



Hidalgo County
Health & Human
Services Department

Hidalgo County Food Establishment Rules & Regulations

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HIDALGO COUNTY RULES & REGULATIONS FOR FOOD ESTABLISHMENTS

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HIDALGO COUNTY RULES & REGULATIONS FOR FOOD ESTABLISHMENTS

ARTICLE 1 — GENERAL PROVISIONS

SECTION 1.1 Definitions

Except as otherwise expressly provided in these Rules, the definitions contained in:

- Texas Health & Safety Code §437.001, and
- 25 Texas Administrative Code §228.2 (Texas Food Establishment Rules)

are hereby adopted by reference and incorporated as if fully set forth herein.

For administrative convenience, non-substantive copies of applicable statutory and regulatory definitions are included in:

- Appendix A — Texas Food Establishment Rules Definitions (25 TAC §228.2)
- Appendix B — Texas Health & Safety Code Chapter 437 Definitions

The Appendices are provided for reference only and do not modify, expand, or supersede the controlling statutory or regulatory text.

In the event of any conflict between these Rules and the referenced state law or administrative rule, the controlling state statute or rule shall govern.

Additional internal terminology used for operational clarity (e.g., permit categories or inspection classifications) may be defined in the Policy & Procedures Manual but shall not create additional regulatory requirements unless formally adopted by Commissioners Court.

SECTION 1.2 Purpose

The purpose of these Rules is to protect public health by regulating food establishments within Hidalgo County and within incorporated municipalities that have not established a local health department to ensure the safe preparation, handling and service of food to consumers. These Rules establish minimum standards for permitting, inspection, sanitation, operation and enforcement.

SECTION 1.3 Authority

These Rules are adopted under the authority of:

- [Texas Health & Safety Code Chapter 437](#)
- [25 Texas Administrative Code \(TAC\) Chapter 228](#) (Texas Food Establishment Rules), as adopted and amended by the Texas Department of State Health Services

The Texas Food Establishment Rules incorporate by reference the U.S. Food and Drug Administration (FDA) Food Code 2017.

No provision of these Rules shall be construed as granting authority to enforce federal regulations beyond the scope delegated to local health departments under Texas law.

SECTION 1.4 Regulatory Authority

For purposes of these Rules, the **Regulatory Authority** shall mean the Hidalgo County Health and Human Services Department, Environmental Health Division, acting through the Health Authority, the Department Director, or authorized Environmental Health personnel designated to administer and enforce these Rules.

The Regulatory Authority is responsible for the administration, permitting, inspection, and enforcement of food establishment regulations within:

- the unincorporated areas of Hidalgo County; and
- incorporated municipalities that have not established their own local health department.

Authorized representatives of the Regulatory Authority include Environmental Health inspectors and other personnel designated to perform inspections and enforce applicable laws and regulations.

1.4.1 Coordination with Other Regulatory Authorities

The Regulatory Authority enforces Texas Health & Safety Code Chapter 437 and the Texas Food Establishment Rules (25 Texas Administrative Code Chapter 228). Certain aspects of food establishment operations may also be subject to regulation by other governmental authorities. Nothing in these Rules shall be construed to expand the County's enforcement authority beyond that granted by Texas law.

Wastewater and sewage disposal matters shall be referred to the appropriate wastewater authority, including the County On-Site Sewage Facilities (OSSF) Division for establishments served by on-site sewage facilities, or the applicable municipal utility or wastewater district for establishments connected to a public sewer system.

Building construction, plumbing systems, fire protection systems, occupancy limits and accessibility requirements are regulated by the appropriate building, fire or code enforcement authorities. The Regulatory Authority may coordinate with these entities when conditions impact food safety but does not enforce building, plumbing, fire or accessibility requirements.

Restroom availability is required in accordance with the Texas Food Establishment Rules. The Regulatory Authority verifies the availability and accessibility of restroom facilities but does not enforce plumbing fixture counts or plumbing code requirements.

Environmental compliance matters, including wastewater discharges and grease pretreatment requirements regulated under 30 Texas Administrative Code, remain under the jurisdiction of the appropriate environmental authority.

Where applicable, the Regulatory Authority may coordinate with the Texas Department of State Health Services (DSHS) or other public health agencies during foodborne illness investigations or public health emergencies.

SECTION 1.5 Scope & Applicability

These Rules apply to all food establishments operating in the unincorporated areas of Hidalgo County and within incorporated municipalities that have not established a local health department under the regulatory jurisdiction of the Hidalgo County Health & Human Services Department (HCHHSD), except where exempted by state law.

These Rules do not apply to:

- Cottage Food Production Operations under Texas Health & Safety Code §437.0192;
- Private households not operating as food establishments;
- Establishments directly regulated by the Texas Department of State Health Services or the Texas Department of Agriculture.

SECTION 1.6 Relationship to TFER and the FDA Food Code

Hidalgo County enforces the requirements of 25 Texas Administrative Code Chapter 228 (Texas Food Establishment Rules (TFER)), as adopted and amended by the Texas Department of State Health Services (DSHS).

The FDA Food Code 2017, incorporated by reference within TFER, is used as the scientific and technical basis for interpreting and applying food safety standards, and does not independently expand the County's enforcement authority.

ARTICLE 2 — PERMITTING

SECTION 2.1 Permit Required

Except as provided by Section 2.7, no person shall operate a food establishment without a valid permit issued by the Regulatory Authority.

A permit is required for:

- Fixed food establishments
- Mobile food units (MFU) not subject to the permitting requirements of Texas Health & Safety Code Chapter 437B
- Temporary food establishments (TFE)
- Central preparation facilities (CPF)
- Any operation defined as a food establishment under 25 TAC 228.2

SECTION 2.2 Issuance of Permit

Application Required:

- No person may operate a food establishment within Hidalgo County and within incorporated municipalities that have not established a local health department without first submitting a complete permit application to the Regulatory Authority on a form prescribed by the County. The application shall include information necessary to determine compliance with applicable food safety laws, including establishment details, ownership, proposed operations, and required certifications.

Review and Inspection:

- The Regulatory Authority shall review the application for compliance with the Texas Health & Safety Code Chapter 437, the Texas Food

Establishment Rules (25 TAC Chapter 228), and these rules. When required, a pre-operational or initial inspection shall be conducted prior to permit issuance.

Issuance of Permit:

- A permit may be issued upon approval of a complete application, payment of applicable fees, and verification of compliance. The permit is specific to the establishment, location, and operator, is non-transferable, and must be conspicuously displayed while in operation.

The applicant bears responsibility for obtaining all zoning, fire, building and planning approvals. The Regulatory Authority may request proof but does not enforce non-health codes.

SECTION 2.3 Permit Application Requirements

Applicants shall submit:

- A completed application
- Applicable fees
- Menu or proposed food items
- Facility layout or MFU plans (if applicable)
- Proof of food manager certification (if there is open handling of time/temperature controlled for safety (TCS) foods)
- Water source and wastewater disposal documentation
- Commissary agreement for MFUs (if applicable)

SECTION 2.4 Pre-Operational Inspection

The Regulatory Authority shall conduct a pre-operational inspection to verify compliance with:

- 25 TAC Chapter 228
- FDA Food Code 2017
- Texas Health & Safety Code Chapter 437

SECTION 2.5 Permit Renewal

Permits expire annually unless otherwise established by Commissioners Court. Renewal requires payment of fees and compliance with all applicable rules.

SECTION 2.6 — Denial of Permit

2.6.1 Purpose

This section establishes procedures for denial of a food establishment permit when an applicant fails to meet applicable statutory and regulatory requirements.

2.6.2 Authority

The Regulatory Authority derives authority to deny a permit from:

- Texas Health & Safety Code §437.014;
- Applicable provisions of 25 Texas Administrative Code Chapter 228; and
- County-adopted Rules and Regulations.

2.6.3 Grounds for Permit Denial

A permit application may be denied when:

- The applicant fails to submit a complete application;
- Required fees are not paid;
- The establishment fails a pre-operational inspection;
- Required corrective actions are not completed within six (6) months;
- The applicant provides false or misleading information on the application;
- Voluntary withdrawal.

