

**ORDER NO. 36 RE: APPROVAL OF BRAZORIA COUNTY HEALTH DEPARTMENT REGULATIONS ON SANITATION INSPECTIONS**

Motion by Commissioner Payne, seconded by Commissioner Rhodenbaugh that the attached copy of the "Brazoria County Health Department Regulations on Sanitation Inspections" be approved, adopted and made a part of this order.

Further, that the attached Regulations be filed in the Official Public Records of the Brazoria County Clerk's Office.

Motion carried, all present voting aye.

**STATE OF TEXAS )**

**COUNTY OF BRAZORIA )**

**I, Joyce Hudman, Clerk County Court and Ex-Officio Clerk of the Commissioners' Court of Brazoria County, Texas, do hereby certify that the foregoing is a true and correct copy of that certain:**

**ORDER NO. 36 RE: APPROVAL OF BRAZORIA COUNTY HEALTH DEPARTMENT REGULATIONS ON SANITATION INSPECTIONS**

as passed by the Commissioners' Court on the 11th day of SEPTEMBER A.D., 2007, REGULAR Term of Commissioners' Court and as the same appear(s) in the Commissioners' Court Records of Brazoria County, Texas.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 12th DAY OF SEPTEMBER, A.D., 2007.**

JOYCE HUDMAN, Clerk County Court  
and Ex-Officio Member of the Commissioners'  
Court of Brazoria County, Texas

By



Deputy

J. Geserick

DATE: 9-11-07

THE COMMISSIONERS COURT OF BRAZORIA COUNTY, TEXAS

REGULAR/SPECIAL SESSION

ORDER NO. 36

RE: APPROVAL OF BRAZORIA COUNTY HEALTH DEPARTMENT REGULATIONS ON SANITATION INSPECTIONS

MOTION BY Commissioner Payne, SECONDED BY Commissioner Rhodenbaugh, that the attached copy of the "Brazoria County Health Department Regulations on Sanitation Inspections" be approved, adopted and made a part of this order.

Further, that the attached Regulations be filed in the Official Records of the County Clerk.

VOTING

- County Judge King
- Commissioner Payne
- Commissioner Sebesta
- Commissioner Harris
- Commissioner Rhodenbaugh

AYE

NAY

_____
_____
_____
_____
_____
_____

_____
_____
_____
_____
_____
_____

**BRAZORIA COUNTY**

**HEALTH DEPARTMENT**

**REGULATIONS AND SANITATION INSPECTIONS**

**THE COMMISSIONER'S COURT**

**COUNTY JUDGE**

**JOE KING**

**COUNTY COMMISSIONERS**

**DUDE PAYNE, Precinct 1**

**MATT SEBESTA, Precinct 2**

**JACK HARRIS, Precinct 3**

**MARY RUTH RHODENBAUGH, Precinct 4**

## TABLE OF CONTENTS

		Pg.
<b>ARTICLE 1</b>	<b>STATUTORY AUTHORIZATION, FINDING OF FACT, PURPOSE AND METHODS</b>	<b>1</b>
SECTION A	Statutory Authorization	1
SECTION B	Area of Jurisdiction	1
SECTION C	Severability	1
SECTION D	Incorporation by Reference	2
SECTION D	Effective Date	2
<b>ARTICLE 2</b>	<b>DEFINITIONS</b>	<b>2</b>
<b>ARTICLE 3</b>	<b>ADMINISTRATION</b>	<b>4</b>
SECTION A	Promulgation of Rules	4
SECTION B	Duties and Powers	5
SECTION C	Interpretation	5
<b>ARTICLE 4</b>	<b>GENERAL PROVISIONS</b>	<b>5</b>
SECTION A	Sanitation Inspection Report	5
SECTION B	Permit Fees	6
SECTION C	Duration of Permit	6
SECTION D	Permit Procedures	6
SECTION E	Inspections	6
SECTION F	Duties and Responsibilities of the Regulatory Agency	7

**BRAZORIA COUNTY HEALTH DEPARTMENT  
REGULATIONS ON SANITATION INSPECTIONS**

**ARTICLE 1**

**STATUTORY AUTHORIZATION, FINDING OF FACT, PURPOSE AND METHODS**

**SECTION A. STATUTORY AUTHORIZATION**

The Legislature of the State of Texas has in §121.003 of the Texas Health and Safety Code authorized local governmental units to enforce any law that is reasonably necessary to protect the public.

The governing body of a commissioners court of a county may adopt ordinances or rules to charge fees for public health services.

A county may not deny public health services to an individual because of inability to pay for the services. A county shall provide for the reduction or waiver of a fee for an individual who cannot pay for services in whole or in part.

These Regulations are adopted by the Commissioners Court of Brazoria County, Texas, acting in its capacity as the governing body of Brazoria County.

