

## Chapter 247. Food Establishment Permits<sup>1</sup>

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### 247.001 Introduction

The Travis County Commissioners Court hereby repeals and replaces all previous versions of this chapter and replaces them by issuing this chapter ("Chapter") requiring food service establishments, retail food stores, mobile food units, roadside food vendors, and any other related establishment covered by relevant state law or rules established under state law within areas of jurisdiction of Travis County to obtain a permit to operate.

- (1) Authority. Chapter 437 of the Texas Health and Safety Code grants counties the authority to require Food Service Establishments, Retail Food Stores, Mobile Food Units and roadside food vendors to obtain a Permit to operate; and
- (2) Public Hearing. The Travis County Commissioners Court has conducted a public hearing pursuant to Section 437.005 of Texas Health and Safety Code;

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<sup>1</sup> Chapter 47 was replaced by Travis County Commissioners Court on October 18, 2016, Item 10-Additional. Chapter 47 was renumbered as Chapter 247 on June 1, 2018 (approved 5/15/2018, Item 7). Chapter 247 was amended January 29, 2019, Item 11.

- (3) Now, therefore, be it ordered, by the Commissioners Court of Travis County, Texas, that the following procedures shall apply to all phases of the issuance of that Permit.

## **247.002 Definitions<sup>2</sup>**

In this Chapter:

- (1) "Applicant" means any Person who is preparing or has filed an application for a Permit pursuant to this Chapter.
- (2) "Auditor" means the Travis County Auditor.
- (3) "Authorized Agent(s) or Employee(s)" means Personnel of the Austin Public Health Department, operating under the authority of the Travis County Health Authority, who have satisfactorily completed a training exercise on the interpretation and application of the Texas Food Establishment Rules.
- (4) "Bed and Breakfast Extended" means an establishment with more than seven rooms for rent or an establishment that provides food service other than breakfast to overnight guests.
- (5) "Bed and Breakfast Food Establishment" means a Bed and Breakfast that provides food service to persons other than its overnight guests.
- (6) "Bed and Breakfast Limited" means an establishment that has seven or fewer rooms for rent, serves breakfast to overnight guests, and is not a retail food establishment.
- (7) "Child Care Facility" means facility licensed, certified, or registered by the department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.
- (8) "Central Preparation Facility" means a facility that is an approved and permitted retail food establishment at which food is prepared, stored, and wrapped; and the Mobile Food Unit is supplied with fresh water and ice; and emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food-contact surfaces or items not capable of being immersed in the Mobile Food Unit utensil-washing sink. Use of a private residence as a central preparation facility is prohibited.
- (9) "Certified Food Protection Manager" means an employee that has supervisory and management responsibility and the authority to direct and control food preparation and service and who has shown

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<sup>2</sup> Department name "Austin Public Health" updated May 29, 2018, Item 8.

proficiency of required information through passing a test that is part of an accredited program.

- (10) "Commissioners Court" means the Travis County Commissioners Court.
- (11) "County" means Travis County, Texas.
- (12) "Director" means the Director of the Austin Public Health Department or the Director's Authorized Agent(s) or Employee(s).
- (13) "Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale, in whole or in part, for human consumption, or chewing gum.
- (14) "Food Establishment" or "Food Service Establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption as follows:
  - (A) a restaurant, retail food store, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending location, (machine), self-service food market, conveyance used to transport people, institution, or food bank;
  - (B) an establishment that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers; and
  - (C) includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.
  - (D) food establishment does not include an establishment that offers only prepackaged foods that are not time/temperature control for safety food, a produce stand that only offers whole, uncut fresh fruits and vegetables, a food processing plant, a cottage food industry, an area where cottage food is prepared, sold or offered for human consumption, a Bed and Breakfast Limited facility as defined in this Chapter, or a private home that receives catered or home-delivered food.
- (15) "Food Handler" means a food service employee who works with unpackaged food, food equipment or utensils, or food-contact surfaces.