2.6.4 Notice of Denial

When a permit is denied, the Regulatory Authority shall issue a written Notice of Denial stating:

- The specific basis for denial;
- The applicable statutory or regulatory reference;
- Any corrective actions required for reconsideration.

2.6.5 Right to Hearing

An applicant whose permit has been denied may request an administrative hearing in accordance with Texas Health & Safety Code §437.014 and County procedural rules.

A written hearing request must be submitted within **ten (10) business days** of receipt of the Notice of Denial unless otherwise specified. Hearings under this section will be conducted in accordance with Section 5.7 of these Rules.

Failure to timely request a hearing may constitute waiver of administrative review.

2.6.6 Effect of Denial

An applicant whose permit has been denied shall not operate as a food establishment unless and until a valid permit has been issued.

Operation without a required permit may constitute a violation of Texas Health & Safety Code §437.016.

SECTION 2.7 Operations Requiring Inspection but Not a Permit

2.7.1 Statutory Exemptions

The following operations do not require a County food permit, but may be inspected to determine compliance with applicable state laws:

A. Cottage Food Production Operations

As defined in Texas Health & Safety Code §437.001 and §437.0191, cottage food operators are exempt from permitting, but the Regulatory Authority may:

- Investigate complaints
- Verify compliance with labeling and allowed food lists
- Require corrective actions if violations are found

B. Nonprofit or Religious Bake Sales / Potlucks

Events conducted by nonprofit organizations or religious groups are exempt from permitting under §437.007, but remain subject to inspection if:

- A foodborne illness complaint is received
- Unsafe food handling is observed

- The event serves TCS foods in a manner inconsistent with state exemptions

C. Farmers Market Vendors (Certain Products Only)

Vendors selling whole produce, properly labeled cottage foods, or non-TCS foods under §437.020 may be inspected if:

- Contamination risk is observed
- Complaints are received
- TCS foods are being sold without proper authorization

D. Sampling Events Without TCS Foods

Businesses providing non-TCS samples (e.g., grocery stores offering samples of packaged foods) may be inspected to ensure:

- Samples are protected from contamination
- Utensils or single-service items are used
- No unauthorized TCS preparation is occurring

2.7.2 Permit-Exempt Facilities Subject to General Sanitation Inspection

Certain food service operations are exempt from County food establishment permitting requirements under state law but remain subject to inspection or investigation by the Regulatory Authority to verify compliance with applicable food safety standards.

This category may include, but is not limited to:

- Childcare Facilities*
- Adult Day Care Facilities*
- Head Start and Early Head Start programs*
- Licensed Foster Homes*
- Nonprofit or government-operated feeding programs serving a defined population
- Other food service operations exempted from permitting under Texas law

Permit exemption under this section does not exempt an operation from compliance with applicable food safety requirements or from inspection or investigation when authorized by state law.

**Licensed childcare facilities regulated by the Texas Health and Human Services Commission (HHSC) are exempt from County food establishment permitting under Texas Health & Safety Code Chapter 437. Similarly, certain facilities, including adult day care facilities, Head Start and Early Head Start programs, licensed foster homes, and other entities regulated under separate state or federal oversight programs, are exempt from County food establishment permitting when food service is regulated as part of that oversight.*

The Hidalgo County Health and Human Services Department does not license or regulate such facilities as food establishments and does not conduct routine food establishment inspections at these locations.

The Regulatory Authority retains authority under Texas Health & Safety Code §§437.002 and 437.009 to investigate complaints, reports of foodborne illness, or conditions presenting an imminent threat to public health. Any action taken pursuant to this authority shall be limited to conditions posing a direct and significant risk to public health.

Permit-exempt status does not preclude assessment of applicable inspection fees as provided in Article 6 of these rules.

2.7.3 Public School Food Service Programs – Routine Food Safety Inspection Required

Public school food service operations, including school cafeterias and other school-operated meal programs, meet the definition of a “food establishment” under Texas Health & Safety Code §437.001 when food is prepared, served, or distributed to students or staff.

Notwithstanding that classification, public schools operating food service programs are exempt from County food establishment permitting requirements unless otherwise required by state law.

Nothing in this exemption shall be construed to exempt public school food service operations from food safety inspection or compliance with applicable food safety standards.

Public school food service operations are subject to routine food safety inspections conducted by the Regulatory Authority in accordance with:

- Texas Health & Safety Code Chapter 437; and
- 25 Texas Administrative Code Chapter 228 (Texas Food Establishment Rules).

Inspection frequency shall be consistent with applicable state and federal program requirements governing school nutrition programs, including the National School Lunch Program and School Breakfast Program, when applicable.

Failure to correct conditions that pose a risk to public health may result in enforcement action authorized under Texas Health & Safety Code Chapter 437, including emergency orders when an imminent health hazard exists.

Inspection fees, if applicable, shall be assessed in accordance with the fee schedule adopted by Commissioners Court. Assessment of an inspection fee does not constitute issuance of a permit and does not alter the permit-exempt status of the school.

2.7.4 Complaint-Based Authority

The Regulatory Authority may inspect any exempt operation upon:

- A foodborne illness complaint;
- A sanitation or contamination concern;
- A public health threat observed in the field;
- Request from law enforcement or another County entity.

2.7.5 Enforcement

Although a permit is not required, exempt operations may be subject to:

- Orders to correct unsafe practices
- Condemnation or disposal of adulterated food
- Immediate cessation of unsafe activities
- Referral to relevant state agencies when appropriate

Exempt operations cannot be required to obtain a permit, but can be required to correct dangerous conditions.

2.7.6 Documentation

Inspectors shall document:

- Findings
- Violations (if any)
- Corrective actions taken
- Whether the operation remains exempt or must transition to a permitted status

ARTICLE 3 — OPERATIONAL REQUIREMENTS

SECTION 3.1 Certified Food Protection Manager (CFPM)

A Certified Food Protection Manager must be present during all hours of operation unless exempted under TFER 228.31 for minimal-risk establishments.

SECTION 3.2 Food Handler Training

All food employees must complete accredited food handler training within 30 days of employment.

SECTION 3.3 Illness Reporting Signage

Food establishments shall post employee illness reporting signage at each handwashing sink, as required under TFER §228.32.

SECTION 3.4 Sanitation & Equipment

Establishments shall comply with all sanitation, equipment, temperature control and physical facility standards in 25 TAC 228 and the FDA Food Code 2017.

3.4.1 Equipment Requirements

- Food establishments shall use equipment that is approved, durable, easily cleanable and suitable for the intended food service operation. Equipment used for cooking, hot or cold holding of time/temperature controlled for safety (TCS) foods or warewashing shall be commercial-grade or certified for food service use.

- Residential or non-commercial equipment may be permitted for limited, low-risk operations when allowed by the Texas Food Establishment Rules and when such equipment does not compromise food safety.

SECTION 3.5 Emergency Operations

Food establishments may operate during power or water outages only with a Regulatory Authority–approved Emergency Operations Plan (EOP) consistent with TFER. For more information about Emergency Operations Plans, see Section 5.6.2 of these Rules.

ARTICLE 4 — MOBILE AND TEMPORARY FOOD OPERATIONS

SECTION 4.1 General Applicability

This Article establishes requirements for Mobile Food Units, Temporary Food Establishments, pushcarts and similar non-fixed food operations. Applicable Requirements are determined by the nature and scope of food handling activities conducted, in accordance with the Texas Food Establishment Rules.

Beginning July 1, 2026, this Article shall not apply to a mobile food vendor required to hold a permit issued by the Texas Department of State Health Services pursuant to Texas Health and Safety Code Chapter 437B.

SECTION 4.2 Mobile Food Units (MFUs)

Mobile Food Units (MFUs) are regulated under the Texas Food Establishment Rules (25 Texas Administrative Code §228.221). Applicable requirements are determined by the nature and scope of food handling activities conducted by the unit, rather than by a specific classification or label.