Therefore, the Commissioners Court of Brazoria County, Texas, does ordain as follows:

**SECTION B. AREA OF JURISDICTION**

These Regulations shall apply to all of the area of Brazoria County, except for areas regulated by Federal and State agencies and the areas within the boundaries of the incorporated cities and towns of Brazoria County.

These Regulations shall also apply to those incorporated cities or towns that have executed cooperative agreements with the Commissioners Court for coverage of these Regulations.

Non-profit organizations are not required to obtain a permit under these rules.

**SECTION C. SEVERABILITY**

It is the intention of these Regulations that the sections, paragraphs, sentences, clauses and phrases of these Regulations are severable; and if any section, paragraph, sentence, clause or phrase of these Regulations shall be declared void, ineffective or unconstitutional by a valid

judgment or final decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases hereof, since the same would have been enacted by this Court without the incorporation herein of any such unconstitutional section, paragraph, sentence, clause or phrase.

#### **SECTION D. INCORPORATION BY REFERENCE**

The following statutes and rules are hereby incorporated by reference as if they were placed in these Regulations verbatim:

Human Resources Code, Chapter 42 – Regulation of Certain Facilities, Homes, and Agencies that Provide Child Care Services.

Title 40, Texas Administrative Code, Chapter 749 – Child Placing Agencies – Foster Homes.

Title 40, Texas Administrative Code, Chapter 720 – Department of Family and Protective Services – 24-hour care licensing.

Title 40, Texas Administrative Code, Chapter 750 – Department of Family and Protective Services – Independent Foster Homes.

Title 40, Texas Administrative Code, Chapter 745 – Department of Family and Protective Services – Licensing.

Title 40, Texas Administrative Code, Chapter 746 – Minimum Standards for Child Care Centers.

or the latest edition or revision of said rules are incorporated herein by reference.

#### **SECTION E. EFFECTIVE DATE**

This document shall be in full force and effect from and after its passage and its publication as provided by law.

### **ARTICLE 2 DEFINITIONS**

Unless specifically defined below, words or phrases used in these Regulations shall be interpreted to give them the meaning they have in Human Resources Code, Chapter 42, Title 40, Texas Administrative Code, Chapters 720, 745, 746, 749, 750 and common usage and to give this regulation its most reasonable application.

**AGENCY FOSTER GROUP HOME** – A facility that provides care for seven to 12 children for 24 hours a day, is used only by a licensed child placing agency, and meets department standards.

**AGENCY FOSTER HOME** – A facility that provides care for not more than six children for 24 hours a day, is used only by a licensed child placing agency, and meets department standards.

**CHILD** – A person under 18 years of age.

**CHILD CARE CENTER** – A child care facility that is licensed to care for seven (7) or more children for less than 24 hours per day at a location other than the permit holder's home.

**CHILD CARE FACILITY** – A facility licensed, certified or registered by the department to provide assessment care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

**CHILD CARE INSTITUTION** – A child care facility that provides care for more than 12 children for 24 hours a day, including facilities known as children's homes, halfway houses, residential treatment centers, emergency shelters, and therapeutic camps.

**CHILD PLACING AGENCY** – A person, including an organization, other than the natural parents or guardian of a child who plans for the placement of or places a child in a child care facility, agency foster home, agency foster group home, or adoptive home.

**CHILDREN WHO ARE RELATED TO THE CARETAKER** – Children who are the children, grandchildren, siblings, great-grandchildren, first cousins, nieces, or nephews of the caretaker, whether by affinity or consanguinity or as the result of a relationship created by court decree.

**DAY CARE CENTER** – A child care facility that provides care for more than 12 children under 14 years of age for less than 24 hours a day.

**DEPARTMENT** – The Texas Department of State Health Services.

**DIVISION** – The division designated by the department to carry out the provisions of this chapter.

**FACILITIES** – Includes child care facilities and child placing agencies.

**FOSTER FAMILY HOME** – A home that provides regular care in the caretaker's own residence for not more than six children under 14 years of age, excluding children who are related to the caretaker, and that provides care after school hours for not more than six additional elementary school children, but the total number of children, including children who are related to the caretaker, does not exceed 12 at any given time. The term does not include a home that provides care exclusively for any number of children who are related to the caretaker.

**FOSTER GROUP HOME** – A child care facility that provides care for seven to 12 children for 24 hours a day.

**FOSTER HOME** – A child care facility that provides care for not more than six children for 24 hours a day.

**GROUP DAY CARE HOME** – A child care facility that provides care for seven to 12 children under 14 years of age for less than 24 hours a day.

**GROUP RESIDENCE** – A private or public housing corporation or institutional facility that provides living quarters and meals. The term includes a domicile for unrelated persons such as a retirement home, correctional facility, or a long-term care facility.

**NON-PROFIT ORGANIZATION** – A civic or fraternal organization, charity, lodge, association, proprietorship or corporation possessing a 501(C) exemption under the Internal Revenue Code; or religious organizations meeting the definition of “church under the Internal Revenue Code, §170(b)(1)(A)(i).

