

- 1 (i) a baked good that is not a potentially hazardous food, as defined by Section
- 2 437.0196;
- 3 (ii) candy;
- 4 (iii) coated and uncoated nuts;
- 5 (iv) unroasted nut butters;
- 6 (v) fruit butters;
- 7 (vi) a canned jam or jelly;
- 8 (vii) a fruit pie;
- 9 (viii) dehydrated fruit or vegetables, including dried beans;
- 10 (ix) popcorn and popcorn snacks;
- 11 (x) cereal, including granola;
- 12 (xi) dry mix;
- 13 (xii) vinegar;
- 14 (xiii) pickles;
- 15 (xiv) mustard;
- 16 (xv) roasted coffee or dry tea; or
- 17 (xvi) a dried herb or dried herb mix;

18 (2) has an annual gross income of \$50,000 or less from the sale of food described by Paragraph
19 (1);

20 (3) sells the foods produced under Paragraph (A) only directly to consumers at the individual's
21 home, a farmers' market, a farm stand, or a municipal, county, or nonprofit fair, festival, or event;
22 and

23 (4) delivers products to the consumer at the point of sale or another location designated by the
24 consumer.

25 *Director* means the director of the WCCHD or its designated representative.

26 *Food establishment.*

27 (1) The term "food establishment" means an operation that stores, prepares, packages, serves,
28 vends, or otherwise provides food for human consumption:

29 a. such as a restaurant, retail food store, satellite or catered feeding location, catering
30 operation if the operation provides food directly to a consumer or to a conveyance used to
31 transport people, market, vending location, (machine), self-service food market,
32 conveyance used to transport people, institution, or food bank; and

33 b. that relinquishes possession of food to a consumer directly, or indirectly through a delivery
34 service such as home delivery of grocery orders or restaurant takeout orders, or delivery
35 service that is provided by common carriers;

36 c. the term "food establishment" includes:

37 a. an element of the operation such as a transportation vehicle or a central
38 preparation facility that supplies a vending location or satellite feeding location
39 unless the vending or feeding location is permitted by the WCCHD; and

40 b. an operation that is conducted in a mobile, stationary, temporary, or permanent
41 facility or location; where consumption is on or off the premises; and regardless of
42 whether there is a charge for the food.

1 d. The term "food establishment" does not include:

2 a. an establishment that offers only prepackaged foods that are not time /
3 temperature control for safety food;

4 b. a produce stand that only offers whole, uncut fresh fruits and vegetables;

5 c. a food processing plant;

6 d. a cottage food production operation;

7 e. a Bed and Breakfast limited facility; or

8 f. a private home that receives catered or home-delivered food.

9 ~~a. Such as a restaurant; retail food store; satellite or catered feeding location; catering~~
10 ~~operation if the operation provides food directly to a consumer or to a conveyance used to~~
11 ~~transport people; market; vending location; conveyance used to transport people;~~
12 ~~institution; or food bank; and~~

13 ~~b. That relinquishes possession of food to a consumer directly, or indirectly through a delivery~~
14 ~~service such as home delivery of grocery orders or restaurant takeout orders, or delivery~~
15 ~~service that is provided by common carriers.~~

16 ~~(2) The term "food establishment" includes:~~

17 ~~a. An element of the operation such as a transportation vehicle or a central preparation facility~~
18 ~~that supplies a vending location or satellite feeding location unless the vending or feeding~~
19 ~~location is permitted by the regulatory authority; and~~

20 ~~b. An operation that is conducted in a mobile, stationary, temporary, or permanent facility or~~
21 ~~location; where consumption is on or off the premises; and regardless of whether there is a~~
22 ~~charge for the food.~~

23 ~~(3) The term "food establishment" does not include:~~

24 ~~a. An establishment that offers only prepackaged foods that are not potentially hazardous;~~

25 ~~b. A produce stand that only offers whole, uncut fresh fruits and vegetables;~~

26 ~~c. A food processing plant;~~

27 ~~d. A kitchen in a private home if only food that is not potentially hazardous is prepared for~~
28 ~~sale or service at a function such as a religious or charitable organization's bake sale if~~
29 ~~allowed by law;~~

30 ~~e. An area where food that is prepared as specified in subsection (3)d of this section is sold~~
31 ~~or offered for human consumption;~~

32 ~~f. A bed and breakfast limited facility as defined in these rules; or~~

33 ~~g. A private home that receives catered or home-delivered food.~~

34 *Food handler* means any person in a food establishment who handles food or drink during
35 preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed
36 in an area where food or drink is prepared, served, transferred, stored, packed, sold, or otherwise
37 handled.