Some MFUs engage in limited operations involving prepackaged foods or food preparation that does not require water or hand contact. These units may be subject to fewer operational requirements when allowed under state rule.

Other MFUs conduct full food preparation activities, including cooking, utensil washing, and food handling requiring potable water, wastewater retention and sanitation facilities. These units must comply with all applicable Mobile Food Unit requirements under state law.

The Regulatory Authority shall determine applicable requirements based on the unit's menu, equipment, and operations, in accordance with the Texas Food Establishment Rules.

For purposes of interpretation, Mobile Food Units (MFU) as defined by state law include self-propelled and towable units, including food trailers, that are designed to be transportable and not permanently affixed to real property.

4.2.1 Scope of Operations

The terms 'restricted' or 'unrestricted' may be used informally to describe operational differences but do not create separate permit categories or exemptions beyond those provided by state law.

4.2.2 Types of Mobile Food Units

These descriptions are provided for operational clarity and do not establish separate permit categories.

For the purposes of these Rules, MFUs are classified as follows:

A. Restricted Mobile Food Unit

An MFU that offers:

- Prepackaged foods, or
- Limited food preparation (no raw animal products, no complex processes)

B. Unrestricted Mobile Food Unit

An MFU capable of full food preparation, including:

- Cooking raw animal food
- Complex processes requiring hot/cold holding
- Multi-step preparation

C. Pushcart

A manually propelled cart that:

- Operates outdoors

- Has limited water and storage capacity
- May only serve non-TCS foods or TCS foods prepared and packaged in an approved facility

D. Frozen Dessert or Frozen Treat Unit

- A unit serving prepackaged frozen desserts such as ice cream, paletas, shaved ice or similar.

4.2.3 Permit Requirements

- Each MFU must obtain a valid MFU permit before operating within the County.
- A separate permit is required for each MFU.
- MFUs must undergo a pre-operational inspection and annual inspection.
- MFUs must comply with all requirements of 25 TAC §228.221.

4.2.4 Commissary / Central Preparation Facility (CPF) Requirements

All MFUs requiring a commissary shall:

- Maintain a current, signed commissary agreement available for inspection.
- Visit the commissary daily, unless operating under conditions approved by the Regulatory Authority.
- Use the commissary for:
 - Food preparation prohibited in the MFU
 - Water replenishment
 - Wastewater disposal
 - Utensil washing
 - Storage of food, equipment and clean utensils

Commissaries must:

- Hold a valid permit
- Have adequate refrigeration/freezer capacity
- Provide approved handwashing and warewashing facilities
- Provide sanitary wastewater disposal

4.2.5 Water, Wastewater and Grease Requirements

A. Potable Water

MFUs must have adequate potable water capacity for:

- Handwashing
- Utensil washing (if applicable)
- Food preparation/cleaning

Water used in food establishments shall be obtained only from an approved potable water source. Water transported from a private residence or other unapproved location shall not be used for food preparation, handwashing, warewashing or sanitation. Mobile Food Units equipped with potable water retention tanks shall ensure that wastewater is disposed of in a lawful manner at an approved disposal location.

B. Wastewater

- Wastewater tank must be 15% larger than a potable water tank.
- Wastewater must be disposed of only at an approved commissary or sanitary dumping location.
- No wastewater may be discharged onto ground, streets or storm drains.

C. Grease

- Units that generate grease or grease byproducts shall collect and store such materials in closed, leak-proof containers and dispose of them through an appropriate grease recycling or disposal method. Disposal of grease or wastewater into storm drains, sanitary sewer systems, or portable toilets is prohibited.
- Wastewater and grease disposal shall comply with applicable wastewater and environmental regulations, and suspected violations may be referred to the appropriate wastewater utility or regulatory authority.

D. Restroom Access

- MFUs shall ensure that toilet facilities are available for employees and patrons, as applicable. The number and configuration of restroom fixtures shall be determined by the applicable building or plumbing code enforced by the appropriate authority.

4.2.6 Equipment and Structural Requirements

- MFUs must be structurally sound and enclosed when preparing food.
- Restricted MFUs may operate with limited enclosure if serving only prepackaged food.
- Doors and windows shall be tight-fitting and protected against pests (FDA Food Code 6-202.15).
- Mechanical refrigeration must maintain $\leq 41^{\circ}\text{F}$ (FDA Food Code 3-501.16) at all times.
- Hot holding units must maintain $\geq 135^{\circ}\text{F}$ (FDA Food Code 3-501.16).

4.2.7 Operational Requirements

- All food preparation must occur inside the MFU, unless approved by TFER.
- Food employees must have access to toilet facilities during all hours of operation.
- Portable toilets may be used where permitted by the property owner or event organizer and maintained in a sanitary condition. Determination of the number and placement of such facilities is governed by applicable building or plumbing codes and is not enforced by the Regulatory Authority.
- Lighting must be adequate for safe food handling.
- Handwashing sinks must be fully stocked and functional.
- If the establishment is cooking or holding potentially hazardous food, equipment designed for commercial food service is required. For limited or low-risk operations, residential equipment may be allowed if it can safely do the job.

4.2.8 Prohibitions

MFUs may NOT:

- Use home kitchens as commissaries
- Prepare food outside the unit (unless permitted under a TFE)
- Dump grease or wastewater improperly
- Operate without required permits
- Use residential water hoses or non-potable connections

SECTION 4.3 Temporary Food Establishments (TFEs)

4.3.1 Permit Timing and Duration

A Temporary Food Establishment (TFE) permit shall be issued on a per-day basis. Each permit authorizes operation for one calendar day only.

TFEs may obtain permits for up to three (3) consecutive days of operation at the same event or location. A separate **permit fee** shall be required for each day of operation.

No temporary food establishment permit shall authorize operation for more than three consecutive days without approval from the Regulatory Authority as a different type of food establishment. The Regulatory Authority may, in its discretion, waive this requirement upon written request.

Each applicant is limited to three (3) non-consecutive permits annually, for a maximum total of nine (9) days, unless specifically approved by the Regulatory Authority

Temporary Food Establishment (TFE) permits must be obtained prior to the start of the event. Applications submitted after the established deadline, or after the event has commenced, are subject to a late fee in accordance with the County's adopted fee schedule. Late fees shall be assessed beginning on the first day the event operates without a valid permit.

TFE permit fees are non-refundable. A one-time transfer may be approved by the Regulatory Authority in cases of documented event cancellation due to weather, subject to conditions established in the Policy & Procedures Manual.

4.3.2 Risk-Based TFE Categories

TFEs shall be classified into three tiers based on menu risk:

Tier 1 — Prepackaged Only

- Commercially prepackaged, non-TCS foods
- No handwashing station required
- Minimal inspection

Tier 2 — Limited Preparation

- Non-TCS foods prepared onsite
- TCS foods are pre-cooked and reheated
- Handwashing required
- Overhead protection required

Tier 3 — Full Food Preparation

- Cooking or handling raw animal products
- Complex processes
- Extensive equipment required

4.3.3 Facility Requirements

A. Handwashing

- Required for Tier 2 and Tier 3 booths
- Must include potable warm water, soap, paper towels and wastewater catch bucket

B. Warewashing

If utensils will be washed onsite, a 3-compartment setup must be provided or the booth must use:

- Prepackaged utensils
- Spare clean utensil rotation every 4 hours

C. Temperature Control

- Cold holding $\leq 41^{\circ}\text{F}$
- Hot holding $\geq 135^{\circ}\text{F}$
- Digital probe thermometers required

D. Overhead Protection

Required for any booth with open food or equipment.

E. Restroom Access

- For temporary events, the number and placement of portable or permanent restroom facilities shall be determined in accordance with applicable plumbing or building code requirements and coordinated through the event organizer or property owner. The Regulatory Authority verifies the availability and accessibility of restroom facilities but does not enforce plumbing fixture counts.

