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 8th DAY OF May, 2006.

APPROVED:


Ronnie McDonald, Bastrop County Judge


David Goertz, Commissioner Precinct 1


John Klaus, Commissioner Precinct 3


Clara Beckett, Commissioner Precinct 2


Lee Dildy, Commissioner Precinct 4

ATTEST:


Rose Pietsch, Bastrop County Clerk