

MODEL ORDER
FOR TEXAS COUNTIES AND PUBLIC HEALTH DISTRICTS
IN ACCORDANCE WITH CHAPTER 437, TEXAS HEALTH AND SAFETY CODE

ORDER NO. _____

AN ORDER REGARDING THE REGULATION OF FOOD ESTABLISHMENTS
INCLUDING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES,
MOBILE FOOD UNITS, TEMPORARY FOOD ESTABLISHMENTS, 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, and roadside food vendors.

Therefore, it is ORDERED, that (name of entity and name of jurisdiction, ex: Hays County Commissioner's Court or Nueces County Public Health District) adopts the following order:

Section 1. Enforcement of State Law and Rules and Definitions

(Name of entity) adopts by reference the provisions of Chapter 437 applicable to counties/public health districts and the current rules or rules as amended by The Executive Commissioner of the Health and Human Services Commission found in 25 Texas Administrative Code, Chapter 228, regarding the regulation of food establishments in this jurisdiction.

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

The words "food establishment" means a food service establishment, a retail food store, a temporary food establishment, a mobile food unit, and/or a roadside 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 228.

The words "regulatory authority" means the (name) County Health Authority (or Administrative Board of _____ Public Health District).

Section 2. Permits and Exemptions

A person may not operate a food establishment without a permit issued by the regulatory authority. Permits are not transferrable 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.

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.

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 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 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.

Prior to the approval of an initial permit or the 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.

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

(Set out fee schedule here per Texas Health and Safety Code, §437.012)

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 (may or 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 the requirements of state law and rules. The approved plans and specifications must be followed in construction, remodeling or conversion. Failure to follow approved plans and specifications, when required, will result in a permit denial, suspension, or revocation.

Section 5. Enforcement of Order

The regulatory authority may, after giving notice and providing an opportunity for hearing, deny, suspend, or revoke a permit for any violation of this order, the state law, or the state rules.

The notice of the reasons for the denial, suspension, or revocation of the permit shall be in writing and mailed by certified mail, return receipt requested, to the permit holder or applicant at the address as shown on the permit application or renewal. The reason for the denial, suspension, or revocation shall be stated in the notice. The permit holder or applicant shall have twenty days from the receipt of the notice letter to request a hearing on the denial, suspension, or revocation. If no request for hearing is received by the regulatory authority after twenty days of receipt of the notice by the permit holder, or applicant, the regulatory authority may take the proposed action without a hearing.

If a hearing is requested within the twenty day period, the hearing shall be conducted by a hearing officer appointed by the regulatory authority (or some other body, such as the commissioner's court). The hearing officer shall appoint a time, day, and location for the hearing. Both the regulatory authority and the permit holder or applicant shall have the right to present witnesses and evidence in the hearing. Based on the evidence presented at the hearing, the hearing officer shall make a final written decision in the matter and shall notify the regulatory authority and the permit holder or applicant.

Section 6. 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 7. Effective Date

The provisions of this order shall take effect on: (put in date or the number of days from adoption by the Commissioner's Court or Administrative Board).

INTRODUCED, READ AND PASSED BY AN AFFIRMATIVE VOTE BY THE
(COMMISSIONER'S COURT OF _____ COUNTY) OR (ADMINISTRATIVE
BOARD OF PUBLIC HEALTH DISTRICT) ON THIS _____ DAY
OF _____ ,

(SIGNATURES OF COMMISSIONERS OR MEMBERS OF THE BOARD)