4.3.4 Prohibited Practices

- Preparation of food at home
- Serving raw or undercooked animal products without a variance
- Storing food on ground or in ice used for beverages
- Selling TCS foods from Tier 1 booths

ARTICLE 5 — ENFORCEMENT

SECTION 5.1 — Inspections

5.1.1 Authority to Inspect

The Regulatory Authority is authorized to enter a food establishment at any reasonable time to conduct inspections as permitted under Texas Health & Safety Code Chapter 437 and 25 TAC Chapter 228.

5.1.2 Types of Inspections

Inspections may include, but are not limited to:

- Pre-Operational Inspections prior to issuance of a permit.
- Routine Inspections conducted at a frequency determined by risk level.
- Follow-Up Inspections to verify correction of violations.
- Complaint-Based Inspections in response to allegations of unsafe or unsanitary conditions.
- Emergency Inspections where an imminent health hazard may be present.

5.1.3 Inspection Determinations

The Regulatory Authority shall:

- Document violations observed;
- Issue notices or corrective orders where appropriate;
- Provide the permit holder with a written inspection report.

5.1.4 Access to Establishment

Permit holders shall provide:

- Immediate access to the facility;

- Access to required employee and operational records;
- Reasonable assistance to facilitate inspection.

SECTION 5.2 — Notice of Violation

5.2.1 Issuance of Notice

A Notice of Violation (NOV) shall be issued for violations that do not constitute an imminent health hazard but require corrective action.

5.2.2 Contents of Notice

Each NOV shall include:

- A description of the violation(s);
- The legal or regulatory reference for each violation;
- Required corrective actions;
- A specific deadline for correction;
- The consequences of failure to comply.

5.2.3 Correction Timelines

Correction deadlines shall be based on:

- Severity and nature of the violation;
- Public health risk;
- Requirements under Health and Safety Code §437.018.

5.2.4 Failure to Correct Violations

If violations are not corrected within the specified timeframe, the Regulatory Authority may:

- Conduct follow-up inspections;
- Initiate suspension under Section 5.3.

5.2.5 Documentation

NOVs shall become part of the official inspection record and be provided to the permit holder.

SECTION 5.3 — Suspension of Permit

5.3.1 Authority to Suspend

When the Regulatory Authority determines that a food establishment has failed to comply with applicable requirements of these Rules, Texas Health and Safety Code Chapter 437, or 25 Texas Administrative Code Chapter 228, and such noncompliance warrants suspension of the permit, the Regulatory Authority shall issue a Notice of Intent to Suspend Permit.

A permit may be suspended with prior notice if:

- Violations cited in an NOV are not corrected;
- Access for inspection is denied; or
- The permit holder interferes with or obstructs the Regulatory Authority;
- Material misrepresentation or omission of required information by the permit holder.;
- Failure to obtain required approval from the Regulatory Authority before making structural, equipment, or operational changes.

5.3.2 Notice of Intent to Suspend

Written notice shall include:

- A description of the violations or conditions constituting noncompliance;
- Corrective actions required to achieve compliance;
- Timeframe within which corrective actions must be completed;
- The right to request an administrative hearing.

The permit holder may request an administrative hearing to contest the proposed suspension. The request must be submitted in writing to the Regulatory Authority within **10 business days** of receipt of the Notice of Intent to Suspend. A Notice of Intent to Suspend is considered received when it is hand-delivered to the owner, manager, or person in charge; or when it is delivered via certified mail, return receipt requested, to the owner at the last known address.

If a request for hearing is not received within the specified timeframe, the permit holder shall be deemed to have waived the right to a hearing, and the Regulatory Authority may proceed with issuance of a Final Order of Permit Suspension.

Any administrative hearing under this Section will be conducted in accordance with Section 5.7 of these Rules.

5.3.3 Final Order of Permit Suspension

The Regulatory Authority may issue a Final Order of Permit Suspension when:

- The permit holder fails to correct violations identified in a Notice of Intent to Suspend within the prescribed timeframe, and
- The permit holder waives or fails to timely request an administrative hearing; or
- A hearing has been conducted and the determination supports suspension of the permit.

5.3.4 Effect of Suspension

During suspension:

- All food operations shall cease;
- The establishment shall remain closed until reinstated;
- The permit holder must correct cited priority violations.

5.3.5 Continued Violations

Administrative Penalties may be assessed if violations remain uncorrected, or hazards recur.

SECTION 5.4 — Reinstatement of Permit

A permit shall be reinstated when::

- Violations have been corrected
- Payment of applicable reinspection fees
- Completion of any required documentation
- Verification inspection scheduled within 1-2 business days upon request
- A reinspection confirms compliance
- Written approval is issued by the Regulatory Authority.

SECTION 5.5 — Administrative Penalties

5.5.1 Authority

Pursuant to Texas Health & Safety Code §437.018, Hidalgo County is authorized to assess administrative penalties against a person who violates:

- Texas Health & Safety Code Chapter 437; or
- A rule adopted under Chapter 437, including 25 Texas Administrative Code Chapter 228 (Texas Food Establishment Rules), as adopted by the County.

Administrative penalties assessed under this section are civil in nature and are separate from permit suspension, emergency orders, or criminal prosecution.

Assessment of an administrative penalty is discretionary and shall be based on the facts and circumstances of each case.

5.5.2 Right to Hearing

A person against whom a penalty is assessed under this Section may challenge the penalty by requesting a hearing within **ten (10) business days** of receipt of the enforcement notice. Hearings under this section will be conducted in accordance with Section 5.7 of these Rules.

Failure to timely request a hearing may constitute waiver of administrative review.

SECTION 5.6 — Imminent Health Hazards

5.6.1 Definition

An imminent health hazard is a situation that poses a significant threat to public health and requires immediate corrective action, including but not limited to:

- Fire
- Flood
- Extended interruption of electrical or water service.
 - FDA Food Code §8-404.11 (Ceasing Operations and Reporting) (incorporated by reference at 25 Texas Administrative Code §228.1) provides that:
 - Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory

authority may agree to continuing operations in the event of an extended interruption of electrical or water service if:

- A written emergency operating plan has been approved;
 - Immediate corrective action is taken to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption; and
 - The regulatory authority is informed upon implementation of the written emergency operating plan.
- The adoption of emergency operating plans is governed by Section 5.6.2 of these Rules.
- Sewage backup or lack of wastewater disposal
 - Misuse of poisonous or toxic materials
 - Onset of an apparent foodborne illness outbreak
 - Gross insanitary occurrence or condition (e.g. severe pest infestation, significant filth, waste accumulation, or structural disrepair)

When an imminent health hazard exists, the Regulatory Authority may order **immediate full or partial closure** without prior notice.

5.6.2 Emergency Conditions and Use of Emergency Operation Plans (EOP)

When an imminent health hazard exists, the Regulatory Authority may require the immediate cessation of food operations in accordance with applicable provisions of the FDA Food Code as adopted by reference through the Texas Food Establishment Rules.

Food establishments may maintain an EOP describing procedures to protect food, maintain sanitation, and continue limited operations during certain emergency conditions.

When an emergency condition occurs, the Regulatory Authority may review the establishment's EOP to determine whether safe operation can be maintained. If the plan demonstrates that food safety can be adequately protected and implemented controls are verified, the Regulatory Authority may allow continued operation under specified conditions.

If the emergency condition presents an imminent health hazard that cannot be adequately controlled, the Regulatory Authority shall order the immediate cessation of food operations until the hazard is corrected.

The presence of an EOP does not guarantee continued operation and does not limit the authority of the Regulatory Authority to order immediate closure when necessary to protect public health.

5.6.3 Immediate Closure; Right to Hearing

The Regulatory Authority may issue an Emergency Closure Order when an imminent health hazard is present. An Emergency Closure Order takes effect **immediately**, even when no prior notice has been given. An Emergency Closure Order is effective for **ten (10) business days**, unless extended by order of the Health Authority or their designee.

A permit holder who wishes to challenge an emergency closure order must submit a written request for a hearing within **three (3) business days**.