- (16) "Food Laws" means the state laws and rules adopted under state law governing Food Outlets including Chapter 437, Texas Health and Safety Code and regulations of the Texas Department of State Health Services, 25 Texas Administrative Code, Chapter 228, also known as the "Texas Food Establishment Rules" or "TFER."
- (17) "Food Outlet" represents all establishments collectively included under state law and the rules adopted under state law to which this Chapter applies, including but not limited to Food Establishments, Bed and Breakfast Extended, Bed and Breakfast Food Establishments, Mobile Food Units, Temporary Food Establishments, and Outfitter Operation.
- (18) "Food Processing Plant" means a commercial operation that manufactures, packages, labels, or store foods for human consumption and does not provide food directly to a consumer.
- (19) "Health Authority" means the Travis County Health Authority designated by the Commissioners Court or the Health Authority's designee.
- (20) "Mobile Food Unit" or "MFU" means a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A Mobile Food Unit does not include a stand or a booth. A roadside food vendor is classified as a MFU.
- (21) "Outfitter Operation" means any operation such as but not limited to trail rides, bus tours, harbor cruises or river raft trips where food is offered to patrons and which operates out of a central preparation or food establishment.
- (22) "Permit" means authority to operate a Food Outlet pursuant to this Chapter.
- (23) "Permittee" means a Person to whom a Permit has been issued under this Chapter.
- (24) "Person" means any individual, trustee, partnership, association, corporation, government subdivision or agency, or other legal entity.
- (25) "Self-Service Food Market" means a market that is unstaffed and offers prepackaged non-time/temperature control for safety food and prepackaged refrigerated or frozen time/temperature control for safety food that is stored and displayed in equipment that complies with section 228.225 of the TFER.
- (26) "Temporary Food Establishment" means a food establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.

- (27) "Time/Temperature Control for Safety Food" means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation. An animal food that is raw or heat-treated. A plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixture of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation. Except as specified in Tables A and B of 25 Texas Administrative Code Section 228.2 for this definition, a food that because of the interaction of Aw and pH values is designated as Product Assessment Required (PA) in Tables A or B of this definition.
- (28) "Vending location" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines. This does not include Self-Service Food Markets.
- (29) "Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

#### **247.003 Authority**

This Chapter is adopted by the Commissioners Court acting in its capacity as the governing body of the County.

The County adopts this Chapter under the authority of Chapter 437, Texas Health and Safety Code, relating to the authority of counties to enforce state law and rules adopted under state law concerning Food Service Establishments, Retail Food Stores, Mobile Food Units, roadside Food vendors and other establishment covered by Food Laws ("Food Outlets").

#### **247.004 Purpose**

The purpose of this Chapter is to enforce state law and rules adopted under state law in order to protect the public health, safety, and welfare by requiring Food Outlets to obtain a Permit from the County to operate.

This Chapter is not intended to establish standards for the operation of Food Service Establishments, Retail Food Stores, Mobile Food Units, or roadside Food vendors.

#### **247.005 Area of Jurisdiction**

Applicability. This Chapter shall apply to all of the areas of the County (including areas in the extraterritorial jurisdiction of a municipality) except for the areas within the boundaries of the incorporated cities and towns of the County.

#### **247.006 Effective Date**

All provisions of this Chapter shall become effective upon adoption by the Commissioners Court.

#### **247.007 Miscellaneous Provisions**

- (a) Construction. This Chapter shall be construed liberally to accomplish its purpose.
- (b) Interpretation. The Commissioners Court shall resolve any question regarding any interpretation of this Chapter.
- (c) Precedents. To the extent of any conflict between this Chapter and a State law, or a rule adopted under a State law, the State law or rule adopted under a State law prevails.
- (d) Conflict with the Texas Alcoholic Beverage Code. The extent of any conflict between this Chapter and the provisions of the Texas Alcoholic Beverage Code, the provisions of the Texas Alcoholic Beverage Code and the rules of the Texas Alcoholic Beverage Commission shall control and prevail. No standard may be adopted under this Chapter that is more stringent than or that would have the effect of modifying a provision of or a standard imposed under the Texas Alcoholic Beverage Code or a rule of the Texas Alcoholic Beverage Commission. No regulation under this Chapter may impose stricter standards on the premises or businesses having a license or Permit under the Texas Alcoholic Beverage Code than are imposed on similar premises or businesses that do not have such a license or Permit.
- (e) Severability. If any provision of this Chapter, or the application thereof to any Person or circumstances, is held invalid, validity of the remainder of this Chapter and the application thereof shall not be affected.

