



**SNOHOMISH
HEALTH
DISTRICT**

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**SNOHOMISH HEALTH DISTRICT
RESOLUTION OF THE BOARD OF HEALTH**

96-24

RESOLUTION NUMBER: 96-24

RESOLUTION SUBJECT: REVISION OF SNOHOMISH HEALTH DISTRICT SANITARY CODE -
CHAPTER 10.2, ENFORCEMENT PROCEDURES OF THE FOOD
PROGRAM

WHEREAS the Board of Health of Snohomish Health District serves to promote the public health of the residents of Snohomish County and, under the provisions of RCW 70.05.060, maintains supervision over matters pertaining to the preservation of the life and health of the people within its jurisdiction, and

WHEREAS the Board of Health has incorporated into the Sanitary Code of Snohomish Health District certain public health statutes of the state and rules promulgated by the State Board of Health and Secretary of Health, to provide for the control and prevention of any dangerous, contagious or infectious disease within its jurisdiction, and provide for the prevention, control and abatement of nuisances detrimental to the public health, and

WHEREAS the Snohomish Health District incorporated within Chapter 10 of the Sanitary Code, Enforcement Procedures of the Food Program, and

WHEREAS the Chapter 10.2.III.B. of the Sanitary Code authorizes the Health Officer to order the suspension of food establishment operating permits where unhealthy conditions are found to exist, including those caused by an Immediate Health Hazard, and

WHEREAS recent experience has demonstrated that food establishment operators have been found to conduct business in situations of Immediate Health Hazards,

NOW THEREFORE the Board of Health hereby adopts the new language as a revision of Chapter 10.2 of the Sanitary Code.

ADOPTED this 8th day of October, 1996.

John Garner, Chair
Board of Health

ATTEST:

M. Ward Hinds, MD, MPH
Health Officer

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CHAPTER 10.2 ENFORCEMENT PROCEDURES OF THE FOOD PROGRAM

I. Inspection Frequency/Inspection Form.

- A. Inspection Frequency: Food establishments will be inspected as often as required according to frequencies set by the Health Officer. Establishments with identified problems and establishments about which complaints are received will be subject to a more frequent inspection schedule.
- B. Inspection Form: Form titled "Food Service Establishment Inspection Form", DOH 334-001, will be the form used. This form sets forth violations as red critical items (items directly related to foodborne illness) 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.

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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.
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.

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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 reinspection will be made the same day as the day of permit suspension and in no instance will permit reinstatement become effective the same day as the day of permit suspension. No permit reinstatement will occur until after a successful reinspection, and permit reinstatement will be considered interim until such time as the Permit Reinstatement Fee is paid.
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. Payment must be received in the Health District's Environmental Health Division office not later than the close of business (5:00 p.m.) on the first business day following the interim permit reinstatement or the permit will be considered invalid and the establishment immediately subject to Section V. of these procedures. **The permit reinstatement fee is doubled where permit suspension was the result of operations found to be continuing with an existing immediate health hazard.**

D. Hearings on Suspension.

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. Issues not addressed in the request for a hearing will not be considered 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 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 246-215 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.

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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.
3. Operation in Defiance of Closure Order. Food service operations that continue to serve food to the public without a valid permit and in defiance of a Health Officer's Order to suspend permitted operations shall be subject to permit revocation for a period of not less than five (5) days.

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. Written notification of the hearing, including the time and place of the hearing, shall be made to the permit holder within thirty (30) days of the last inspection or field visit relative to the action. 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.
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.
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. In no case will a permit be issued for a food establishment during a period of revocation imposed for noncompliance with these procedures.

V. Food Establishment Closures/Lack of Valid Permit.

- A. Reasons for Closure Order. Failure to obtain a food establishment permit, failure to renew a food establishment permit within the permit renewal time, or failure to pay a permit reinstatement fee.
- 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 owner and operator 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.

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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.

C. Appeal of Permit Denial

1. Any decision of the Health District with respect to applications for food establishment permits made pursuant to these rules and regulations may be appealed.
2. Any appeal of a decision of the Health District with respect to applications for permits under these regulations must be done in accordance with Chapter 1.9.1 Right of Appeal.