

Charges

You may be charged for each breach of the Public Health Act, Food Regulation. The current legislation allows for maximum penalties of \$2000.00 per count on a first offence, and \$5000.00 per count thereafter. Failing to correct violations outlined on an Executive Officers Order can result in fines of up to \$100.00 per day for each day the violation exists. Failure to pay fines set by the court upon conviction can result in default jail time.

Charges may be initiated:

- ◆ as a last resort when all other measures have failed to achieve lasting improvement at a food establishment
- ◆ for non-compliance with times or conditions set in an Executive Officers Order
- ◆ if a facility fails to close when ordered to do so

Implications

Charges are very serious. A summons for you and/or your representative will be issued to appear in court. This summons will be served by a police officer and failure to appear on the court date set may cause the judge to issue a warrant for your arrest. Please note that significant costs can be expected in the form of court fines, lawyers fees, and loss of income during court appearance dates and there is almost always media involvement, which may further damage future patronage. Also, evidence presented in court becomes public, meaning the media and general public have full access to all inspection reports, photos, and complaint details (excluding complainant names).

What Permit Holders Need to Know

To succeed in the food service industry, and to exceed the minimum standards outlined in pertinent health legislation:

- ◆ Read the Food Regulation
- ◆ Read the Food Code
- ◆ Ask questions! Keep open lines of communication with your EHO. Use the website and your EHO as resources.
- ◆ Contact your EHO if you experience reasonable delays – do not wait for the EHO to return for their scheduled follow-up visit and surprise them with having work not done.
- ◆ Show you are trying! Keep documentation, invoices, contact numbers, and quotes for work you are having done.
- ◆ Listen to your customers.

For more information, contact Capital Health, Environmental Public Health Services at **(780) 735-1400**, or visit us online at www.capitalhealth.ca

Alberta Regulations, including the Food Regulation (AR 31/2006), can be ordered from Queen's Printer.

Public Health Division
Environmental Public Health Services

For more information, please contact your nearest Environmental Public Health Services office.

Edmonton Main Office	(780) 413-7928
Capital Health Centre - South Tower	(780) 735-1400
Strathcona	(780) 467-5571
Spruce Grove	(780) 962-7509
Leduc	(780) 980-4644
St. Albert	(780) 459-6671

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Public Health Division
Environmental Public Health Services

Enforcement and You—What Permit Holders Need to Know



This document is a supplement to the Food Regulation (Alberta Regulation 31/2006) pursuant to the Public Health Act.



Capital Health
EDMONTON AREA

Introduction

As a holder of a food handling permit, you are required to abide by laws and regulations that apply to the food service industry. In Alberta, these include the Public Health Act, Food Regulation (AR 31/2006) and the Nuisance and General Sanitation Regulation (243/2003).

Every year you will receive one or more inspections by an Environmental Health Officer (EHO) with Capital Health. Their job is to ensure your facility meets or exceeds the minimum standard outlined in the regulations. When departures from these minimum standards are found, they are recorded as violations. An EHO will inform you of any problems, and set time frames for correction. It is expected that these time frames be met. It is also expected that the same problems do not re-occur on an on-going basis.

When problems do persist, enforcement action may be initiated by the district EHO. At Capital Health, we feel it is important that, as a holder of a permit, you (and your staff) are aware of the process and implications of enforcement actions that may be taken. These are described in detail in the following sections.

Executive Officer's Orders

An Executive Officer's Order (EOO) is a legal document that EHOs may issue to food establishments in response to violations being found. They are not the same as an inspection report. Time frames for correction are enforceable (failing to meet set deadlines may result in closure, suspension, or charges). Orders can be subsisting, meaning that violations must be corrected in the short term, and maintained over the long term. While the Public Health Act does not require EOOs to be posted on-site at the restaurant, they are public documents: they are released to the media, can be viewed on the Capital Health website, and are posted in our regional offices.

Implications

Owners may receive calls from the media and the public. If media outlets run stories about the conditions outlined on the order, patronage may decline. There will be increased pressure placed on owners and restaurant staff to maintain the food establishment in accordance with minimum standards to obviate further action by Capital Health.

Closure Orders and Permit Suspensions

A closure order / suspension may be issued:

- ◆ For conditions that, in the opinion of the EHO,
 - * pose an imminent risk to staff or the public
 - * prohibit the staff from safely processing, preparing or serving food
- ◆ in response to a facility that is operating illegally (without a valid food permit)

Implications

Closure orders take effect immediately. Closure

Orders are not rescinded (removed) until such time that all violations listed on the closure order are corrected. Closure orders are released to the media, are posted at Capital Health offices and on-line for public viewing, and are posted in a visible location at the food establishment for the duration of the closure. Removing any posting (order) is a criminal offense, punishable by a \$2000.00 fine.

Administrative Hearings

When applicable, administrative hearings are conducted in advance of charges (at the discretion of the EHO) as a last ditch effort to resolve ongoing issues. Charges are drafted in advance of the hearing. Legal counsel and interpreters (if needed) are encouraged to attend. The purpose of an administrative hearing is to give the owner one last opportunity to provide verbal and written plans as to how she or he plans to obviate risks over the long term. The district EHO provides a summary of events and the owner is given time to discuss how they intend to resolve each problem. Hearings follow a set format and are chaired by a senior EHO. Minutes are taken and provided to both parties. The outcome of the hearing is provided at its conclusion.

Implications

A successful outcome lies squarely with the permit holder. Proposals to rectify conditions must be thorough and time frames for correction must be reasonable. Written proposals may take significant time to put together. Costs may be incurred if legal counsel is consulted or asked to attend. Charges are filed against owners that fail to convince the department that problems will be rectified over the long term.