#### **247.008 Exemptions from Compliance with this Chapter**

- (a) Non-Profit Organizations. This Chapter does not apply to a non-profit organization operating a Food Outlet. This Chapter does not in any way impact the application of Food Laws to a Food Outlet operated by a non-profit organization.
- (b) Proof of Non-Profit. Any organization claiming an exemption from this Chapter under Section 247.008(a) shall provide the Director with all information deemed necessary by the Director to determine whether the organization is a non-profit organization.

- (c) Definition of Non-Profit. Non-profit organizations include any tax-exempt organization under Section 501(c), Internal Revenue Code of 1986 [26 United States Code Section 501(c)].
- (d) Certain Bed and Breakfast Establishments.
  - (1) Bed and Breakfast Limited ("BBL"). Except as provided by 247.008(d)(3) of this Chapter, a BBL is not a Food Service Establishment for purposes of this Chapter. An owner or manager of a BBL shall successfully complete a food manager's certification course accredited by the Texas Department of State Health Services.
  - (2) Bed and Breakfast Extended ("BBE"). Except as provided by 247.008(d)(3) of this Chapter, a BBE as described in TFER Sec. 228.223(a)(1) is a Food Service Establishment for purposes of this Chapter, but may not be required to meet all criteria applicable to a larger Food Service Establishment such as a restaurant. A BBE must meet the specific requirements outlined in Sec. 228.223(c) – (o) of the Texas Food Establishment Rules (relating to BBE Establishments).
  - (3) Bed and Breakfast Food Establishment ("BBFE"). A BBFE as described in TFER Sec. 228.223(a)(2) is a Food Service Establishment for purposes of this Chapter and is subject to all rules and regulations applicable to a Food Service Establishment.
- (e) Travis County may, at its sole discretion, waive the fees described in section 247.010 of this Chapter.

**247.009 Notice Procedures**

- (a) Method of Notice. Any notice or notification required or Permitted to be given pursuant to this Chapter by one party to the other shall be in writing and shall be given and deemed to have been given immediately if delivered personally to the last known address of the party to whom notice is given, or on the third day following mailing if placed in the United States Mail, by certified or registered mail, return receipt required, postage pre-paid, addressed to the last known address of the party to whom notice is given.
- (b) Content of Notification by Director. In any notification required or Permitted to be given by the Director under this Chapter, the Director shall state, as applicable in each situation, the nature of the relief sought, the location or unit for which relief is sought, the date, time, and place of the hearing, the legal authority and jurisdiction under which the relief is sought, a reference to the particular sections of the statutes, rules and/or Sections of this Chapter involved, and any additional information the Director may consider necessary.
- (c) Copy of Notice. The Director shall retain a copy of any notice and/or notification required or Permitted by this Chapter in the Director's files.

**247.010 Fees for Permits**

- (a) Schedule of Fees. To defray the reasonable costs of administering this Chapter, the Director shall require fees to be paid in accordance with this Chapter as stated in the fee schedule attached to this Chapter as Attachment A. Unless otherwise provided, fees collected under this Chapter shall be deposited to the credit of a special fund of the County.
- (b) Special Fund. All fees collected shall be deposited with the County Treasurer in a special fund of the County. Funds deposited in this special fund may only be expended for the expenses related to the issuance of Permits and inspections required by this Chapter.
- (c) Collection of Fees
  - (1) Except as provided in 247.010(c)(2) of this Chapter, the Director shall accept all applications and collect all fees set by the Commissioners Court.
  - (2) The Director shall not require the payment of any fees for an application for a Permit or renewal Permit from the 15th day of January each year until the audited statement required in Sec. 247.015 of this Chapter is filed with the Texas Department of State Health Services.

**247.011 Single Permit per Location**

Under this Chapter, the Director shall not require any Food Outlet to obtain more than one Permit for a single location or a single unit.

**247.012 Permit Renewal**

- (a) Expiration. The Permit for any Food Outlet except a Temporary Food Establishment [see 247.012(c) of this Chapter for Temporary Food Establishments] shall expire one year from the day on which the Permit is issued.
- (b) Renewal. An Applicant may renew a valid, subsisting Permit for these Food Outlets issued under this Chapter on or before the date on which the Permit expires.
- (c) Temporary Food Establishments. Permits for temporary Food Service Establishments shall not be renewed, but shall expire on the date specified on the Permit. Permits for temporary Food Service Establishments shall not be renewed.

