
FOOD SERVICE REGULATIONS

A Revised Ordinance Adopting and Implementing Chapter 246-215 WAC

WHEREAS, the Centers for Disease Control and Prevention (CDC) estimates that each year roughly one in six Americans (or 48 million people) get sick, 128,000 are hospitalized, and 3,000 die of foodborne diseases; and

WHEREAS, CDC has identified reducing foodborne diseases as one of its ten “Winnable Battles” to reduce the leading causes of death and disability in the United States; and

WHEREAS, food safety inspections of restaurants, grocery stores, school cafeterias, caterers, food delivery services, farmers market food vendors, bakeries, meat and fish markets, and taverns are a proven and effective means of ensuring safe food handling techniques and preventing foodborne disease; and

WHEREAS, education and training of food service employees and persons in charge of food establishments are also a proven and effective means of ensuring safe food handling techniques and preventing foodborne disease; and

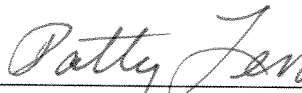
WHEREAS, civil fines have been determined by the legislature to be an appropriate tool for enforcement officers to use to address many minor offenses pursuant to Chapter 7.80 Revised Code of Washington (RCW); and

WHEREAS, the Kitsap Public Health Board has the authority and responsibility to promulgate and enforce the rules adopted by the Washington State Board of Health pursuant to RCW 43.20.050(5), 70.05.060, and 70.46.060; and

WHEREAS, the Washington State Board of Health has adopted revised food service regulations in Chapter 246-215 Washington Administrative Code (WAC) which became effective May 1, 2013.

NOW, THEREFORE, BE IT ORDAINED, that Kitsap Public Health Board Ordinance 2014-01, Food Service Regulations, be adopted and be effective immediately.

APPROVED: December 2, 2014



Mayor Patty Lent, Chair
Kitsap Public Health Board

SECTION 1. AUTHORITY AND PURPOSE

- A. Pursuant to RCW 43.20.050(5), 70.05.060, 70.46.060 and WAC 246-215, the purpose of these regulations is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented.

- B. It is expressly the purpose of these regulations to provide for, and promote the health of, the general public and not to create or otherwise establish or designate any particular class or group of persons who will, or should be, especially protected or benefited by the terms of these regulations.

- C. Nothing contained in these regulations is intended to be, nor shall be construed to create or form the basis for any liability on the part of the Kitsap Public Health Board or the Kitsap Public Health District, or its officers, employees, or agents, for any injury or damage resulting from the failure of any person subject to these regulations to comply with these regulations, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of these regulations on the part of the Kitsap Public Health District.

- D. These regulations are intended to coordinate with other applicable state and local rules for water supply; sewage conveyance, treatment and disposal; solid and hazardous waste handling; smoking in public places; and building, plumbing, and mechanical.

SECTION 2. ADMINISTRATION

- A. The Health Officer and/or his or her designated representative shall administer and enforce these regulations under the authority of RCW 70.05.070.

- B. The Health Officer is authorized to take other such actions as he or she deems necessary to maintain public health and sanitation and to carry out the purpose of this ordinance under the authority of RCW 70.05.070. Any additional policies or standards deemed necessary by the Health Officer shall be in writing and readily available for public inspection and viewing.

- C. The Public Health Board may charge fees for the administration of this ordinance under the authority of RCW 70.05.060.

- D. The Health Officer may collect fees for the administration of this ordinance under the authority of RCW 70.05.070.

SECTION 3. APPLICABILITY AND JURISDICTION

- A. These regulations shall apply to all food establishments and in all territory within the boundaries of Kitsap County, except actions by persons on lands under the jurisdiction of the Federal Government or recognized Native American Nations and Tribes.
- B. The requirements of these regulations apply to an operation that meets the definition of a “**food establishment**” or “**temporary food establishment**” as defined in WAC 246-215-01115.

SECTION 4. ADOPTION BY REFERENCE

- A. The rules and regulations of the Washington State Board of Health for Food Service, as set forth in WAC 246-215, or as amended, are hereby adopted and incorporated herein by reference.
- B. Any additional policies or standards promulgated in writing by the Health Officer pursuant to Section 2.B. are adopted and incorporated herein by reference.

SECTION 5. DEFINITIONS

For the purposes of administration and enforcement of this ordinance, the following definitions shall apply in addition to those found in WAC 246-215.

- A. **Health Officer:** The legally qualified physician who has been appointed by the Kitsap Public Health Board as the health officer of the Kitsap Public Health District, or his or her designated representative.
- B. **Health District:** The Kitsap Public Health District.
- C. **Menu:** A list of food prepared by and served at a food establishment, the style of food served at a food establishment and the method of preparation to serve that style of food.
- D. **Probation:** A period of observation, following a notice and warning, to determine improvement or compliance with the regulations.
- E. **Public Health Board:** The Kitsap Public Health Board.
- F. **Seasonal Food Establishment:** A food establishment or temporary food establishment that operates for a time period of at least six months, but not more than nine months, within a twelve month period.
- G. **Valid permit:** Current, written approval to operate a food establishment by the Health Officer.