Hearings shall be conducted at a reasonable time and location designated by the County. Written notice of the hearing shall be provided to the permit holder not less than **three (3) business days before** the hearing is scheduled unless the permit holder submits a written request for an earlier hearing. Hearings under this section shall be conducted with the Health Authority or their designee as the Hearing Officer.

Except as otherwise provided in this section, hearings will be conducted pursuant to Section 5.7.4 of these Rules.

At the hearing, the Health Authority or their designee may:

- Uphold the Emergency Closure Order and extend it until
 - the hazard has been corrected,
 - any applicable Reinspection Fee has been paid,
 - the Regulatory Authority has verified compliance, and
 - the Regulatory Authority has issued written authorization to reopen;
- Uphold the Emergency Closure Order without extending it; or
- Terminate the Emergency Closure Order

The Hearing Officer shall issue a written decision within **five (5) business days** following conclusion of the hearing, unless additional time is reasonably required.

The decision shall state the decision that was made, the legal authority for the decision, and the factual basis for the decision.

The written decision constitutes final administrative action.

If a permit holder does not timely request a hearing, the Health Authority or their designee may issue an order extending the Emergency Closure Order until:

- the hazard has been corrected,
- any applicable Reinspection Fee has been paid,
- the Regulatory Authority has verified compliance, and
- the Regulatory Authority has issued written authorization to reopen

SECTION 5.7 — Hearings

5.7.1 Right to Hearing

A permit holder who is subject to suspension, denial, administrative penalty, or other enforcement action under Texas Health & Safety Code Chapter 437 is entitled to an administrative hearing in accordance with **Texas Health & Safety Code §§437.014, 437.0185**.

This section establishes the County's procedural framework for conducting such hearings.

5.7.2 Request for Hearing

A written request for hearing must be submitted to the Regulatory Authority within **ten (10) business days** of receipt of the enforcement notice, unless a different deadline is specified in the notice. A Notice is considered received when it is hand-delivered to the owner, manager, or person in charge; or when it is delivered via certified mail, return receipt requested, to the owner at the last known address.

Failure to submit a timely request may result in waiver of the right to administrative review.

5.7.3 Scheduling of Hearing

Upon receipt of a timely hearing request, the hearing shall be scheduled within **ten (10) business days**, unless extended by mutual agreement of the parties.

Hearings shall be conducted at a reasonable time and location designated by the County. Written notice of the hearing shall be provided to the permit holder not less than **five (5) business days before** the hearing is scheduled unless the permit holder submits a written request for an earlier hearing.

5.7.4 Conduct of Hearing

The hearing shall:

- Be conducted by the Health Department Director or their designee as the Hearing Officer;
- Provide the permit holder an opportunity to present evidence, testimony, and witnesses;
- Allow the Regulatory Authority to present evidence supporting the enforcement action.

The Regulatory Authority bears the burden of demonstrating that the enforcement action is supported by applicable law and documented violations.

Administrative hearings are informal proceedings and are not bound by the formal rules of evidence used in courts. The hearing officer may consider any evidence that is reasonably relevant and reliable but may exclude evidence that is irrelevant or unnecessarily repetitive.

5.7.5 Decision

The Hearing Officer shall issue a written decision within **ten (10) business days** following conclusion of the hearing, unless additional time is reasonably required.

The decision shall state the decision that was made, the legal authority for the decision, and the factual basis for the decision.

The written decision constitutes final administrative action.

5.7.6 Emergency Orders

An Emergency Closure Order issued in response to an imminent health hazard remains in effect pending administrative review unless modified by a court of competent jurisdiction.

The filing of a hearing request does not automatically stay an Emergency Closure Order.

SECTION 5.8 — Criminal Penalties

Operating without a valid permit or violating these Rules may constitute a misdemeanor offense under Texas Health & Safety Code §437.016.

ARTICLE 6 — FEES & ADMINISTRATION

SECTION 6.1 Fee Schedule

Permit and inspection fees shall be established by separate action of the Commissioners Court and maintained on file with the Regulatory Authority.

SECTION 6.2 Payment of Fees

6.2.1 Timing of Payment

Fees are due at the time of issuance of a permit or renewal.

6.2.2 Late Fees

If a required fee is not paid by the expiration date of the permit a late fee may be assessed in accordance with the fee schedule adopted by the County.

Failure to remit required fees within 90 days will result in denial of the pending application. A new application will need to be submitted.

Late fees are administrative in nature and do not constitute enforcement action.

Late fees for Temporary Food Establishment (TFE) permits shall apply when a permit is not obtained prior to the event or on-site issuance and shall be assessed in accordance with the fee schedule adopted by the County.

6.2.3 Consequences of Non-Payment

Failure to pay required fees, including any applicable late fees, may result in non-renewal of a permit.

6.2.4 Inspection Fees for Permit-Exempt Operations

Food establishments or food operations that are exempt from County food establishment permitting requirements but are subject to inspection under state law may be assessed an inspection fee in accordance with the fee schedule adopted by

the County. Assessment of an inspection fee does not constitute issuance of a permit and does not alter the permit-exempt status of the operation.

SECTION 6.3 Refunds

Refunds may be granted in cases of:

- Duplicate payment
- Clerical error
- Permit issuance error

Refunds shall not be issued for:

- Voluntary cessation of business
- Failure to comply with these Rules

SECTION 6.4 Recordkeeping Requirements

Food establishments shall maintain:

- Food handler and CFPM records
- Commissary agreements (MFUs)
- Temperature logs when required
- Water system maintenance records (e.g. potable water tank & hoses sanitation records)
- Pest control records (if applicable)

Records must be made available upon request.

SECTION 6.5 Public Information

Inspection reports and enforcement actions are subject to release under the Texas Public Information Act, except where protected by law.

SECTION 6.6 Severability

If any section, subsection, clause, phrase or portion of these rules and regulations is, for any reason, held invalid or unconstitutional by a 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 rules and regulations.

ARTICLE 7 — APPENDICES

- Appendix A — Texas Food Establishment Rules Definitions (25 TAC §228.2)
- Appendix B — Texas Health & Safety Code Chapter 437 Definitions
- Appendix C — HCHHSD Regulatory Forms

HIDALGO COUNTY
HEALTH AND HUMAN SERVICES DEPARTMENT
ENVIRONMENTAL HEALTH DIVISION

RULES AND REGULATIONS
FOR THE REGULATION OF FOOD ESTABLISHMENTS

APPENDIX A

Texas Food Establishment Rules Definitions
25 Texas Administrative Code §228.2

Adopted by reference as part of the Hidalgo County Rules and Regulations for the Regulation of
Food Establishments.

The text contained in this Appendix is reproduced for reference purposes only. In the event of any discrepancy,
the official version of the statute or administrative rule as published by the State of Texas shall control.

TITLE 25 HEALTH SERVICES
PART 1 DEPARTMENT OF STATE HEALTH SERVICES
CHAPTER 228 RETAIL FOOD ESTABLISHMENTS
SUBCHAPTER A GENERAL PROVISIONS

§228.1. Purpose and Regulations.

(a) The purpose of this chapter is to implement Texas Health and Safety Code, Chapter 437, Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors.

(b) The department adopts by reference the U.S. Food and Drug Administration (FDA) Food Code 2017 (Food Code) and the Supplement to the 2017 Food Code.

(c) The department does not adopt by reference the following sections, paragraphs, and subparagraph of the FDA Food Code, 3-202.13, 3-202.14(C), 3-202.18(A), 5-102.11, 5-102.13, 5-102.14, 5-104.11(B)(1), 6-101.11(B), 6-202.18, 8-201.11, 8-202.10, 8-203.10, 8-302.11-14, 8-303.10-30, 8-304.10, 8-304.20, 8-401.10, 8-401.20, 8-402.10, 8-402.20-40, 8-403.40, and 8-501.10-40, and the definitions for "accredited program," "drinking water," "food establishment," "game animal," "general use pesticide," "public water system," "regulatory authority," "safe material," "service animal," and "vending machine location."

(d) In the event of a conflict, Texas law and rules in this chapter prevail over the adopted Food Code.

