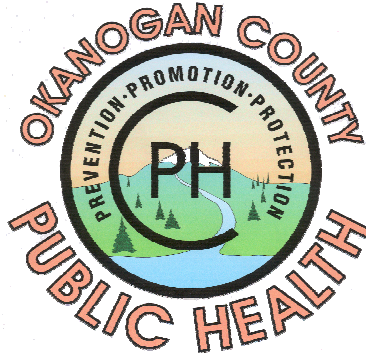


OKANOGAN COUNTY PUBLIC HEALTH FOOD REGULATION

ADOPTED & REVISED August 9, 2005



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**OKANOGAN COUNTY PUBLIC HEALTH
FOOD REGULATION
REVISED July 27, 2005**

Section 1: Authority and Purpose

- 1.01. This regulation of Okanogan County Public Health is promulgated under the authority of RCW Chapters 70.05, 70.46, 70.95 and 36.58.
- 1.02. Pursuant to WAC 246-215-011(24), the Okanogan County Board of Health , acting through Okanogan County Public Health and the Okanogan County Health officer, is the regulatory authority for the activity of a food establishment, except as otherwise provided by law.
- 1.03. This ordinance is promulgated to promote and protect the health, safety, and well-being of the public and prevent the spread of disease through food.

Section 2: Adoption of Regulations

- 2.01 This regulation does hereby adopt Chapter 246-215 WAC (FOOD SERVICE), except as amended in these regulations.
- 2.02 If a provision or definition of Chapter 246-215 WAC (FOOD SERVICE) is inconsistent with a provision or definition otherwise established under this regulation, the requirement established under this regulation shall apply.

Section 3: Definitions

The definitions of terms contained in WAC 246-215 are hereby adopted and incorporated by reference. The following definitions shall also apply:

- 3.01 **Administrator.** "Administrator" shall mean the Administrator of Okanogan County Public Health as appointed by the Okanogan County Board of Health or his/her authorized representative.
- 3.02 **Board.** "Board" shall mean Okanogan County Board of Health
- 3.03 **DOH.** "DOH" shall mean the Washington State Department of Health.
- 3.04 **Health Officer.** "Health Officer" shall mean the Okanogan County Health Officer or his/her authorized representative.
- 3.05 **Hearing Examiner.** "Hearing Examiner" shall mean the person or tribunal appointed by the Okanogan County Board of Health to hear appeals, providing that the Okanogan County Board of Health may elect to act as its own Hearing Examiner.
- 3.06 **Inspector.** "Inspector" shall mean any person duly employed and authorized by Okanogan County Public Health to inspect food establishments for compliance with this regulation.
- 3.07 **OCPH** shall mean Okanogan County Public Health.
- 3.08 **Permit.** "Permit" shall mean the written authorization by Okanogan County Public Health for a food service establishment to operate, designating said food establishment as having met the requirements of this regulation.
- 3.09 **Person.** "Person" shall mean an individual or a firm, corporation, trusteeship, association or any public or private entity.
- 3.10 **Public Health.** "Public Health" shall mean Okanogan County Public Health

Section 4: Permit Required

- 4.01 No person shall operate a food establishment without a valid permit issued by Okanogan County Public Health. Okanogan County Public Health may, at the discretion of the Administrator or Board, require a permit for food establishments exempted from permitting under WAC 246-215 if the menu or operations at such establishments are deemed to potentially pose a hazard to the public health in some way.
- 4.02 No food establishment permit shall be transferable or assignable nor shall any permit entitle the holder thereof to conduct the business of the food establishment in any place other than that specified on or in the permit.
- 4.03 Any person intending to operate a food establishment shall make written application for a permit on forms provided by Okanogan County Public Health.
- 4.04 A plan review shall be required for all new food establishments prior to permit issuance.
- 4.05 Except for temporary food service establishments as defined in WAC 246-215-011(26), an inspection of the food establishment is required before said food establishment may be opened for operation.
- 4.06 The fees for food establishment permits, plan reviews and mandatory re-inspections as required by Okanogan County Public Health regulations and/or policies shall be as established by the Board in the current Okanogan County Public Health Fee Schedule.
- 4.07 Permit Renewals. Application for renewal of all permits shall be made to Okanogan County Public Health on or before January 31 of each year. Issuance of a permit renewal is subject to compliance with all applicable state and local regulations and a satisfactory record of operations. Failure to apply for a renewal of a permit shall render the permit null and void.
- 4.08 Permit denial. When an application for a permit or a permit renewal is denied, the holder of the permit may appeal the decision to the Okanogan County Board of Health by submitting a written request for a hearing before the Board. Said hearing shall be scheduled for the first Board meeting that takes place after receipt of the written request.