38 *Health official* means the authorized representative of the WCCHD.

39 *Mobile food establishment* means a vehicle mounted food establishment that is readily moveable.

40 *Nonprofit organizations* means a civic or fraternal organization, charity, lodge, association,
41 proprietorship or corporation possessing a 501(C) exemption under the Internal Revenue Code; or
42 religious organizations meeting the definition of "church" under the Internal Revenue Code, Section
43 170(b)(1)(A)(i).

1 Person means person, firm, or corporation or association.

2 ~~Regulatory authority means the WCCHD.~~

3 State laws and rules means Texas Food Establishment Rules.

4 Temporary food establishment means a food establishment that operates in conjunction with a
5 special event or celebration that:

6 (1) Operates for more than four hours in a single day, serves potentially hazardous foods, and is
7 open to the general public; or

8 (2) Operates for a period of no less than two consecutive days and no more than 14 days.

9 **Sec. 18-3. - Permits required.**

10 It shall be unlawful for any person to operate a food establishment in the city who does not possess
11 an unrevoked permit from the city, issued by the WCCHD. The health official shall be and is hereby
12 authorized to issue permits to any person making application therefor, authorizing the operation of a food
13 establishment in the city; provided, only a person who complies with the requirements of this chapter shall
14 be entitled to receive and retain such permit. Permits are not transferable from one person to another or
15 from one location to another, except as otherwise permitted by this chapter. All permits expire on
16 December 31 of each year, with the exception of permits issued to schools (K-12). School food
17 establishment permits are valid September 1 through August 31. A valid permit must be posted in or on
18 every food establishment regulated by this chapter.

19 **Sec. 18-4. - Permit fees.**

20 (a) Every person seeking to operate a food establishment in the city shall make a written application
21 to the WCCHD, upon forms prescribed and furnished by the WCCHD, for a permit. The
22 application must contain the name and address of each applicant, the location and type of the
23 proposed food establishment and the applicable fee. Incomplete applications will not be
24 accepted. Failure to provide all required information, or falsifying information required, may result
25 in denial or revocation of the permit. Renewals of permits are required on an annual basis and the
26 same information is required for a renewal permit as for an initial permit.

27 (b) Prior to the approval of an initial permit or the renewal of an existing permit, the health official
28 shall make or cause to be made an inspection of the premises to determine compliance with state
29 laws and rules. A food establishment that does not comply with state laws and rules may be
30 denied a permit or the renewal of a permit.

31 (c) If the food establishment comes within the requirements of this chapter, the health official shall
32 approve said application; whereupon, the applicant shall pay to the WCCHD a fee based on the
33 formula as currently established or as hereafter adopted by resolution of the city council from time
34 to time.

35 (d) All applications for permits and inspections shall be accompanied by the appropriate fee(s) as set
36 forth in appendix A of this Code.

37 (e) Nonprofit organizations, as defined in this Chapter, are exempt from payment of the permit fee for
38 temporary food establishments.

39 ~~Every person seeking to operate a food establishment in the city shall make a written application to~~
40 ~~the WCCHD, upon forms prescribed and furnished by the WCCHD, for a permit. The application must~~
41 ~~contain the name and address of each applicant, the location and type of the proposed food~~
42 ~~establishment and the applicable fee. Incomplete applications will not be accepted. Failure to provide all~~
43 ~~required information, or falsifying information required, may result in denial or revocation of the permit.~~
44 ~~Renewals of permits are required on an annual basis and the same information is required for a renewal~~
45 ~~permit as for an initial permit. Prior to the approval of an initial permit or the renewal of an existing permit,~~
46 ~~the health official shall make or cause to be made an inspection of the premises to determine compliance~~
47 ~~with state laws and rules. A food establishment that does not comply with state laws and rules may be~~

1 ~~denied a permit or the renewal of a permit. If the food establishment comes within the requirements of this~~
2 ~~chapter, the health official shall approve said application; whereupon, the applicant shall pay to the~~
3 ~~WCCHD a fee based on the formula as currently established or as hereafter adopted by resolution of the~~
4 ~~city council from time to time.~~

5 **Sec. 18-5. - Review of plans.**

6 ~~Whenever a food establishment is constructed or extensively remodeled, meaning that 20~~
7 ~~percent or greater of the area is to be remodeled, and when an existing structure is converted to use as a~~
8 ~~food establishment, plans and specifications for such construction, remodeling or conversion shall be~~
9 ~~submitted to WCCHD for review before work is begun. The plans and specifications shall indicate the~~
10 ~~proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas;~~
11 ~~and the type and model of proposed fixed equipment and facilities. The plans and specifications shall be~~
12 ~~approved by WCCHD if they meet the requirements of this chapter. The approved plans and~~
13 ~~specifications must be followed in the construction, remodeling or conversion of the food establishment.~~

