

SNOHOMISH HEALTH DISTRICT

M. WARD HINDS, M.D., M.P.H.
Health Officer

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SNOHOMISH HEALTH DISTRICT RESOLUTION OF THE BOARD OF HEALTH

88 - 59

RESOLUTION NUMBER:

88 - 59

RESOLUTION SUBJECT:

REVISING FOOD PROGRAM
ENFORCEMENT PROCEDURES

WHEREAS the "Enforcement Procedures of the Food Program" were adopted pursuant to WAC 248-84-070 by Board of Health Resolution 85 - 43, as permitted in lieu of WAC 248-84-070, and

WHEREAS the Enforcement Procedures provide for the suspension and revocation of permits for serious or repeated violations of any of the requirements of WAC 248-84, and

WHEREAS those procedures provide for the notification of permit suspension or revocation by Health Officer's Order and Interim Health Officer's Order, and

WHEREAS the procedures also provide for a hearing to allow appeal of such suspension, and

WHEREAS the delivery of such notification should be done in both a timely and direct manner, and any subsequent hearing held in accordance with the intent of those procedures, and

WHEREAS certain wording in those procedures may inadvertently result in the delayed or untimely delivery of such notification or misunderstanding of the appeal process,

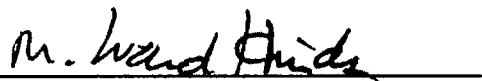
NOW THEREFORE the Board of Health does adopt the revised "Enforcement Procedures of the Food Program" as outlined in the attached document.

Adopted this 8th day of November, 1988.



Edward M. Morrow, Chairman
Board of Health

ATTEST:



M. Ward Hinds, M.D., M.P.H.
Health Officer

November 8, 1988

MWH/dp

Snohomish Health District
Enforcement Procedures of the Food Program

I. Inspection Frequency/Inspection Form.

- A. Inspection Frequency: Food establishments will be generally inspected every six months. Establishments not open 12 months per year may be inspected less often; establishments with identified problems and establishments about which complaints are received will be subject to a more frequent inspection schedule.
- B. Inspection Form: Form number DSHS 9-106 prepared by the Department of Social and Health Services will be the inspection form used. This form titled "Food Service Establishment Inspection Form" sets forth violations as red critical items (items directly related to foodborne illnesses) and as blue items (items related to sanitation, design and maintenance).

II. Types of Closures of Food Establishments.

Food establishments may be closed in the following three ways:

- A. Permit Suspension: By suspension of the food establishment permit.
- B. Permit Revocation: By revocation of the food establishment permit.
- C. Closure Order/Lack of Valid Permit: By Health Officer's Order when a valid food establishment permit does not exist.

III. Suspension of Food Establishment Permits.

- A. Reasons for Permit Suspension: Food establishment permits shall be suspended for any of the following reasons.
 - 1. Existing Immediate Health Hazard. When an immediate health hazard exists for which there is no acceptable corrective remedy other than immediate closure of the food establishment.

Examples: Loss of refrigeration capacity or power; sewer backup and flooding; damage to the structure caused by accident or construction so that sanitary conditions cannot be maintained; loss of potable water supply; communicable disease in food workers of a severity, in the judgment of the Health Officer, to cause a serious public health hazard; red item violations (regardless of hazard points) not immediately corrected or correctable; other situations deemed by the Health Officer to represent an immediate health hazard with the potential to cause foodborne illness.
 - 2. Ongoing and Repeated Violations. When there exists ongoing and repeated violations of food service regulations, of a nature and severity to warrant enforcement action, and when reasonable effort has been made to achieve voluntary compliance.
 - 3. Hazard Points Following Office Conference. When, after an office conference has been conducted, follow-up inspection at any time results in 100 or more total hazard points or 75 or more red item hazard points.

B. Procedures for Permit Suspension.

1. Existing Immediate Health Hazard. When the food program sanitarian determines that an immediate health hazard exists at a food establishment and suspension of the permit immediately is indicated, the sanitarian will confirm this opinion by calling the office and obtaining authorization to close the food establishment from a member of the environmental health supervisory staff. The food program sanitarian will then complete the "Interim Health Officer's Order" form and issue to the person in charge at the time at the food establishment. The interim order will be followed by a confirming Health Officer's Order delivered in the same manner as set forth in the following paragraph.
2. Ongoing and Repeated Violations. When the food program sanitarian determines that an ongoing and repeated violation of a significant nature has occurred in a food establishment and suspension of the permit is indicated, the sanitarian will confirm this opinion by calling the office and obtaining authorization to close the food establishment from a member of the environmental health supervisory staff. The food program sanitarian will then complete the "Interim Health Officer's Order" form and issue it to the person in charge at the time at the food establishment. The interim order will be followed by a confirming Health Officer's Order mailed to the permit holder both by regular and certified mail. Notice by mail will be considered acceptable service if for some reason the order cannot be delivered to the establishment. *(The decision to close a food establishment due to ongoing and repeated violations will be made in the office by supervisory staff. In such instances a Health Officer's Order will be prepared and delivered to the establishment and a copy mailed to the permit holder both by regular and certified mail. Notice by mail will be considered acceptable service if for some reason the order cannot be delivered to the establishment.)*
3. Hazard Points Following Office Conference. When an inspection shows the existence of 100 or more total hazard points or 75 or more red item hazard points and the red item hazard points are corrected, an office conference will be scheduled within five (5) days' time. The problems in food handling identified by the inspection will be reviewed with the operator who will be advised that subsequent findings of a like nature, **100 or more total or 75 or more red items**, will result in automatic closure. **Such closure will follow the same procedures as outlined in B. 2. of this section.** Each owner will be allowed one office conference (provided red items and significant blue items are immediately corrected), the purpose of which will be educational and instructional in nature in lieu of automatic closure. Office conferences will be followed by additional inspections beyond the routine inspection schedule as established by the Food Program Supervisor. A fee, as established by the Board of Health, will be charged for office conferences and additional inspections necessitated by high hazard points.