Section 5: Responsibility for Enforcement

These regulations shall be enforced where applicable by Okanogan County Public Health, by the Okanogan County Health Officer and by the Okanogan County Board of Health. Okanogan County Public Health and the Okanogan County Board of Health may adopt policies to interpret this regulation for the purpose of enforcing it.

Section 6: Inspections

- 6.01 Okanogan County Public Health personnel shall inspect food service establishments regularly to ensure compliance with all applicable regulations.
- 6.02 No permit holder or person employed by or otherwise associated with a food establishment may interfere with the Administrator or Inspector in the performance of his or her duty to inspect.
- 6.03 Inspections of various types of food establishments or of a particular food establishment shall be performed as often as deemed necessary by the Administrator or the Health Officer for the purposes of enforcing this regulation.
- 6.04 All critical items noted on the inspection form must be corrected immediately
- 6.05 All non-critical items noted on the inspection form must be corrected prior to the next routine inspection.

Section 7: Examination of Food and Hold or Destruction Order.

- 7.01 Food may be examined or sampled by the Inspector as often as necessary to determine compliance with this regulation.
- 7.02 If the Inspector determines that food items in the establishment pose a threat to the public health and determines that no remedy exists to make the food safe, he or she may order the immediate destruction of the food by means of a written notice to the food establishment owner or person in charge. The destruction of the food must take place under the supervision of the Inspector.
- 7.03 Upon written notice to the owner or person in charge of the food establishment, the Inspector may place a written hold order on any food which he/she determines to be unwholesome or otherwise adulterated, from an unapproved source, mislabeled, contaminated, spoiled or stored at temperatures not in compliance with this regulation.
- 7.04 The Inspector shall tag, label or otherwise identify any food identified by the hold order.
- 7.05 No food identified in a hold order shall be used, served, sold or given away by the establishment. If food identified by the written hold order is destroyed the destruction must take place under the supervision of the Inspector.
- 7.06 The Inspector or Administrator shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health in which case immediate destruction will be ordered and accomplished in the presence of the Inspector.
- 7.07 The hold order shall state that a written request for hearing may be filed with the Administrator within ten (10) calendar days of the date of the hold order, and that if no hearing is requested and if the Administrator does not vacate the hold order, then the food shall be destroyed under supervision of the Administrator or Inspector.
- 7.08 On the basis of evidence produced at the hearing, the hold order may be vacated, or the owner or person in charge of the food establishment may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this regulation.

Section 8: Compliance schedule

Okanogan County Public Health may, at the Administrator's discretion, issue a compliance schedule to the owner/operator of a food establishment as a tool for ensuring the correction of violations at that establishment. A compliance schedule shall list each item to be corrected with a specific and reasonable time period allowed for correction of that item. The compliance schedule shall be dated and signed by both the Administrator and by the owner/operator of the establishment. A compliance schedule is a contract and is considered to be a binding agreement between the owner/operator of the food establishment and Okanogan County Public Health.

Section 9: Closure

Any food establishment found to be in violation of this regulation as determined by the Administrator is hereby declared to be a public nuisance and subject to immediate abatement, including closure of such establishment by the Administrator. Where practical, at least 24 hours notice of the closure of an establishment shall be served as required by Section 12 of this regulation. However, when in the judgment of the Administrator an immediate hazard to public health exists, no advance notice shall be necessary.