14 (a) A permit applicant or permit holder shall be required to submit to the WCCHD properly prepared
15 plans and specifications for review and approval before:

16 1. The construction of a food establishment;

17 2. The conversion of an existing structure for use as a food establishment; or

18 3. The remodeling of a food establishment or a change of type of food establishment or food
19 operation, or under the conditions set by the WCCHD, if the WCCHD determines plans
20 and specifications are necessary to determine compliance with code provisions.

21 (b) The plans and specifications shall indicate the proposed layout, mechanical schematics,
22 construction materials and finish schedules, proposed equipment types, manufacturers, model
23 numbers, locations, dimensions, performance capacities and installation specifications. The plans
24 will contain an intended menu and the anticipated volume of food to be stored, prepared, and sold
25 or served. The plans and specifications will be approved by the WCCHD if they meet the
26 requirements of the rules adopted by this ordinance. The approved plans and specifications must
27 be followed in construction, remodeling or conversion.

28 (c) The plans must include information and evidence that standard procedures that ensure
29 compliance with the requirements of the State rules are developed or are being developed.

30 (d) Failure to follow the approved plans and specifications will result in a permit denial, suspension,
31 or revocation.

32 (e) The Establishment Plan Review fee must be submitted before the plan will be reviewed.

33 **Sec. 18-6. - Registration of food handlers.**

34 It shall hereafter be unlawful for any person operating any food establishment to work or employ a
35 food handler until regulations and all city ordinances, now and hereafter enacted, and all provisions of this
36 ~~chapter-section~~ are complied with, and until such food handler has received a food handler's registration
37 ~~card-certificate~~ from the WCCHD which is valid at the time of such employment.

38 (1) *Issuance of registration certificates and payment of fees.* WCCHD shall issue food handler's
39 registration certificates to food handlers ~~who attend and satisfactorily pass a food handler's~~
40 ~~class offered within the county, or who satisfactorily pass a test from a trainer that became~~
41 ~~certified through WCCHD~~who received approved training and paid the appropriate fee. The
42 Food Handler certificate will be valid for two (2) years.

43 ~~(2) Education and examination of applicant.~~ No food handler's registration card shall be issued by
44 WCCHD to any person required by law or by this chapter to have or exhibit such card until the
45 applicant shall have met the following requirements:

1 a. ~~Completes a class in basic food sanitation. The schedule, time and location of class sites~~
2 ~~shall be announced by the director of the environmental division of WCCHD. The primary~~
3 ~~emphasis of this class will be directed toward the food workers' sanitation practices and~~
4 ~~behavior when working in a food establishment. It shall be the responsibility of the person~~
5 ~~in charge of the food establishment to ensure that safe food practices are in use at all~~
6 ~~times.~~

7 b. ~~Completes a "train the trainer" class. Food establishments who wish to train their own food~~
8 ~~handlers may do so after meeting the following conditions:~~

9 1. ~~A food establishment employee must complete a two-hour "train the trainer" class.~~
10 ~~The food establishment employee may then train other employees on site and~~
11 ~~administer the test supplied by WCCHD to those employees; or~~

12 2. ~~A food establishment employee certified to teach the state-certified food protection~~
13 ~~management class may submit an outline of the class they will be teaching and a~~
14 ~~copy of the test to be given to the employees after the class is completed at their site.~~

15 ~~WCCHD reserves the right to suspend the option provided in this subsection (2)b as a~~
16 ~~method for obtaining food handler cards.~~

17 (3) ~~Issuance and effective period of food handler's cards. Upon completion of the required classes~~
18 ~~described above and administrative processing, each individual shall be issued a food handler's~~
19 ~~card by WCCHD, which shall be valid for the time period stipulated on the card.~~

21 (42) ~~Display of food handler's cards/certificate. The food handler's card/certificate issued to each~~
22 ~~individual shall be posted at the place of employment in a location readily visible and accessible~~
23 ~~to the health official for verification.~~

