

PROPOSED BY: HEALTH AND COMMUNITY SERVICES
INTRODUCED: JULY 14, 2026

ORDINANCE NO. _____

AMENDING WHATCOM COUNTY CODE 24.03, FOOD SERVICE RULES AND REGULATIONS

WHEREAS, updating references and definitions is warranted; and

WHEREAS, removing outdated sections related to the COVID-19 response is warranted; and

WHEREAS, Whatcom County Health and Community Services seeks a less punitive and more educational approach to assuring compliance with the Washington State Retail Food Code; and

WHEREAS, amending the permit suspension section referencing imminent health hazard as defined in the retail food code; and

WHEREAS, removing criteria relating to permit suspension that do not comport with current policy and procedure; and

WHEREAS, the proposed amendments to Whatcom County Code (WCC) 24.03, as outlined in Exhibit A to this ordinance, meet the intent of WAC 246.215.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that by the Whatcom County Council, acting as the Whatcom County Board of Health, that WCC 24.03, Food Service Rules and Regulations, is hereby amended as outlined in Exhibit A to this ordinance; and

BE IT FURTHER ORDAINED by the Whatcom County Council that if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance; and

BE IT FURTHER ORDAINED by the Whatcom County Council that the Council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and the original ordinance or ordinances shall be in full force and effect; and

BE IT FINALLY ORDAINED by the Whatcom County Council that the amended WCC 24. 03 set forth in Exhibit A shall be effective.

ADOPTED this ____ day of _____, 2026

WHATCOM COUNTY COUNCIL

ATTEST:

WHATCOM COUNTY, WASHINGTON

Cathy Halka, Clerk of the Council

Kaylee Galloway, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Janelle C. Wilson by email 5/12/26
Civil Deputy Prosecutor

Satpal Sidhu, County Executive

() Approved () Denied

Date Signed: _____

Exhibit A

CHAPTER 24.03

FOOD SERVICE RULES AND REGULATIONS

§ 24.03.010. Authority.

Pursuant to RCW 70.05.060 these rules and regulations are adopted for the purpose of

implementing and enforcing Chapter 246-215 WAC, Food Service.

(Ord. 89-24 (part); Ord. 2014-016 Exh. A)

§ 24.03.020. Rules and inspection report form adopted.

A. Whatcom County hereby adopts Chapter 246-215 WAC, Retail Food Code. If a conflict arises between Chapter 246-215 WAC and this chapter, as amended, the more restrictive regulation shall prevail. Whatcom County will automatically incorporate any subsequent amendments to Chapter 246-215 WAC into this chapter.

B. DOH Form ~~332-035~~, Food Establishment Inspection Report, or other inspection form approved by DOH, and accompanying hazard point values for red high risk factors and blue low risk factors, as presently adopted and hereafter amended are adopted by reference.

(Ord. 89-24 (part); Ord. 2014-016 Exh. A)

§ 24.03.030. Definitions.

For the purposes of this chapter, the words set out in this section shall have the following meanings:

A. "Blue low risk factors" means those sanitation, design and maintenance items which are less critical than red high risk factors, as defined on DOH Form ~~332-035~~, Food Establishment Inspection Report.

B. "Food establishment" means all types of establishments as defined in Chapter 246-215 WAC, Part 1.

C. "Hazard points" means a value score for each type of violation noted at the time of inspection. The value of each type of violation is printed on the food service establishment inspection report.

- D. "Health officer" means the legally designated health officer as defined in RCW 70.05.010.
- E. "Imminent health hazard" means a condition described in Chapter 246-215 WAC, Part 1 that presents a significant threat or danger to health.
- F. "Red high risk factors" means those food quality and handling items which are most important in the protection of health, as defined on DOH-~~332-035~~, Food Establishment Inspection Report.
- G. "Regulatory authority" means the Whatcom County ~~H~~health and Community Services department. The local Board of Health, acting through the local health officer, is the regulatory authority for the activity of a food establishment, except as otherwise provided by law.
- H. "Temporary food establishment" means all types of establishments as defined in Chapter 246-215 WAC, Part 1.(Ord. 89-24 (part); Ord. 2014-016 Exh. A)

§ 24.03.040. Permits.

- A. Permits issued by the regulatory authority will be required as provided in WAC 246-215-08300. Permits shall expire on the date stated on the permit but in no case shall they be valid for more than one year.
- B. Permits for all food establishments except temporary food establishments will be issued to be effective from the time of an initial satisfactory inspection and payment of the permit fee for a period not to exceed one year.
- ~~1. Permits with expiration dates between March 1, 2020, and February 28, 2021, shall be extended from 12 months to 18 months for businesses billed under the following: UFS 1546 (taverns); 8461 (simple menu food establishments); 8466 (moderate menu food establishments); 8468 and 8470 (complex menu food establishments); and 8471 (food establishment bars and additional kitchens).~~
- C. Permits for temporary food establishments will expire on the date stated on the permit, but in no case shall they be valid for more than one year.
- D. Permits will be suspended and reinstated as provided in WAC 246-215-08600. In addition to those stated in WAC 246-215-08600, and under 246-215 Part 1: Imminent Health Hazard any one of the following shall be grounds for suspension of a permit:
1. Refusal or inability to correct immediately any red high risk factor violation;
 2. Finding the same red high risk factor violation on two inspections within six months;
 - ~~3. Finding of 40 red high risk factor hazard points or 100 total red and blue hazard points twice within a 12 month period;~~

4.3. Finding that continued operation would otherwise constitute an imminent health hazard as a result of conditions defined in Chapter 246-215 WAC, Part 1. These conditions include fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne disease outbreak, gross insanitary occurrence or condition, or other circumstance that might endanger public health;

5.4. Obstructing a food safety inspector;

6.5. Violating the terms of permit issuance;

7.6. Service of unsafe or adulterated food;

8.7. Failing to provide hot water as required in the WAC 246-215-05210;

9.8. Failing to adhere to the terms of a compliance agreement; or

10.9. Refusing to correct violations as ordered by a food safety inspector.

E. Permits will be revoked as provided in WAC 246-215-08600.

(Ord. 89-24 (part); Ord. 90-10 Exh. A (part); Ord. 2014-016 Exh. A; Ord. 2020-022 Exh. A)

§ 24.03.060. Fees.

Permit fees shall be established by the Whatcom County council and shall be based on the cost of the inspection service. Failure to pay fines or fees may result in non-issuance of a permit.

(Ord. 89-24 (part); Ord. 2014-016 Exh. A)

§ 24.03.070. Severability.

If any provision of this regulation or its application to any person or circumstance is held invalid, the remainder of the regulation or the application of the provisions through other persons or circumstances is not affected.

(Ord. 89-24 (part); Ord. 2014-016 Exh. A)