**247.013 Transfer of Permits**

A Permit shall not be transferred from one Person to another; from one location to another; or from one unit to another. Any Permit transferred, or attempted to be transferred, is no longer a valid Permit as of the date of transfer or attempted transfer.



#### **247.014 Duties and Powers of Director**

- (a) Designated Permitting Authority. The Director (including his/her designated representative(s)) is designated by the Commissioners Court to be the Permitting Authority for this Chapter and the authority in the County to enforce Food Laws and thus has the duty, and necessary powers, to administer and enforce this Chapter and Food Laws within the limits of the applicable statutes and laws.
- (b) Duties and Powers. The Permitting Authority shall have the following duties and necessary concomitant powers:
  - (1) To enforce this Chapter and to make appropriate recommendations to proper County authorities when instances of noncompliance with this Chapter have been determined;
  - (2) To make inspections of Food Outlets;
  - (3) To provide the Commissioners Court any information concerning this Chapter and its implementation which may be requested by the Commissioners Court; and
  - (4) To perform all other duties necessary to meet the requirements of this Chapter and the Food Laws.

#### **247.015 Audited Statement**

- (a) Annual Statement. The Auditor is designated by the Commissioners Court to be the authority to file an audited statement under this Chapter and thus has the duty, and necessary powers to prepare an audited statement detailing the receipt and expenditures of funds and fund balances under this Chapter during the prior fiscal year of County and to file this audited statement with the Texas Department of State Health Services with a copy to the Director and the Commissioners Court on or before the 15th day of January each year.
- (b) Failure to Timely File. If the statement is not timely filed, the County may not require the payment of a fee for issuing or renewing a Permit until the statement is filed.

#### **247.016 Permit Required**

- (a) Commencement of Operations. A Person shall not commence operations of or operate a Food Outlet within the County unless that Person has a valid, subsisting Permit issued pursuant to this Chapter.
- (b) Compliance with Food Laws. A Person granted a Permit shall continue to comply with all Food Laws as long as that Person operates a Food Outlet. Only a Person who complies with the Food Laws is entitled to receive and retain a Permit. If the County finds on inspection that an Applicant is not in compliance with Food Laws, the County may re-inspect the Applicant at a later date to determine if the Applicant is in compliance.

- (c) Posting Permit. A Person shall post a valid, subsisting Permit in plain view in or on all Food Outlets regulated by this Chapter.

#### **247.017 Plans and Specifications**

- (a) Requirement for Plan Review. When a Person plans to construct or extensively remodel a Food Outlet or convert an existing structure to a Food Outlet, or for any other reason makes application for a Permit under this Chapter, other than a Renewal Permit, that Person shall submit properly prepared plans and specifications to the Director for review before construction, remodeling, conversion, or operation begins. If the plans and specifications are in compliance with Food Laws, the Director shall approve them and give Applicant a Statement of Plan Approval signed by the Director.
- (b) Requirement for Plan Approval. A Person shall not operate a Food Outlet unless the construction, remodeling, or conversion is completed in accordance with plans and specifications approved by the Director.
- (c) Content of Plans and Specifications. The plans and specifications of the Food preparation, storage, and sales areas shall indicate the proposed layout, equipment arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities.

#### **247.018 Permit and Renewal Application Process**

- (a) Information Required on Permit and Renewal Application. Applications for Permits and renewal Permits to operate Food Outlets shall be made in writing to the Director on a form prescribed by the Director and shall, along with such other information the Director may require, contain the following information:
  - (1) The name, mailing address, residential street address, and business street address of the Applicant.
  - (2) The name of the proposed, or existing, Food Outlet or operation.
  - (3) The street address of the proposed, or existing, Food Outlet, if any.
  - (4) The type of proposed, or existing, Food Outlet.
  - (5) The number of employees of the proposed, or existing, Food Outlet.
  - (6) If the Applicant is a partnership, the name, mailing address, residential street address, and business street address for each member of the partnership; and
  - (7) If the Applicant is a corporation, the name, mailing address, residential street address, and business street address of each officer and director of the corporation and the name and address for service of process on the registered agent of the corporation.

