

Hidalgo County Health &
Human Services Department

Environmental Division

Policies & Procedures



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PREFACE

Health & Human Services Department-Environmental Division (HCHHSD-ED) is authorized to enforce state and federal laws and regulations concerning food service establishments, retail food stores, mobile food units, and roadside food vendors pursuant to various Texas Health and Safety Code statutes. (e.g. TEX HEALTH & SAFETY CODE ANN. §§ 437.001 *et seq.*, as amended. 25 TEX. ADM. CODE §§ 229.161 – 229.171, 229.173 – 229.175, as amended.) We have also adopted the current FDA Draft Voluntary National Retail Food Regulatory Program Standards.

To enforce state and federal laws and regulations, Hidalgo County by order may require food service establishments, retail food stores, mobile food units, and roadside vendors in unincorporated areas of the county, including areas in extraterritorial jurisdiction of a municipality, to obtain a permit from the county. TEX HEALTH & SAFETY CODE ANN. §§ 437.003, as amended. 12 TEX. ADM. CODE § 229.373, as amended.

Pursuant to Texas Administrative Code Title 25, Chapter 229, Section 169(a)(1), Hidalgo County may impose additional requirements to protect against health hazards related to the conduct of food establishments as a mobile food operation, may prohibit the sale of some or all potentially hazardous food, and when no health hazard will result, may waive or modify certain requirements relating to physical facilities. 25 TEX. ADM. Code § 229.169(a)(1), as amended.

In addition as approved by Hidalgo County Commissioners Court, HCHHSD-ED has imposed additional requirements for mobile vendors and all food establishments effective April 2008. The following are the additional requirements:

Display. A valid decal shall be displayed by a mobile food vendor:

- a. Outside of the service window on the left or right side, used in connection with the mobile food vending operation;
- b. On the trailer fender above the tailgate and license plate of an open, flat bed or enclosed trailer used in connection with the mobile food vending operation;
or
- c. At the top right-hand corner on the front of a pushcart, used in connection with the mobile food vending operation.
- d. ***Term.*** Annual mobile food vendor's unit and/or on foot vendor's permits shall be valid only one (1) year from the date of issue unless sooner, suspended or revoked.
- e. ***Non-transferability.*** Mobile food vendor units and/or on foot vendor's permits shall not be transferred or assigned and shall be considered revoked should

the character of the food vending operation be changed from that specified in the permit.

- f. *Fee.* A fee of \$5.00 will be paid for each mobile unit decal in addition to the health permit.

Food Manager's Certificate: The owner of the food establishment and the Manager of the food establishment must obtain a Food Manager's Certificate before a permit is issued.

Food Handler's Certificate: All employees of a food establishment must obtain a Food Handler's Certificate.

- a. The Food Handler's class will be conducted at the HCHHSD-ED as scheduled.
- b. The individual must call the HCHHSD-ED to sign-up for the class.
- c. *Term.* The Food Handler's Certificate shall be valid only one (1) year from the date issued.
- d. *Fee.* A fee of \$10.00 will be paid prior to attending the Food Handler's class.
- e. A picture food handler's identification card will be issued.

I. PURPOSE

The purpose of these Regulations is to safeguard public health and better assure that consumers obtain food that is safe, unadulterated, and honestly presented by establishing uniform monitoring for food establishments in the unincorporated areas of Hidalgo County, including areas in the extraterritorial jurisdiction of a municipality.

II. DEFINITIONS

Words and phrases used in these Regulations shall have the meanings provided in Texas Health And Safety Code, Chapter 437 and Texas Administrative Code Title 25, Chapter 229. TEX. HEALTH & SAFETY CODE ANN. §§ 437.001 *et seq.*, as amended and 25 TEX. ADM. CODE §§ 229.161 -229.171, and 229.173 – 229.175, as amended.

III. PERMITS

- A. No person shall operate a food establishment in unincorporated areas of the county, including areas in the extraterritorial jurisdiction of a municipality, without having a permit issued by Hidalgo County Health and Human Service Department Environmental Division ("HCHHSD-ED"). Permits are not

transferable from one person to another or from one location to another location, except as permitted by these regulations. A valid permit must be posted in or on every food establishment in a conspicuous place. Only a person who complies with the requirements of state and federal regulations and these rules shall be entitled to a permit.

- B. A food establishment operated solely by a nonprofit organization is exempt from the permitting requirement of these rules, but is not exempt from compliance with state and federal regulations. An organization claiming exemption from these rules as a nonprofit organization shall provide HCHHSD-ED with such documentation as HCHHSD-ED deems necessary to prove the establishment's current tax-exempt status as a nonprofit organization.
- C. An establishment is not a food establishment for the purpose of the rules if it is excluded from the definition of food establishment under Texas Administrative Code Title 25, Chapter 229, Section 162(40), as amended and 25 Tex. Adm. Code § 229.162(40), as amended.