§228.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) Accredited program--Food manager certification program that has been evaluated and listed by the department and conforms to standards set by the department in §229.172 of this title (relating to Accreditation of Certified Food Management Programs).

(2) Adulterated food--A food deemed to be adulterated as specified in the Texas Health and Safety Code, §431.081.

(3) Bed and breakfast extended--An establishment with more than seven rooms for rent or an establishment that provides food service other than breakfast to overnight guests.

(4) Bed and breakfast food establishment--A bed and breakfast that provides food service to customers in addition to its overnight guests.

(5) Bed and breakfast limited--An establishment that has seven or fewer rooms for rent, serves breakfast to overnight guests, and is not a retail food establishment.

(6) Central preparation facility--An approved and permitted facility or space

where food is prepared, stored, and packaged.

(7) Code of Federal Regulations (CFR)--Citations to the CFR refer sequentially to the Title, Part, and Section numbers, such as 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

(8) Common carrier--An individual or business that advertises to the public that it is available for hire to transport people or property, including food, in exchange for a fee.

(9) Cottage food production operation--An individual, operating out of the individual's home, who:

(A) produces at the individual's home:

(i) a baked good that is not a time and temperature control for safety food (TCS food), as defined in §229.661(b)(13) of this title (relating to Cottage Food Production Operations);

(ii) candy;

(iii) coated and uncoated nuts;

(iv) unroasted nut butters;

(v) fruit butters;

(vi) a canned jam or jelly;

(vii) a fruit pie;

(viii) dehydrated fruit or vegetables, including dried beans;

(ix) popcorn and popcorn snacks;

(x) cereal, including granola;

(xi) dry mix;

(xii) vinegar;

(xiii) pickled fruit or vegetables, including beets and carrots, that are preserved in vinegar, brine, or a similar solution at an equilibrium pH value of 4.6 or less;

(xiv) mustard;

(xv) roasted coffee or dry tea;

(xvi) a dried herb or dried-herb mix;

(xvii) plant-based acidified canned goods;

(xviii) fermented vegetable products, including products that are

refrigerated to preserve quality;

(xix) frozen raw and uncut fruit or vegetables; or

(xx) any other food that is not a TCS food, as defined in §229.661(b)(13) of this title.

(B) has an annual gross income of \$50,000 or less from the sale of food described by subparagraph (A) of this paragraph;

(C) sells foods produced under subparagraph (A) of this paragraph only directly to consumers; and

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

(10) Department--The Texas Department of State Health Services.

(11) Drinking water--Traditionally known as "potable water" and that meets the standards set forth in 30 TAC Chapter 290, Subchapter F (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems). Drinking water includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "non-drinking water."

(12) Event--A unique public gathering at which food products are served and for which an appropriate regulatory authority grants permission, whether by permit, license, or another official written document.

(13) Exotic animal--Member of a species of game animals not indigenous to this state, including axis deer, nilgai antelope, red sheep, or other cloven-hoofed ruminant animals.

(14) Food establishment--

(A) A food establishment is an operation that:

(i) stores, prepares, packages, serves, or vends food directly to the consumer, or otherwise provides food for human consumption, such as 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 machine location, self-service food market, conveyance used to transport people, institution, or food bank; and

(ii) 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.

(B) Food establishment includes:

(i) 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

(ii) an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location and where consumption is on or off the premises regardless if there is a charge for the food.

(C) Food establishment does not include:

(i) an establishment that offers only prepackaged foods that are not TCS foods;

(ii) a produce stand that only offers whole, uncut fresh fruits and vegetables;

(iii) a food processing plant, including one that is located on the premises of a food establishment;

(iv) a cottage food production operation;

(v) a bed and breakfast limited as defined in this section; or

(vi) a private home that receives catered or home-delivered food.

(15) Game animals--Wild animals that are indigenous to this state and not amenable to the Texas Meat and Poultry Inspection Act, Texas Health and Safety Code, Chapter 433, for which the hunter must obtain a hunting license from the Texas Parks and Wildlife Department before hunting animals, such as white-tailed deer, mule deer, pronghorn antelope, and big horn sheep.

(16) General use pesticide--A pesticide that is not classified by the United States Environmental Protection Agency for restricted use as specified in 40 CFR §152.175 or is not limited to use by or under the direct supervision of a certified applicator licensed by the Texas Department of Agriculture or by the Texas Structural Pest Control Service as applicable.

(17) Group residence--A private or public housing corporation or institutional facility that provides living quarters and meals. The term includes a domicile for unrelated persons, such as a retirement home, correctional facility, or a long-term care facility.

(18) Livestock--Cattle, bison, sheep, swine, goats, horses, mules, other equine, poultry, domesticated rabbits, exotic animals, or domesticated game birds.

(19) Mobile food unit (MFU)--A vehicle-mounted, self or otherwise propelled, self-contained food service operation designed to be readily movable (including catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. An MFU must completely retain its mobility at all times. An MFU does not include a stand or a booth. A roadside food vendor is classified as an MFU.

(20) Outfitter operation--Any operation, such as trail rides, bus tours, harbor cruises, or river raft trips, in which food is offered to patrons and which operates out of a central preparation location or food establishment.

(21) Plumbing Code--The International Plumbing Code, as amended, including appendices C, E, F, and G, published by the International Code Council as amended by 16 TAC §70.101 (relating to Amendments to Mandatory Building Code), the Uniform Plumbing Code, as amended, including appendices required by the regulatory authority, as published by the International Association of Plumbing and Mechanical Officials as referenced in Occupations Code, Title 8, Chapter 1301, §255 (relating to Adoption of Plumbing Codes), or a Plumbing Code adopted by a local regulatory authority, whichever is more stringent.

(22) Private water system--A drinking water system that is not connected to a public water system and not regulated by the Texas Commission on Environmental Quality.

(23) Public water system--A drinking water system that complies with 30 TAC §§290.101 - 290.122 (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems).

(24) Pushcart--A non-self-propelled MFU limited to serving foods requiring a limited amount of preparation as authorized by the regulatory authority and readily movable by one or two persons. A pushcart is classified as an MFU. A pushcart does not include non-self-propelled units owned and operated within a retail food store. This type of MFU requires the support of a central preparation facility.

(25) Regulatory authority--The department, the local (municipality, county, or public health district), federal enforcement body, or authorized representative having jurisdiction over the food establishment.

(26) Roadside food vendor--A person who operates a mobile retail food store from a temporary location adjacent to a public road or highway. Food is not prepared or processed by a roadside food vendor. A roadside food vendor is classified as an MFU.

(27) Safe material--An article manufactured from or composed of materials that may not reasonably be expected to result either directly or indirectly in the article becoming a component of or otherwise affecting the characteristics of any food. An additive that is used as specified in the Texas Health and Safety Code, Chapter 431, or other materials that are not additives and that are used in conformity with applicable regulations of the U.S. Food and Drug Administration.

(28) Self-service food market--A market that is unstaffed and offers prepackaged non-TCS food and prepackaged refrigerated or frozen TCS food that is stored in equipment that complies with §228.225 of this chapter (relating to Self-Service Food Market).

(29) Service animal--A canine that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory,

psychiatric, intellectual or other mental disability as specified in Texas Health and Safety Code, §437.023.

(30) Vending machine location--The room, enclosure, space, or area where one or more vending machines are installed and operated and that 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.

HIDALGO COUNTY
HEALTH AND HUMAN SERVICES DEPARTMENT
ENVIRONMENTAL HEALTH DIVISION

RULES AND REGULATIONS
FOR THE REGULATION OF FOOD ESTABLISHMENTS

APPENDIX B

Texas Health and Safety Code
Chapter 437.001

Adopted by reference as part of the Hidalgo County Rules and Regulations for the Regulation of
Food Establishments.