SECTION 6. MINIMUM STANDARDS FOR FOOD SERVICE

A. Food Establishment Permits.

1. Permit Required.

- a) A valid permit from the Health Officer is required to operate a food establishment. No person shall operate a food establishment without a valid permit from the Health Officer unless specifically exempted by these regulations, or the Health Officer, to do so.
- b) A food establishment shall not be remodeled (i.e., altered, modified, or expanded) until the Health Officer has reviewed and approved of the remodel proposal. A person proposing the remodel of a food establishment shall apply for a permit in accordance with these regulations.
- c) An existing structure shall not be converted to a food establishment until the Health Officer has reviewed and approved the conversion proposal. A person proposing the conversion of an existing structure to a food establishment shall apply for a permit in accordance with these regulations.
- d) The menu for a food establishment shall not be changed without review and approval by the Health Officer. An applicant shall apply for a menu change in accordance with these regulations unless otherwise approved by the Health Officer.

2. Application for Permit. An applicant shall submit an application for a permit to the Health Officer at least 30 calendar days before the date planned for operating a food establishment. Application for a permit shall be made on forms, or by means, specified by the Health Officer. An applicant shall submit the designated fee with an application for permit.

3. Permit Issuance. A permit to operate a food establishment shall be issued to the applicant by the Health Officer when the Health Officer has determined that:

- a) A complete, accurate, and factual application has been received by, and is on file with, the Health District;
- b) The permit applicant has demonstrated compliance with these regulations; and
- c) The permit applicant has made payment to the Health District for any and all fees required by these regulations. Permit application fees are non-refundable.

Kitsap Public Health Board Ordinance 2014-01
Food Service Regulations

4. Period of Permit Validity.

- a) A permit is valid for up to one calendar year, generally July 1 through June 30, and all permits shall expire on June 30th of each calendar year.
- b) The Health Officer may, at his or her discretion, prorate permit application fees on a semi-annual basis depending on the date of submittal.

5. Conditions for Permit Retention. Upon acceptance of the permit issued by the Health Officer, the permit holder shall comply with these regulations and WAC 246-215.

6. Permit Renewal. A permit holder may apply to renew an expiring permit by:

- a) Submitting the appropriate and designated permit fee to the Health District at least 30 calendar days prior to the expiration of the valid permit.
- b) The Health Officer may renew a permit in accordance with Section 6.A.3.

7. Permit Transfer. A food establishment permit is not transferable.

8. Denial of Permit Application. The Health Officer may deny a permit application in accordance with these regulations.

B. Temporary and Seasonal Food Establishment Permits. The following section applies specifically to temporary food establishments and seasonal food establishments.

1. Permit Required.

- a) A valid permit from the Health Officer is required to operate a temporary or seasonal food establishment. No person shall operate a temporary or seasonal food establishment without a valid permit from the Health Officer unless specifically exempted by these regulations, or the Health Officer, to do so.
- b) The menu for a temporary or seasonal food establishment shall not be changed without review and approval by the Health Officer. An applicant shall apply for a menu change in accordance with Sections 6.B.2. and 6.B.3. unless otherwise approved by the Health Officer.
- c) A temporary or seasonal food establishment shall operate only at a location approved by the Health Officer.

2. Application for Permit. An applicant shall submit an application for a permit to the Health Officer at least 14 calendar days before the date planned for operating a temporary or seasonal food establishment. Application for a permit shall be made on forms, or by

Kitsap Public Health Board Ordinance 2014-01
Food Service Regulations

means, specified by the Health Officer. An applicant shall submit the designated fee with an application for permit.

3. Permit Issuance. A permit to operate a temporary or seasonal food establishment shall be issued to the applicant by the Health Officer when the Health Officer has determined that:
 - a) A complete, accurate, and factual application has been received by, and is on file with, the Health District;
 - b) The permit applicant has demonstrated compliance with these regulations; and
 - c) The permit applicant has made payment to the Health District for any and all fees required by these regulations. Permit application fees are non-refundable.
4. Period of Permit Validity. A permit for a temporary or seasonal food establishment is valid until the expiration date noted by the Health Officer.
5. Conditions for Permit Retention. Upon acceptance of the permit issued by the Health Officer, the permit holder shall comply with these regulations and WAC 246-215.
6. Permit Transfer. A temporary or seasonal food establishment permit is not transferable.
7. Denial of Permit Application. The Health Officer may deny a permit application in accordance with these regulations.