- (b) Documents Required With Permit and Renewal Application. The Applicant shall attach the following documents to its application:
- (1) If an assumed name is used, a date-stamped copy of the Certificate of Assumed Name;
  - (2) If the Applicant is a general partnership, a copy of the fully executed partnership agreement;
  - (3) If the Applicant is a limited partnership, a date-stamped copy of the Certificate of Limited Partnership;
  - (4) If the Applicant is a corporation, a date-stamped copy of the Articles of Incorporation filed with the Secretary of State and a certified copy of the corporate resolution authorizing the corporation to file an application pursuant to this Chapter and designating the officer authorized to execute the application; and
  - (5) For applications other than Renewals, the original Statement of Plan Approval signed by the Director or one (1) copy of plans and specifications of the Food preparation, storage and sales areas of the proposed, or existing, Food Outlet that indicate the layout, equipment arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities.
- (c) Acknowledgement Required on Permit and Renewal Application. The application shall contain the following statements:
- (1) "All of the information contained in this application is true and correct to the best of the Applicant's knowledge and belief."
  - (2) "Applicant acknowledges that the Permit applied for shall be subject to all provisions of the orders and ordinances of Travis County and shall be subject to all provisions of the codes and statutes and all relevant rules adopted under the codes and statutes of the State of Texas governing Food Service Establishments, Retail Food Stores, Mobile Food Units and roadside Food vendors."
- (d) Signature Required. Applications for Permit and renewal Permit shall be signed by the Applicant (if the Applicant is a partnership, by a general partner on behalf of the partnership and, if the Applicant is a corporation, by the officer of the corporation designated to execute the application on behalf of the corporation).
- (e) Payment of Fee. The Applicant shall pay the fees required under this Chapter when an application for Permit or renewal Permit is submitted.

#### **247.019 Procedure for Director's Approval**

- (a) Review of Application. Prior to approval of any application for a Permit, or renewal Permit, the Director shall review the application and supporting

documents to determine if they are in compliance with this Chapter and Food Laws.

(b) Application

- (1) The Applicant shall request the Director to inspect the Food Outlet when the Applicant believes it is in compliance with the approved plans and specifications.
- (2) If the Food Outlet is not in compliance with the plans and specifications approved by the Director, the Director shall issue a notification that states how it does not comply with the Food Laws.
- (3) After the Applicant has brought the Food Outlet into compliance with the approved plans and specifications and Food Laws, the Applicant shall request the Director to inspect the Food Outlet again.

(c) Request for Inspections

- (1) The Applicant shall request the Director to inspect the Food Outlet at least forty-eight (48) hours, excluding weekends and legal holidays, prior to the need for each inspection.
- (2) Within seven (7) days after receipt of any request for inspection, the Director shall inspect the Food Outlet to determine whether it is in compliance with the plans and specifications approved by the Director and Food Laws.

(d) Approval of Permit. After review of the application and inspection of the Food Outlet, if the Food Outlet is in compliance with the plans and specifications approved by the Director, the Director shall approve the Permit within twenty-four (24) hours of the inspection at which the Director determines that the Food Outlet is in compliance.

(e) Denial of Permit

- (1) Criteria. The Director may deny approval of any application for Permit for the following reasons:
  - (A.) the plans and specifications are not in compliance with Food Laws.
  - (B) the Food Outlet is not in compliance with the plans and specifications approved by the Director; or
  - (C) the Applicant has provided any information in the application which was not true and correct at the time that the application was submitted.
- (2) Notification of Denial
  - (A) When one or more of the criteria for denial exist, the Director shall provide the Applicant with a written notification that the Permit is denied unless a written request for a hearing is

received by the Director within ten (10) days after the notification is given.

- (B) If no request for hearing is received by the Director within ten (10) days after the notification is given, the Permit is denied.
- (C) If a request for hearing is received within ten (10) days after the notification of denial is given, a hearing will be held pursuant to 247.022 of this Chapter.