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HEALTH AND SAFETY CODE

TITLE 6. FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES

SUBTITLE A. FOOD AND DRUG HEALTH REGULATIONS

CHAPTER 437. REGULATION OF FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, MOBILE FOOD UNITS, AND ROADSIDE FOOD VENDORS

Sec. 437.001. DEFINITIONS. In this chapter:

(1) "Acidified canned goods" means food with a finished equilibrium pH value of 4.6 or less that is thermally processed before being placed in an airtight container.

(1-a) "Beekeeper" has the meaning assigned by Section [131.001](#), Agriculture Code.

(2) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 3.1639(79), eff. April 2, 2015.

(2-a) "Baked good" includes cookies, cakes, breads, Danish, donuts, pastries, pies, and other items that are prepared by baking the item in an oven.

(2-b) "Cottage food production operation" means an individual, operating out of the individual's home, or a nonprofit organization that:

(A) produces at the individual's home or the home of an individual who is a director or officer of the nonprofit organization, as applicable, any food other than:

(i) meat, meat products, poultry, or poultry products;

(ii) seafood, including seafood products, fish, fish products, shellfish, and shellfish products;

(iii) ice or ice products, including shaved ice, ice cream, frozen custard, popsicles, and gelato;

(iv) low-acid canned goods;

(v) products containing cannabidiol or tetrahydrocannabinol; or

(vi) raw milk and raw milk products;

(B) has an annual gross income of \$150,000 or less from the sale of food described by Paragraph (A), as the department annually adjusts for inflation using the Consumer Price Index for All Urban Consumers (CPI-U) published by the United

States Bureau of Labor Statistics or its successor in function;

(C) sells the foods produced under Paragraph (A) directly to consumers or to a cottage food vendor; and

(D) delivers products to the consumer or cottage food vendor at the point of sale or another location designated by the consumer or cottage food vendor.

(3) "Cottage food vendor" means a person located in this state who:

(A) has a contractual relationship with a cottage food production operation; and

(B) sells directly to consumers located in this state on behalf of the cottage food production operation a food other than a time and temperature control for safety food.

(3-a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 3.1639(79), eff. April 2, 2015.

(3-b) "Farm stand" means a premises owned and operated by a producer of agricultural food products at which the producer or other persons may offer for sale produce or foods described by Subdivision (2-b)(A).

(3-c) "Fermented vegetable product" means a low-acid vegetable food product subjected to the action of certain microorganisms that produce acid during their growth and reduce the pH value of the food to 4.6 or less.

(4) "Food," "food service establishment," "retail food store," "mobile food unit," "roadside food vendor," and "temporary food service establishment" have the meanings assigned to those terms by rules adopted under this chapter.

(5) "Home" means a primary residence that contains a kitchen and appliances designed for common residential usage.

(5-a) "Nonprofit organization" means an organization exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code.

(6) "Produce" means fresh fruits or vegetables.

(7) "Honey production operation" means a beekeeper that sells or distributes honey or honeycomb the beekeeper produces that is or from which is extracted pure honey as defined by Section

[131.001](#), Agriculture Code, that is raw and not blended with any other product or otherwise adulterated.

(8) "Time and temperature control for safety food" means a food that requires time and temperature control for safety to limit pathogen growth or toxin production. The term includes a food that must be held under proper temperature controls, such as refrigeration, to prevent the growth of bacteria that may cause human illness. The term:

(A) may include a food that contains protein and moisture and is neutral or slightly acidic, such as meat, poultry, fish, and shellfish products, pasteurized and unpasteurized milk and dairy products, raw seed sprouts, baked goods that require refrigeration, including cream or custard pies or cakes, and ice products; and

(B) does not include a food that uses time and temperature control for safety food as ingredients if the final food product does not require time or temperature control for safety to limit pathogen growth or toxin production.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 617, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1317 (S.B. [81](#)), Sec. 5, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 653 (H.B. [970](#)), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1275 (H.B. [1382](#)), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1119, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.1639(79), eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 265 (S.B. [1766](#)), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 590 (S.B. [572](#)), Sec. 1, eff. September 1, 2019.

Acts 2025, 89th Leg., R.S., Ch. 303 (S.B. [541](#)), Sec. 1, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 303 (S.B. [541](#)), Sec. 2, eff.
September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 548 (H.B. [519](#)), Sec. 1, eff.
September 1, 2025.

HIDALGO COUNTY
HEALTH AND HUMAN SERVICES DEPARTMENT
ENVIRONMENTAL HEALTH DIVISION

RULES AND REGULATIONS
FOR THE REGULATION OF FOOD ESTABLISHMENTS

APPENDIX C

HCHHSD Regulatory Forms



Hidalgo County Health & Human Services Department Environmental Health Division

1304 S. 25th Ave.
Edinburg, TX 78542
Phone: (956) 383-0111
environmental@hchd.org

NOTICE OF VIOLATION (NOV)

Owner / Operator: _____ Date: _____

Business Name: _____ Permit Number: _____

Address: _____ City: _____ State: _____ Zip: _____

Reason for Inspection:

- Routine Complaint-Based Follow-Up Pre-Operational Permit Renewal

Violations Identified: *Reference to finding in Inspection Report attached.*

Required Corrective Actions to Achieve Compliance

The operator must correct the violations listed in the inspection report attached within the specified timeframes:

- Priority Violations: Within 2 days
- Priority Foundation Violations: Within 10 days
- Core Violations: Within 30 days

Follow-up inspection is scheduled for:

(Date)

Failure to correct violations may result in **Permit Suspension**.

Inspector Comments

Copy left on premises by:

Health Inspector Name: _____ Signature: _____

Receipt of Notice - *The Person in Charge acknowledges receipt of this Notice of Violation.*

Person in Charge: _____ Signature: _____

Date: _____

If you have any questions, please contact our office at 956-383-0111.

Sincerely,

Diana Cortes-Baca, MSDS
Program Manager III
Public Health Environmental Services



**NOTICE OF INTENT TO
SUSPEND FOOD ESTABLISHMENT PERMIT**

Owner / Operator: _____ Date: _____

Business Name: _____ Permit Number: _____

Address: _____ City: _____ State: _____ Zip: _____

The Regulatory Authority, Hidalgo County Health and Human Services, has determined that the food establishment identified above is not in compliance with applicable provisions of Texas Health & Safety Code Chapter 437 and 25 Texas Administrative Code Chapter 228 (Texas Food Establishment Rules).

Pursuant to Chapter 437 and the Hidalgo County Rules and Regulations, the Regulatory Authority intends to suspend the above-referenced permit for the following reason(s):

- Violations cited in an Notice of Violation (NOV) are not corrected
- Access for inspection is denied
- The permit holder interferes with or obstructs the Regulatory Authority
- Material misrepresentation or omission of required information by the permit holder
- Failure to obtain required approval from the Regulatory Authority before making structural, equipment, or operational changes

Right to Administrative Hearing

You have the right to request an administrative hearing to contest this proposed suspension. A copy of the Administrative Hearing request form is attached or may be obtained at the HCHHSD Main Office at the address listed above or found online at <https://www.hchd.org/31/Environmental>.

Owner/Operator has until _____(date) to request an administrative hearing. If a hearing is not requested within the timeframe stated above:

- Your right to a hearing will be considered waived.
- The permit suspension will become final and effective on _____(date)

Effect of Final Suspension

If the suspension becomes effective:

- All food operations shall cease;
- The establishment shall remain closed until reinstated;
- The permit holder must correct cited priority violations.

Conditions for Reinstatement (If Suspension Becomes Effective)

Prior to reinstatement, the establishment must:

- Violations have been corrected
- Payment of applicable reinspection fees
- Completion of any required documentation
- Verification inspection scheduled within 1-2 business days upon request
- A reinspection confirms compliance
- Written approval is issued by the Regulatory Authority

If you have any questions, please contact our office at 956-383-0111.