C. Access and Inspection Required.

1. Access Allowed at Reasonable Times after Due Notice. After the Health Officer presents official credentials and provides notice of the purpose of, and intent to conduct, an inspection, the person in charge shall allow the Health Officer to determine if the food establishment is in compliance with these regulations by allowing access to the establishment, allowing inspection, and providing information and records specified in these regulations and to which the Health Officer is entitled according to law, during the food establishment's hours of operation and other reasonable times.
2. Pre-operational Inspection. A pre-operational inspection by the Health Officer shall be completed before a permit is issued to operate a food establishment. The Health Officer may, at his or her discretion, waive the requirement for a pre-operational inspection.
3. Operational/Routine Inspections. The Health Officer shall complete routine operational inspections of food establishments in accordance with the regulations. The person in charge shall allow inspections by the Health Officer in accordance with the regulations.
4. Reinspections. A reinspection may be required by the Health Officer, or requested by the permit holder, in accordance with these regulations.

Kitsap Public Health Board Ordinance 2014-01
Food Service Regulations

- D. Management Requirements for Food Establishments. In accordance with these regulations, a permit holder shall ensure that:
1. A designated person in charge is present at the food establishment during all hours of operation;
 2. The designated person in charge can demonstrate to the Health Officer that they are knowledgeable about foodborne disease prevention, these regulations, and when appropriate the application of the hazard analysis and critical control point principles; and
 3. The designated person in charge is operating the food establishment in compliance with these regulations.
- E. Food Worker Cards Required.
1. The permit holder and person in charge of a food establishment shall ensure that all food employees are in compliance with the provisions of RCW 69.06 and WAC 246-217 for obtaining and renewing food worker cards.
 2. The permit holder and person in charge of a food establishment shall display the original or a copy of the valid food worker card for each food employee at the employee's place of employment for inspection by the Health Officer.
 3. Any person engaged in the operation of a food establishment who handles unwrapped or unpackaged foods shall be in compliance with the food worker card requirements of RCW 69.06 and WAC 246-217.
- F. Employee Health. The permit holder, person in charge, and food employees shall comply with the employee health requirements of the regulations to prevent foodborne illnesses and disease transmission, and to protect public health.

SECTION 7. ENFORCEMENT

- A. Any person operating a food establishment without a valid operating permit issued by the Health Officer may be guilty of a misdemeanor under RCW 70.05.120.
- B. The Health Officer may, at his or her discretion, initiate any one or combination of, the compliance methods identified in WAC 246-215-08600 (11).
- C. The Health Officer may suspend or revoke any permit to operate a food establishment in accordance with WAC 246-215-08600.
- D. The Health Officer may suspend or revoke any permit to operate a food establishment for failure to submit required fees.

Kitsap Public Health Board Ordinance 2014-01
Food Service Regulations

- E. When the Health Officer suspends or revokes any permit to operate a food establishment, the permit holder shall immediately cease all food service operations until a hearing with the Health Officer, or his or her designated representative, finds the food establishment to be in compliance with these regulations and reinstates the permit.
- F. Any person whose food establishment permit has been suspended or revoked may make written application to the Health Officer for reinspection, a hearing, or a new application in accordance with WAC 246-215-08600. The written application for reinspection, hearing, or new application shall be made on forms, or by other means, specified by the Health Officer and shall include the applicable fee.
- G. As an alternative to the enforcement provisions set out above, the Health Officer may determine that the violation of any provision of these regulations is designated as a Class 1 civil infraction pursuant to RCW 7.80, *Civil Infractions*.
- H. The Health Officer may issue a notice of civil infraction if he or she has reasonable cause to believe that a person has violated any provision of these regulations, or has not corrected a violation as required by a written notice and order to correct violation. Civil infractions shall be issued, heard, and determined as described in RCW 7.80 and any applicable court rules.

SECTION 8. FEES

Fees may be charged to cover the cost of administration of these rules in accordance with the current Schedule of Service Charges adopted by the Public Health Board.

SECTION 9. IMMUNITY FROM LIABILITY

Inspections, rules, and orders of the Health Officer resulting from the exercise of the provisions of these regulations shall not in any manner be deemed to impose liability upon the Health Officer, Health District, or its employees, for any injury or damage resulting from the administration and enforcement of these regulations. All actions of the Health Officer shall be deemed an exercise of the police power of the state.

SECTION 10. REPEALER

Kitsap Public Health Board Ordinance 2013-02, Food Service Regulations, is hereby repealed and replaced with Kitsap Public Health Board Ordinance 2014-01, Food Service Regulations. In addition, if any resolution, code, words, rules, or regulations of the Public Health Board are in conflict with these regulations, they are hereby repealed to the extent necessary to give these regulations full force and effect.

Kitsap Public Health Board Ordinance 2014-01
Food Service Regulations

SECTION 11. SEVERABILITY.

Should any paragraph, phrase, sentence or clause of these regulations be declared invalid or unconstitutional for any reason, the remainder of these regulations shall not be affected thereby.

SECTION 12. EFFECTIVE DATE.

This ordinance shall take effect immediately.