#### **247.020 Issuance of Permits and Renewals**

- (a) Initial Permits. Initial Permits may be issued by the Director upon receipt of the prescribed fee and completed application only if the Food Outlet is in compliance with Food Laws.
- (b) Issuance. Under the conditions established in this Chapter, within ten (10) days after approval, the Director shall issue Permits to Applicants whose applications have been approved. All Permits shall show the date of expiration.
- (c) Renewal Permits. When a Permit has expired, or is about to expire, the Director shall renew the Permit within thirty (30) days after receipt of the prescribed fee and a completed renewal Permit application if the Food Outlet is in compliance with Food Laws, the Permit has never been revoked and is not suspended on the date of application.

#### **247.021 Suspension and Revocation of Permit**

- (a) Suspension
  - (1) Criteria. The Director may suspend a Permit for the following reasons:
    - (A) The Food Outlet is not in compliance with this Chapter or the Food Laws; or
    - (B) The Applicant has provided any information in the application which was not true and correct at the time that the application was submitted.
  - (2) Notification of Suspension
    - (A) When either of the criteria for suspension exists, the Director may send the Permittee a written notification that the Permit is suspended unless a written request for a hearing is received by the Director within ten (10) days after the notification is given. If no request for hearing is received by the Director within ten (10) days after the notification is given, the Permit is suspended until the Food Outlet is in compliance with this Chapter and the Food Laws.

- (B) If a request for hearing is received by the Director within ten (10) days after the notification is given, a hearing will be held pursuant to Sec. 247.022 of this Chapter.
  - (3) Effect of Suspension. A valid, subsisting Permit does not exist when a Permit has been suspended.
- (b) Revocation
- (1) Notification of Revocation. If the Permit of a Food Outlet has been suspended for more than thirty (30) days and the Food Outlet has not been brought into compliance with this Chapter and the Food Laws, the Director may send the Permittee a written notification that the Permit is revoked unless a written request for a hearing is received by the Director within ten (10) days after the notification is given. If no request for hearing is received by the Director within ten (10) days after the notification is given, the Permit shall be revoked and no valid or subsisting Permit shall exist for that Food Outlet. If a request for hearing is received within ten (10) days after the notification is given, a hearing will be held pursuant to 247.022 of this Chapter.
  - (2) Effect of Revocation. A valid, subsisting Permit does not exist when a Permit has been denied or revoked. Any Applicant whose Permit has been denied or any Permittee whose Permit has been revoked may make a new application for a Permit pursuant to this Chapter.

**247.022 Hearing on Denial, Suspension or Revocation**

- (a) Request for Hearing. If an Applicant or Permittee requests a hearing after a notification that a Permit is denied, suspended, or revoked, the Applicant or Permittee may have a hearing before the Health Authority. The Health Authority will set the time and place of the hearing as soon as practicable, but in any event no later than fifteen (15) days after receipt of the request for the hearing.
- (b) Notification of Hearing. The Health Authority shall provide notice of the hearing to the Applicant or Permittee not less than ten (10) days before the hearing is scheduled unless the Applicant or Permittee submits a sworn request for earlier hearing that acknowledges his/her right to ten (10) days' notice under this Chapter and expressly waives that right.
- (c) Hearing Procedures. Hearings held pursuant to this Chapter shall be held in compliance with this 247.022 of this Chapter
- (d) Decision of Hearing. Based on the evidence and arguments presented, the Health Authority shall decide whether to sustain, modify, or rescind the denial, suspension or revocation of the Permit. Within ten (10) days after the hearing is concluded, the Health Authority shall provide the Applicant or Permittee and the Director with a written decision that states the basis on which the

decision was made, the decision that has been made, and the reasons for that decision.

- (e) Records of Hearing. The Director shall maintain a copy of the written decision of the Health Authority for no less than one (1) year or the conclusion of any action appealing a decision of the Health Authority.