24 (53) ~~Managers and supervisory personnel. Managers, assistant managers, and shift supervisors~~
25 ~~and supervisory personnel who have completed the state certified food protection managers~~
26 ~~course received a certification document from an accredited Food Protection Managers~~
27 ~~certification program shall be exempt from obtaining a food handler's card/certificate from~~
28 ~~WCCHD. The certificate provided by the state shall be posted at the place of employment in a~~
29 ~~location readily visible and accessible to the health official for verification. The certificate shall be~~
30 ~~posted at the place of employment in a location readily visible and accessible to the Health~~
31 ~~Official for verification.~~

32 (4) ~~Certified Food Protection Manager Requirement. Each food establishment must employ at~~
33 ~~least one employee that has supervisory and management responsibility that is a certified food~~
34 ~~protection manager. The certified food protection manager must have the authority to direct~~
35 ~~and control food preparation and service. The certificate shall be posted at the place of~~
36 ~~employment in a location readily visible and accessible to the Health Official for verification.~~

37 **Sec. 18-7. - Inspection of food establishments.**

38 (a) ~~The health official shall inspect every food establishment located within the city. The frequency~~
39 ~~of inspection shall be prioritized based upon assessment of the food establishment's history~~
40 ~~of compliance and the potential for causing foodborne illness. An assessment will be~~
41 ~~completed by the WCCHD to rank the food establishment as high, medium, or low risk for the potential~~
42 ~~for causing foodborne illness. The inspection frequency will vary by risk and be determined~~
43 ~~by the WCCHD.~~

44 (b) ~~Upon request of the health official, the person operating the food establishment shall permit~~
45 ~~access to all parts of the establishment under inspection and shall permit inspection and copying~~
46 ~~of all records of food purchased. The Health Official shall be allowed to take photographs as part~~
47 ~~of the inspection process.~~

1 (c) The health official may take and examine samples of food, drink and other substances found on
2 the premises for the detection of unwholesomeness and adulteration and may condemn and
3 forbid, and cause to be removed or destroyed, any food or drink which is unwholesome,
4 adulterated, or any potentially hazardous food held at temperatures which allow the growth of
5 dangerous organisms.

6 ~~(a) The health official shall inspect every food establishment located within the city. High-risk~~
7 ~~establishments that prepare and serve potentially hazardous food and/or serve a highly susceptible~~
8 ~~population shall be inspected a minimum of four times a calendar year. Establishments that serve~~
9 ~~only prepackaged, non-potentially hazardous foods shall be inspected a minimum of two times a~~
10 ~~calendar year. Additional inspections of food establishments shall be performed as deemed~~
11 ~~necessary to protect against public health hazards or nuisances, and additional fees shall be~~
12 ~~charged to the food establishments for these visits. Visits associated with unsubstantiated~~
13 ~~complaints received by WCCHD will not require payment of additional fees by the food~~
14 ~~establishment. Upon request of the health official, the person operating the food establishment shall~~
15 ~~permit access to all parts of the establishment under inspection and shall permit inspection and~~
16 ~~copying of all records of food purchased.~~

17 ~~(b) The health official may take and examine samples of food, drink and other substances found on the~~
18 ~~premises for the detection of unwholesomeness and adulteration and may condemn and forbid, and~~
19 ~~cause to be removed or destroyed, any food or drink which is unwholesome, adulterated, or any~~
20 ~~potentially hazardous food held at temperatures which allow the growth of dangerous organisms.~~

21 **Sec. 18-8. - Violations and posting of certificates.**

22 If, during an inspection, the health official discovers violations of state laws and rules or this chapter
23 that earn more than 30 demerits on multiple inspections during a 12-month period, then based upon the
24 results of the inspection the health official shall post a certificate of grade as follows:

25 (1) *First failure.* An "UNSATISFACTORY" placard shall be posted on the front door or front window,
26 or if the food establishment does not have a front door or front window, then upon a wall of the
27 food service area inside the food establishment, and said placard shall be displayed in clear
28 view to the public and shall not be covered from sight, defaced or removed except by the health
29 official after an inspection is performed earning 30 or fewer demerits. The followup inspection
30 shall occur within two business days of the failed inspection. A Compliance Inspection fee must
31 be paid prior to the inspection and removal of the placard.

32 (2) *Second failure.* When a second failed inspection occurs within 12 months of the first failed
33 inspection, an "UNSATISFACTORY" placard shall be posted on the front door or front window,
34 or if the food establishment does not have a front door or front window, then upon a wall of the
35 food service area inside the food establishment, and said placard shall be displayed in clear
36 view to the public and shall not be covered from sight, defaced or removed except by the health
37 official after an inspection is performed earning 30 or fewer demerits. The permit shall be
38 suspended and the operations of the establishment shall cease immediately. The food
39 establishment shall remain closed for a minimum of 48 hours and fulfill the following
40 requirements before reopening:

41 a. The management of the food establishment must meet with and submit a written plan of
42 action to the director of the environmental division of WCCHD or his appointee. The plan of
43 action shall address critical violations of the previously failed inspections.