Sincerely,

 Diana Cortes-Baca, MSDS
 Program Manager III
 Public Health Environmental Services

Acknowledgment of Receipt by Owner/Operator

Printed Name: _____ Title: _____

Signature: _____ Date: _____

Notice delivered by: _____
 (Health Inspector print name) (Health Inspector sign name)

on _____ 20____, at _____ a.m. /p.m.
 (Date) (Time)



Hidalgo County
Health & Human
Services Department
Environmental Health Division

1304 S. 25th Ave.
Edinburg, TX 78542
Phone: (956) 383-0111
environmental@hchd.org

FINAL ORDER OF PERMIT SUSPENSION

Owner / Operator: _____ Date: _____

Business Name: _____ Permit Number: _____

Address: _____ City: _____ State: _____ Zip: _____

On _____, the Hidalgo County Health & Human Services Department issued a **Notice of Intent to Suspend Permit** to the above-referenced establishment due to violations of applicable food safety laws and regulations. The notice informed the permit holder of the right to request an administrative hearing.

- The permit holder **did not request a hearing**.
- An administrative hearing was conducted on _____ (date), and a determination was made that suspension of the permit is warranted.

Accordingly, the Regulatory Authority hereby issues this **Final Order of Permit Suspension**.

Effective Date of Suspension

The food establishment permit identified above is **SUSPENDED effective** _____ (date).

Upon the effective date of suspension:

- All food operations shall cease;
- The establishment shall remain closed until reinstated;
- The permit holder must correct cited priority violations

Conditions for Reinstatement

Before the permit may be reinstated;

- Violations have been corrected
- Payment of applicable reinspection fees
- Completion of any required documentation
- Verification inspection scheduled within 1-2 business days upon request
- A reinspection confirms compliance
- Written approval is issued by the Regulatory Authority

Acknowledgment of Receipt- Owner/Operator

The signature below acknowledges receipt of this Final Order of Permit Suspension.

Printed Name: _____ Title: _____

Signature: _____ Date: _____

Copy of notice left on premises by: _____
(Health Inspector)

If you have any questions, please contact our office at 956-383-0111.

Sincerely,

Diana Cortes-Baca, MSDS
Program Manager III
Public Health Environmental Services

Notice sent via Certified Mail
No. _____
on _____
(Date)



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NOTICE OF PERMIT DENIAL

Owner / Operator: _____ Date: _____

Business Name: _____ Permit Number: _____

Address: _____ City: _____ State: _____ Zip: _____

Application Type:

- New Permit
- Renewal Permit

After review of the permit application and/or inspection of the establishment identified above, the Hidalgo County Health & Human Services Department has determined that the application does not meet the requirements necessary for issuance of a food establishment permit.

Accordingly, the Regulatory Authority hereby denies issuance of the permit at this time.

This denial is issued pursuant to Texas Health & Safety Code §437.014 and the Texas Food Establishment Rules (25 Texas Administrative Code Chapter 228), which authorize the Regulatory Authority to deny a permit when an applicant or establishment fails to comply with applicable public health requirements.

Basis for Denial

The permit application is denied for the following reason(s):

- The applicant failed to submit a complete application;
- Required fees were not paid;
- The establishment failed a pre-operational inspection;
- Required corrective actions were not completed within six (6) months;
- The applicant provided false or misleading information on the application;
- Voluntary withdrawal.

As a condition for reconsideration of this application, the following corrective actions must be completed. Corrective actions are the specific steps required to bring the application and/or establishment into compliance with applicable requirements:

The applicant may resubmit or reapply for a permit no later than _____.
(Date)

Right to Administrative Hearing

You have the right to request an administrative hearing to contest this denial of permit. A copy of the Administrative Hearing request form is attached or may be obtained at the HCHHSD Main Office at the address listed above or found online at <https://www.hchd.org/31/Environmental>.

Applicant has until _____(date) to request an administrative hearing. If a hearing is not requested within the timeframe stated above, your right to a hearing will be considered waived.

If you have any questions, please contact our office at 956-383-0111.

Sincerely,

Diana Cortes-Baca, MSDS
Program Manager III
Public Health Environmental Services

Notice sent via Certified Mail
No. _____
on _____ (date).



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NOTICE OF PERMIT REINSTATEMENT

Owner / Operator: _____ Date: _____
Business Name: _____ Permit Number: _____
Address: _____ City: _____ State: _____ Zip: _____

The Hidalgo County Health & Human Services Department has verified that the violations that resulted in suspension or closure have been corrected. Following inspection and verification of compliance, the permit for the above-referenced establishment is hereby reinstated.

Effective Date

The establishment is authorized to resume food operations effective:

Date: _____

Additional Conditions (if applicable)

The establishment must correct all violations that resulted in the suspension or closure. The Regulatory Authority may require documentation demonstrating corrective action, such as repair invoices, service reports, training records, or other evidence that violations have been resolved.

- Follow-up inspection required
- Corrective action documentation required
- Other:

If you have any questions, please contact our office at 956-383-0111.

Sincerely,

Diana Cortes-Baca, MSDS
Program Manager III
Public Health Environmental Services



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**NOTICE OF REQUIRED CESSATION
OF FOOD OPERATIONS**

NO VALID PERMIT

Owner / Operator: _____ Date: _____

Business Name: _____

Address: _____ City: _____ State: _____ Zip: _____

REASON FOR NOTICE

The food establishment listed above is operating without a valid permit.

REQUIRED ACTION

Food operations must cease immediately until a valid permit is issued or renewed.

REOPENING

Operations may resume once a valid permit has been issued.

Acknowledgment of Receipt - Owner/Operator

The signature below acknowledges receipt of this Notice of Intent to Suspend.

Printed Name: _____ Title: _____

Signature: _____ Date: _____

Copy left on premises by: _____
(Health Inspector)

If you have any questions, please contact our office at 956-383-0111.

Sincerely,

Diana Cortes-Baca, MSDS
Program Manager III
Public Health Environmental Services



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EMERGENCY CLOSURE ORDER
IMMINENT HEALTH HAZARD

Owner / Operator: _____ Date: _____

Business Name: _____ Permit Number: _____

Address: _____ City: _____ State: _____ Zip: _____

THIS IN AN ORDER TO CEASE FOOD OPERATIONS IMMEDIATELY. During an inspection conducted on the above date, the Regulatory Authority identified conditions that constitute an imminent health hazard and pose a significant threat to public health and require immediate correction action:

- Fire or flood damage
- Extended interruption of electrical or water service
- Sewage backup or lack of wastewater disposal
- Misuse of poisonous or toxic materials
- Onset of an apparent foodborne illness outbreak
- Gross insanitary occurrence or condition (i.e. severe pest infestation, significant filth, waste accumulation, or structural disrepair)

Immediate Action Required

Effective immediately, the establishment is ORDERED TO CEASE ALL FOOD OPERATIONS until:

- The hazard has been corrected;
- Any applicable Reinspection Fee has been paid,
- The Regulatory Authority verifies compliance; and
- Written authorization to reopen is issued.

Reinspection

The establishment must contact the Environmental Health Division to request a reinspection once corrective actions have been completed.

Right to Administrative Hearing

You have the right to request an administrative hearing to contest this Emergency Closure Order. A copy of the Administrative Hearing request form is attached or may be obtained at the HCHHSD Main Office at the address listed above or found online at <https://www.hchd.org/31/Environmental>.

Owner/Operator has until _____ (date) to request an administrative hearing. If a hearing is not requested within the timeframe stated above, your right to a hearing will be considered waived.

If you have any questions, please contact our office at 956-383-0111.



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ADMINISTRATIVE HEARING REQUEST FORM

Owner / Applicant Name: _____

Date: _____

Physical Address: _____

Permit Number: _____

Business Name: _____

Contact information for official correspondence:

Notice Type:

Mailing Address: _____

Suspension

Denial

Email Address: _____

Phone Number: _____

Signature: _____

Printed Name: _____

Date: _____

Administrative Hearing procedure and Hidalgo County Food Inspection Rules may be obtained from the Hidalgo County Health and Human Services Main Office located at the address listed above or found online at <https://www.hchd.org/31/Environmental>.

Return this form to: Hidalgo County Health and Human Services
Environmental Health Division
1304 South 25th Avenue
Edinburg, TX 78542
environmental@hchd.org