IV. ISSUANCE OF PERMIT

- A. Any person desiring to operate a food establishment must make a written application for a permit on forms provided by HCHHSD-ED. The application must contain the name and address of each applicant, the location and type of the proposed food establishment, the applicable fee, and signature of applicant(s). An incomplete application will not be processed, even if initially accepted. Failure to provide all required information or falsifying information required may result in denial or revocation of the permit. Payment for a permit by a check that is returned for insufficient funds may result in 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.
- B. Any false statement made in an application is a basis for denial or revocation of the permit.
- C. Prior to the approval of an initial permit or the renewal of an existing permit, HCHHSD-ED shall inspect the proposed food establishment to determine compliance with state law and regulations. The applicant or permit holder must pay all applicable fees before a permit is issued.
- D. Any person desiring to construct or extensively remodel a food establishment and whenever an existing structure is converted to use as a food establishment, a person must comply with policies and procedures of the Hidalgo County Planning Department, and the office of the Fire Marshall including but not limited to the On-Site Sewage Facility (OSSF) policies and procedures. The person must present to HCHHSD-ED a routing sheet from Planning Department, approved inspection from Fire Marshall and an approved inspection from OSSF Division. No permit shall be issued until HCHHSD-ED determines by inspection that all

construction, remodeling, or conversion has been performed in accordance with the approved plans and specifications.

- E. Whenever a food establishment is constructed or extensively remodeled, or whenever an existing food establishment is converted to a food establishment, at least one pre-opening inspection shall be made. The purpose of the pre-opening inspection(s) is to ensure compliance with the approved submitted plan, state and federal regulations and any policies and procedures adopted by Hidalgo County.
- F. There shall be an annual renewal of a permit under these policies and procedures. The renewal process shall be initiated by inspection to assure compliance with the state and federal regulations adopted by Hidalgo County.

VI. CRIMINAL PENALTY

- A. A person commits an offense if the person operates a food service establishment, retail food store, mobile food unit, or roadside food vendor without a permit required by Hidalgo County. TEX. HEALTH & SAFETY CODE ANN. § 437.016, as amended.
- B. An offense under this Section is a Class C Misdemeanor.
- C. Each day on which a violation occurs constitutes a separate offense.

VII. INJUNCTION

The District Attorney of Hidalgo County may sue in district court to enjoin a food establishment, retail food store, mobile food unit or roadside food vendor from operating without a permit, if one is required. TEX. HEALTH & SAFETY CODE ANN. § 437.015 as amended.

VIII. ADDITIONAL REQUIREMENTS FOR MOBILE FOOD ESTABLISHMENTS. 25 Tex. Adm. Code § 229.169

- A. All mobile food establishments, including pushcarts and roadside food vendors, shall be readily identifiable by business name, printed in bold black letters not less than three (3) inches in height, no less than one and a half (1 ½) inches in width, permanently affixed, and prominently displayed upon at least two (2) sides of the units.
- B. Prior to the approval of the initial permit or renewal of an existing permit, the applicant or permit holder shall provide written details or plans regarding the systems installed for approved water source, distribution, delivery, and retention and for waste, sewage, and wastewater retention, drainage, and disposal or removal.

- C. A pushcart unit shall not exceed four (4) feet in width, eight (8) feet in length, and eight (8) feet in height including a unit's shade umbrella. In the event of an emergency situation, the unit shall be easily movable, controllable, and maneuverable by one (1) person when the unit is fully loaded. The bottom of the unit shall be at least one (1) foot from the ground. The unit shall not be self-propelled.
- D. Live animals shall be excluded from the immediate adjacent surrounding areas of all mobile food establishments.
- E. If toilet facilities are not provided on a mobile food establishment, a toilet facility shall be located within 300 feet. However, this provision does not apply to restricted mobile units (ie. mobile units that do not engage in any food preparation.). Upon application for a permit hereunder, a mobile unit operator must provide HCHHSD-ED with written permission by the owner of the toilet facility for use of restrooms by the permit holder. A mobile unit may not operate when the facility providing the toilet facilities is not open for business. Restroom facilities must be located within a building and must include a flush-type toilet and hand lavatory supplied with hot and cold running water under pressure. If the toilet facilities are Port-a-cans or similar facilities, the permit will not be approved.
- F. All motor vehicles operating as mobile food establishments shall maintain a current Texas motor vehicle inspection sticker and current Texas motor-vehicle license-plate registration sticker.

IX. FEES

The following fees are to be paid in connection with applications submitted pursuant to these policies and procedures for the issuance or renewal of a permit.

Food Establishment Permit Fee	
Temporary Food Permit (14 Days)	\$25.00
Food Establishments with 1-10 employees	\$50.00
Food Establishments with 10 or more employees	\$100.00

Separate businesses occupying the same booth must purchase individual permits. A business or individual who operates more than one booth at an event must designate the specific location of each booth at the event and must purchase a separate permit for each booth location.

X. ENFORCEMENT

The provisions of these policies and procedures shall be enforced by the Chief Administrative Officer of Hidalgo County Health and Human Services Department or the Chief Administrative Officer's authorized representative. It shall be a violation of the policies and procedures for an individual in a food establishment to deny access to the Chief Administrative Officer or the Chief Administrative Officer's authorized representatives in the performance of the Chief Administrative Officer's duties.

XI. SEVERABILITY

If any section, subsection, clause, phrase, or portion of these policies and procedures 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 these policies and procedures.

WITNESS THE HANDS OF THE PARTIES effective as of the day and year first written.

Hidalgo County Health & Human Services

Chief Administrative Officer

ATTEST:

Hidalgo County

J.D. Salinas, County Judge

Date

APPROVED AS TO FORM:

Atlas & Hall, L.L.P.

By: _____
Stephen L. Crain