44 b. A reinstatement fee as currently established or as hereafter adopted by resolution of the
45 city council from time to time shall be paid to the WCCHD Environmental Division located
46 at 303 Main, Georgetown, Texas 78626.

47 c. A followup inspection will be conducted within one business day of fulfillment of the
48 requirements listed in subsections (2)a and b of this section. A Compliance Inspection fee
49 must be paid prior to the inspection.

- 1 d. The food establishment shall be placed on a 30-day inspection schedule until two
2 consecutive inspections result in a score of 30 or fewer demerits.
- 3 (3) *Third failure.* When a third failed inspection occurs within 12 months of the first failed inspection,
4 an "UNSATISFACTORY" placard shall be posted on the front door or front window, or if the
5 food establishment does not have a front door or front window, then upon a wall of the food
6 service area inside the food establishment, and said placard shall be displayed in clear view to
7 the public and shall not be covered from sight, defaced or removed except by the health official.
8 The person in charge shall be provided written notice of the intent of WCCHD to permanently
9 revoke the permit.

10 **Sec. 18-9. - Suspension and revocation of permit.**

- 11 (a) A permit to operate a food establishment may be suspended by the health official without warning,
12 notice, or hearing if the operation of the food establishment constitutes an imminent hazard to public
13 health, or upon violation by the holder of any of the terms of this chapter. Suspension is effective
14 upon service of a written notice to the person in charge. When a permit is suspended, food
15 operations shall cease immediately. WCCHD may lift the suspension at any time if it deems that the
16 reasons for the suspension no longer exist.
- 17 (b) The ~~regulatory authority~~WCCHD may, after providing opportunity for a hearing, revoke a permit for
18 serious or repeated violations of any of the requirements of this chapter or for interference with the
19 ~~regulatory authority~~WCCHD in the performance of its duties. Prior to revocation, the ~~regulatory~~
20 ~~authority~~WCCHD shall provide written notice to the holder of the permit or the person in charge of
21 the reason for which the permit is subject to revocation and that the permit shall be revoked at the
22 end of the five working days following service of such notice.
- 23 (c) The suspension or revocation notice shall include the procedure for appealing the suspension or
24 revocation. In the event the health official refuses a permit to an applicant, or a permit is suspended
25 or revoked by the health official, the applicant whose permit is refused, or the holder of a permit
26 which has been revoked or suspended, shall have the right of appeal to the WCCHD director by filing
27 an appeal in writing with the WCCHD director within five days from refusal to grant said permit, or
28 receipt of the revocation or suspension notice of said permit by the health official. Pending action on
29 the appeal, a permit which has been suspended or revoked shall be considered suspended or
30 revoked. If a written appeal is not filed within five days from refusal to grant a permit or receipt of the
31 written notice, the suspension, revocation or refusal to grant a permit shall be sustained.

32 **Sec. 18-10. - Reinstatement of permit.**

33 Any person whose permit has been suspended may at any time make application to the health
34 official for reinstatement of the permit. Such application shall contain a statement signed by the applicant
35 to the effect that the violation of this chapter has been corrected and shall be accompanied by payment of
36 the Permit Reinstatement Fee. Within one week after the receipt of such application, the health official
37 shall reinspect the applicant's food establishment to determine whether the applicant is again complying
38 with the requirements of this chapter, and shall reinstate the permit if the applicant is complying with this
39 chapter.

40 **Sec. 18-11. - Enforcement interpretation.**

41 This chapter shall be enforced by the health official in accordance with the state laws and rules.

42 **Sec. 18-12. - Penalties.**

- 43 (a) In addition to any other penalties herein before provided and unless another penalty is in this chapter
44 provided, whoever shall do any act or thing required by the terms of this chapter or in anywise violate
45 the provisions thereof, shall be fined as provided for in section 1-9
- 46 (b) It shall not be necessary for the complaint to allege or to prove that the act or omission was
47 knowingly done or omitted.

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II.

A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Alternative 1.

By motion duly made, seconded and passed with an affirmative vote of all the Council members present, the requirement for reading this ordinance on two separate days was dispensed with.

READ, PASSED, and ADOPTED on first reading this ____ day of _____, 2015.

Alternative 2.

READ and APPROVED on first reading this the ____ day of _____, 2015.