**PUBLIC HEALTH SERVICES** – Personal health promotion and maintenance services; infectious disease control and prevention services; environmental and consumer health programs; public health education and information services; laboratory services; and administrative services.

**REGULAR CARE** – Care that is provided at least four hours a day, three or more days a week, for more than nine consecutive weeks.

**REGULATORY AUTHORITY** – The Brazoria County Environmental Health Department as agent of the Brazoria County Health Department.

**RELIGIOUS ORGANIZATION** – A church, synagogue, or other religious institution whose purpose is to support and serve the propagation of truly held religious beliefs.

**RESIDENTIAL CHILD CARE FACILITY** – means a facility licensed or certified by the department to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers. The term includes child care institutions, child placing agencies, foster group homes, foster homes, agency foster group homes, and agency foster homes.

### **ARTICLE 3 ADMINISTRATION**

#### **SECTION A. PROMULGATION OF RULES**

The Brazoria County Health Director shall have the power, with the approval of the Brazoria County Commissioners Court, to prescribe and promulgate such rules and regulations, consistent with any law of the State of Texas, as may be deemed necessary to protect the health and safety of the public, and to effectively perform the duties herein.



## **SECTION B. DUTIES AND POWERS**

The Health Department of Brazoria County, Texas, by and through the Brazoria County Environmental Health Department, is designated by the Commissioners Court to be the permitting and regulatory authority for these Regulations and thus has the duty, and necessary powers, to administer and enforce these Regulations. The Environmental Health Department, as the permitting and regulatory authority, shall have the following duties and necessary concomitant powers:

- (a) To enforce the Rules and to make appropriate recommendations to proper County authorities when instances of noncompliance with these Rules have been determined;
- (b) To make inspections of all foster homes, independent foster homes, 24-hour care, child care centers, child care homes as needed to meet the requirements of these Rules;
- (c) To collect all fees set by the Commissioners Court or provided by law;
- (d) To make annual reports to the Commissioners Court; and
- (e) To perform all other duties necessary to meet the requirements of these Regulations.

## **SECTION C. INTERPRETATION**

In the interpretation and application of these regulations, all provisions shall be (1) considered as minimum requirements; (2) liberally construed in favor of the government body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

## **ARTICLE 4 GENERAL PROVISION**

### **SECTION A. SANITATION INSPECTION REPORT**

A person who operates a Child Care Center, Child Care Facility, Day Care Center (Title 40, Texas Administrative Code, §746.3401), 24-Hour Care Centers, Child Care Institution (Title 40, Texas Administrative Code §720.308), Foster Group Homes (Title 40, Texas Administrative Code §749.2905), Independent Foster Homes (Title 40, Texas Administrative Code §750.1101), Group Day Care Home, Group Residence, and Residential Child Care Facility as defined in these rules shall obtain a Sanitation Inspection Report annually from the regulatory authority and pay an inspection fee for each establishment unless specifically exempted.

A person who operates a Foster Family Home and a Foster Home (Title 40, Texas Administrative Code §§749.2901 and 2905) as defined in these rules shall obtain a Sanitation Inspection Report every two years from the regulatory authority and pay an inspection fee for each establishment unless specifically exempted. Title 40, Texas Administrative Code §746.3401

**SECTION B. PERMIT FEES**

Before any Sanitation Inspection Reports shall be issued under the provisions of these rules, the applicant shall pay to the Regulatory Authority a fee as follows for each establishment. Permit fees are nonrefundable.

**Fee of \$150.00 Per Establishment**

Child Care Center  
Child Care Facility  
24-Hour Care Centers  
Foster Group Homes  
Group Day Care Home  
Group Residence  
Day Care Center  
Child Care Institution  
Residential Child Care Facility

**Fee of \$50.00 Per Establishment**

Foster Family Homes  
Foster Home

**SECTION C. DURATION OF PERMIT**

Permits, except Foster Homes and Foster Family Homes as defined in Title 40, Texas Administrative Code, §§749.2901 and 749.2905, shall be valid for one year from the date of issue, which becomes the anniversary date.

Foster Home and Foster Family Home permits shall be valid for two years from the date of issue.

**SECTION D. PERMIT PROCEDURES**

If a person owns or operates two or more of the facilities listed above, each facility shall be permitted separately by listing the name and address of each facility on separate application forms.

The permit holder shall submit the annual permit fee for renewal and request for inspection prior to the expiration date of the current permit.

A person who files a renewal application after the expiration date shall pay an additional \$75.00 as a delinquency fee.

**SECTION E. INSPECTIONS**

Authorized agents or employees of the County may enter the premises under the County's jurisdiction during normal operating hours to conduct inspections to determine compliance with state law, rules adopted under state law, and orders adopted by the County.

**SECTION F. DUTIES AND RESPONSIBILITIES OF THE REGULATORY AGENCY**

The permitting authority shall keep a permanent record of all permit fees and other monies collected.