#### **247.023 Enforcement**

- (a) Compliance Inspection. The Director may enter the premises of a Food Outlet governed by this Chapter during normal operating hours to conduct inspections to determine whether the Food Outlet is in compliance with Food Laws and orders adopted by County.
- (b) Criminal Enforcement. (Texas Health and Safety Code, Section 437.016)
  - (1) A Person commits an offense if the Person operates a Food Service Establishment, Retail Food Store, Mobile Food Unit, or roadside Food vendor, or any other Food Outlet covered by this Chapter without a Permit as required under this Chapter.
  - (2) An offense under this Chapter is a class "C" misdemeanor.
  - (3) Each day on which a violation occurs constitutes a separate offence.
  - (4) Jurisdiction for prosecution of a suit under this Chapter is in the Justice of the Peace Courts.
  - (5) Venue for prosecution of a suit under this Chapter is in the Justice of the Peace precinct in which the violation is alleged to have occurred.
- (c) Civil Enforcement. (Texas Health and Safety Code, Section 437.015). Whenever it appears that a Food Outlet is required to have a Permit and is operating without a Permit, the County Attorney, City Attorney, or District Attorney may sue in District Court for injunctive relief against the Person who is operating the Food Outlet without a Permit if a Permit is required.

#### **247.024 Certified Food Manager**

- (a) Requirement. Pursuant to Section 437.0076 of the Texas Health and Safety Code, County requires each fixed or mobile retail establishment in which food is prepared on-site for sale to the public that holds a Permit issued by the County to employ at least one Certified Food Manager certified under Subchapter G, Chapter 438 Texas Health and Safety Code.
- (b) Exemptions
  - (1) Any establishment that handles only prepackaged food and does not prepare or package food is not subject to the requirement under this Section 247.024.
  - (2) A child-care facility, as defined in 247.002(7), is exempt from the requirements imposed under this 247.024.

- (3) County may exempt other establishments other than those specified herein upon a finding that the application of this requirement under this 247.024 is not necessary to protect public health and safety.

**247.025 Food Handlers**

- (a) Certification Requirement. Pursuant to 437.0057 of the Texas Health and Safety Code, County requires certification under Subchapter D, Chapter 438, Texas Health and Safety Code, for each Food Handler who is employed by a Food Establishment in which food is prepared on-site for sale to the public and which holds a Permit issued by the County. This section applies without regard to whether the Food Establishment is at a fixed location or is a Mobile Food Unit, as defined in 247.002(20).
- (b) Certification. The requirements of certification under this 247.025 are not more stringent than the requirements of Subchapter D, Chapter 438, Texas Health and Safety Code.
- (c) Exemptions
  - (1) Any establishment that handles only prepackaged food and does not prepare or package food is not subject to the requirements under this Section 247.025.
  - (2) County may exempt a Food Establishment from the requirement of this Section 247.025(a) if the County determines that the application of the requirement of this 247.025(a) is not necessary to protect public health and safety.
- (d) Other Requirements
  - (1) County requires any Food Establishment to post a sign in a place conspicuous to Food-Handler employees, in a form approved by the Director, describing a Food-Handler employee's responsibilities to report certain health conditions to the Permittee under rules described in the Food Laws; or
  - (2) County requires that each Food-Handler employee sign a written agreement in a form approved by the Director to report those health conditions.



Type	Risk Category	Fee
<b>Fixed Food Establishment IFS Risk Category by Size of Establishment/Number of Employees</b>		
<b>Risk 3 (Higher Risk)</b>		
Larger Size - Establishment (> 50 employees)	3A	\$300
Medium Size Establishment (26-50 employees)	3B	\$300
Smaller Size Establishment (1-25 employees)	3C	\$275
<b>Risk 2 (Medium Risk)</b>		
Larger Size Establishment (> 50 employees)	2A	\$300
Medium Size Establishment (26-50 employees)	2B	\$300
Smaller Size Establishment (1-25 employees)	2C	\$275
<b>Risk 1 (Lower Risk)</b>		
Larger Size Establishment (> 50 employees)	1A	\$300
Medium Size Establishment (26-50 employees)	1B	\$275
Smaller Size Establishment (1-25 employees)		
and Child Care Facility[1]	1C	\$250
[1] A Child Care Facility is categorized as 1C, regardless of the number of employees it may have.		
<b>Other Types of Food Vendors</b>		
<b>Mobile Vendor</b>		\$273
Unrestricted Unit		\$198
Restricted Unit		
<b>Temporary Food Establishment</b>		
1-5 Calendar Days		\$98/Booth
6-14 Calendar Days		\$145/Booth

<sup>3</sup> 247.026 Fees replaced January 29, 2019, Item 11; effective date April 1, 2019.