C. Procedures for Reinstatement of Suspended Permit.

1. Notice to Health District. The food establishment permit holder will notify the Health District when the violations causing the suspension of the permit have been corrected and request a reinspection. Such notification can be made by telephone.
2. Reinspection. The Health District will arrange for reinspection as soon as possible and not later than 48 hours after receiving notice from the permit holder. No reinspections will be carried out the same day as the day of permit suspension.
3. Permit Reinstatement Fee. A permit reinstatement fee, as established by the Board of Health, will be required to reinstitute a food establishment permit after the establishment has been closed by Health Officer's Order.

D. Hearings.

1. Request for Hearing. Any food establishment permit holder who feels that suspension of a permit is an incorrect action may request a hearing. Such request must be filed with the Health Officer not later than ten (10) calendar days, with the date of suspension counting as the first day. The request for a hearing must specifically state which violations cited by the food program sanitarian were incorrectly cited, **or which portions of the enforcement procedures were incorrectly applied.** *(why the action of the Health District in suspending the permit was incorrect, or how the Health District has incorrectly interpreted the food code.)* Issues not addressed in the request for a hearing will not be accepted at the time of the hearing.
2. Conduct of Hearings. The Health Officer will arrange for a hearing to be conducted by the Health Officer or the Health Officer's designee. The time and place of the hearing will be designated by the Health Officer and be within thirty (30) calendar days of receipt of the request for a hearing. The Health Officer or designee shall make a final finding based upon the complete hearing record and shall sustain, modify or rescind any notice or record considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the Health Officer or designee.
3. Food Establishment Permit Remains Suspended. The request for a hearing will not stay the suspension of the food establishment permit.

IV. Revocation of Food Establishment Permits.

- A. Reasons for Permit Revocation. Food establishment permits may be **revoked** (*suspended*) for any of the following reasons.
1. Serious and/or Repeated Violations. When enforcement efforts have failed and serious and/or repeated violations of WAC 248-84 continue and such violations represent a serious public health hazard or represent continued poor sanitary and maintenance practices of a serious nature, the permit may be revoked by the Health Officer.
 2. Interference with Food Program Staff. When interference has occurred in the performance of duty of Health District staff, the permit may be revoked by the Health Officer.

B. Procedures for Permit Revocation.

1. Hearing. The Health Officer will not revoke a food establishment permit until an opportunity has been provided for a hearing before the Health Officer or the Health Officer's designee.
2. Health Officer's Order. Permits shall be revoked through issuance of a Health Officer's Order, said order to be **delivered to the establishment and a copy mailed to the permit holder both by regular and certified mail. Notice by mail will be considered acceptable service if for some reason the order cannot be delivered to the establishment.** *(served in the manner previously discussed (Section III B.2).)*
3. Application for New Permit. A permit holder whose food establishment permit has been revoked may make a written application for the purpose of obtaining a new permit. A hearing will be provided before the Health Officer or designee to determine if a new permit should be issued.

V. Food Establishment Closures/Lack of Valid Permit.

- A. Reasons for Closure Order. Failure to obtain a food establishment permit or failure to renew a food establishment permit within the permit renewal time.

B. Procedures for Closure.

1. Health Officer's Order. Closure of a food establishment lacking a valid food establishment permit shall be accomplished through issuance of a Health Officer's Order, said order to be **prepared and delivered to the establishment and a copy mailed to the permit holder both by regular and certified mail. Notice by mail will be considered acceptable service if for some reason the order cannot be delivered to the establishment.** *(served in the manner previously set forth (Section III B.2).)*
2. Permit Fee for Reopening. A food establishment closed due to lack of a valid food establishment permit may be opened upon obtaining such permit. The permit fee following closure due to lack of a valid permit shall be double the usual fee.

VI. Other Procedures.

A. Red Item Violations.

1. Notification to Food Establishment. The food program sanitarian will notify the owner/operator of the existence of red item violations by noting such on the inspection form and discussing with the person in charge of the food establishment's operation at the time of the inspection.
2. Disposition of Red Item Violations. The food program sanitarian will note on the inspection form the disposition of all red item violations, corrective actions taken, and dates of reinspection.

3. Failure to Correct Red Item Violations. Failure to correct red item violations immediately (or within seventy-two (72) hours when allowed for a specific item) will result in suspension of the food establishment permit. The food program supervisor may allow an additional time for correction in unusual circumstances when correction cannot be made in the time allocated and when a serious public health hazard does not result from such extension.

B. Blue Item Violations.

1. Notification to Food Establishment. The food program sanitarian will notify the owner/operator of the existence of blue item violations by noting such on the inspection form and discussing with the person in charge of the food establishment's operation at the time of the inspection.
2. Correction of Blue Item Violations. Blue item violations that are judged to represent a serious hazard or to present direct jeopardy to the safety of food preparation will be treated like red item violations (example, lack of hot water). Blue item violations judged not to present an immediate public health hazard including those requiring major physical alteration and remodeling will be placed upon a schedule of compliance, established through discussion between the Health District and the operator.

Adopted by:
Board of Health
Snohomish Health District
Resolution #85-43
October 15, 1985
Revised by Resolution #88-59
November 8, 1988

RM/dmk

NORMAL TYPE - Original wording
BOLD - Changes
ITALIC - Deleted