Section 10: Suspension of Permit

- 10.01 The Administrator, after proper service of notice as described in Section 12, may suspend the food establishment permit when the Administrator determines one of the following occurs:
 - 10.01.01 The total demerit score of the establishment is more than 100 points, using the most current DOH approved inspection form.
 - 10.01.02 The critical item demerit score of the establishment is more than 75, using the most current DOH approved inspection form.
 - 10.01.03 The same violation is found at the establishment on three consecutive inspections.
 - 10.01.04 The operation of the food establishment is deemed to constitute an imminent health hazard due to factors including but not limited to lack of potable running water, sewage system malfunction, lack of facilities to maintain potentially hazardous foods at required temperatures, fire or flooding.
 - 10.01.05 The permit holder fails to comply with time limits set by the Administrator for correction of violations.
 - 10.01.06 The permit holder or person in charge of the establishment refuses to sign or fails to comply with an order to hold or destroy a potentially hazardous food item determined by the Inspector to be unfit for consumption and said order is issued according to Section 7 of this regulation.
 - 10.01.07 The permit holder or person in charge of the establishment interferes with the Administrator or Inspector in the performance of his or her duty.
- 10.02 Food establishments shall immediately cease all food service operations and close to the public upon permit suspension.
- 10.03 Any person whose permit has been suspended may at any time make application for a reinspection for the purpose of reinstatement of the permit. The written request must include a statement signed by the applicant that, in his opinion, the conditions causing suspension of the permit have been corrected. Upon receipt of a request for reinspection, the Administrator or Inspector shall make a reinspection. If the applicant has complied with the requirements of this regulation, the permit shall be reinstated.

Section 11: Revocation of Permit

- 11.01 The Administrator, after providing an opportunity for a hearing before the Board, may revoke a food establishment's permit for repeated violations of any of the requirements of this regulation or for repeated interference with the Administrator or Inspector in the performance of his or her duties.
- 11.02 Prior to revocation of a food establishment's permit, the Administrator shall notify the permit holder or the person in charge of the establishment in writing of the specific reason or reasons for the revocation.
- 11.03 The effective date of the permit revocation shall be ten (10) working days following service of notice as described in Section 12 of this regulation. If a written request for a hearing before the Board is filed with Okanogan County Public Health within this ten (10) day period, the revocation shall not take place until after the date of the hearing and after being sustained by the Board.
- 11.04 Any person 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 Board to determine if a new permit shall be issued.

Section 12: Service of Notice

A notice referred to in this regulation is properly served when it is delivered to the permit holder or person in charge of the food establishment, posted on the premises in a readily observable location, or sent by registered or certified mail with return receipt requested to the last known address of the permit holder. A copy of the notice shall be filed in the records kept on the establishment by Okanogan County Public Health.

Section 13: Emergent Health Hazard

In the event of a fire, flooding or similar event that may result in the contamination of food, or that may prevent potentially hazardous and/or perishable food from being held at required temperatures, the permit holder or person in charge of the food establishment shall immediately contact the Administrator. Upon receiving notice of the occurrence, the Administrator shall take any and all actions deemed necessary to protect the public health.

Section 14: Civil Penalty

In addition to or as an alternative to any other judicial or administrative remedy provided herein, or by law, any person or establishment who violates this regulation or by such act of commission or omission procures, aids or abets such violation, may be assessed a civil penalty not to exceed fifty dollars (\$50.00) for each day of continuous violation, to be directly assessed by the Administrator until such violation is corrected. The per diem penalty shall double for the second separate violation and triple for the third and subsequent separate violations of the same regulation within any five (5) year period.

Section 15: Criminal Penalty

In addition to or as an alternative to any other judicial or administrative remedy provided herein, or by law, any person or establishment who violates this regulation or by such act of commission or omission procures, aids or abets such violation, shall upon conviction be guilty of a misdemeanor. For purposes of this regulation, each section violated shall constitute a separate and distinct offense, and each day's violation shall constitute a separate and distinct offense. Upon conviction, penalty shall be a fine of not more than five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days or both such fine and imprisonment.

Section 16: Variance

- 16.01 The owner or permit holder of a food establishment may petition Okanogan County Public Health for a variance to this regulation by submitting a variance application according to the established OCPH variance procedures.
- 16.02 Upon receipt of the variance application, the Administrator may grant a variance to any section of this regulation that pertains to physical facilities and equipment standards if he or she determines that no health hazard would exist as a result of this action and provided the variance is consistent with the intent of these regulations. Variances shall **not** be granted for any provision of this regulation that does not deal with physical facilities or equipment.
- 16.03 In the event that the Administrator denies the variance request, the applicant may appeal the Administrator's decision to the Board by submitting a written request for a hearing before the Board. Said hearing shall be scheduled for the first Board meeting that takes place after receipt of the written request.

Section 17: Severability

Should any section, paragraph, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of said regulation shall not be affected thereby.

Section 18: Effective Date

This regulation shall become effective immediately upon its adoption by the Okanogan County Board of Health. Adoption by the Board shall supersede and repeal all earlier versions of this regulation.