

**ORDINANCE NO. 11-3015**

**AN ORDINANCE REPEALING CHAPTER 66 OF THE CITY OF BEDFORD CODE OF ORDINANCES ENTITLED "HEALTH AND SANITATION;" AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH AND CREATING A NEW CHAPTER 66, "HEALTH AND SANITATION;" PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY FOR VIOLATION HEREOF; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS, the City of Bedford is a home rule City acting under its home rule Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,**

**WHEREAS, the City Council of the City of Bedford finds that the regulation of food establishments including food service establishments, retail food stores, temporary food establishments, mobile food units, and roadside food vendors is beneficial to the health, safety and welfare of the public; and,**

**WHEREAS, all food establishments and public swimming pools within the City of Bedford, Texas (the "City") shall be regulated by Chapter 66, "Health and Sanitation" of the Bedford Code of Ordinances; and,**

**WHEREAS, the City Council of the City finds it necessary to adopt an ordinance that regulates the matter contained herein.**

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEDFORD, TEXAS:**

**SECTION 1. That the findings above are true and correct and are incorporated in their entirety.**

**SECTION 2. That Chapter 66, "Health and Sanitation" of the City's Code of Ordinances is hereby repealed.**

**SECTION 3. That Chapter 66, "Health and Sanitation" of the City's Code of Ordinances is created and shall read as follows:**

**ARTICLE I. IN GENERAL**

**Sec 66-01--- 66-29 Reserved**

**Sec. 66-30 Adoption**

**Adopting by reference the Texas food establishment rules and the Texas swimming pool, spa or interactive water feature rules for the regulation of Health and Sanitation as it relates to food service establishments, retail food stores, temporary food establishments, mobile food units, roadside food vendors, and regulation of swimming pools, spa's or interactive water features**

**ARTICLE II. FOOD AND FOOD ESTABLISHMENTS**

**Sec. 66.31 Designation of Health Authority**

**The City designates the county health department director as its health authority for the purpose of ensuring minimum standards of environmental health and sanitation, within the scope of that department's function, for food protection and service.**

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**Sec. 66-32 Adoption of Texas Food Establishment Rules**

The City of Bedford adopts by reference the provisions of the current rules or rules as amended by The Executive Commissioner of the Health and Human Services Commission found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and 173 through 175 regarding the regulation of food establishments in this jurisdiction.

**Sec. 66-33 Definitions**

The words "authorized agent or employee" mean the employees of the regulatory authority.

The words "food establishment" means a food service establishment, a retail food store, a temporary food establishment, a mobile food unit, and/or a roadside food vendor.

The words "municipality of Bedford" in this ordinance shall be understood to refer to the City of Bedford.

The words "state rules" mean the state rules found at 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and Sections 173 through 175. These rules are also known as the Texas Food Establishment Rules.

The words "regulatory authority" means the Tarrant County Public Health Department

**Sec. 66-34 Permits and Exemptions**

A person may not operate a food establishment without a permit issued by the regulatory authority. Permits are not transferrable from one person or entity to another or from one location to another location, except as otherwise permitted by this ordinance. A valid permit must be visibly posted in or on every food establishment regulated by this ordinance.

**Sec. 66-35 Application for Permit and Fees**

1. Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.
2. Prior to the approval of an initial permit or the renewal of an existing permit, the regulatory authority shall inspect the proposed food establishment to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules will be denied a permit or the renewal of a permit.
3. Fees for permits issued under this ordinance shall be as listed in the attached fee schedule.

**Sec. 66-36 Review of Plans**

1. Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the regulatory authority for review before work is begun. Extensive remodeling means that 20% or greater of the area of the food establishment is to be remodeled or when equipment required by the rules is to be relocated or removed. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical

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plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. The plans and specifications will be approved by the regulatory authority if they meet the requirements of the rules adopted by this ordinance. The approved plans and specifications must be followed in construction, remodeling or conversion.

2. Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.
3. Fees for the review of plans shall be as listed in the attached fee schedule.

### Sec. 66-37 Inspections

1. Before a permit is issued, the City or its authorized representative shall inspect and approve the food establishment. An inspection of a food establishment shall be performed at least once annually and shall be prioritized based upon assessment of a food establishment's compliance and potential of causing foodborne illness according to 25 TAC 229.171(h).
2. The regulatory authority shall classify food establishments as special priority, high priority, medium priority or low priority, according to the type of operations; particular foods that are prepared; number of people served; susceptibility of the population served; history of violations and any other risk factor deemed relevant to the operation.
3. Refusal of an owner, manager or employee to allow the authorized representative of the regulatory authority, upon presentation of credentials, to inspect any permitted business or operation therein during normal business hours will result in an immediate suspension of the permit, requiring all permitted activities to abate until after such time as a hearing may be held per Sec. 66-39.

### Sec. 66-38 Food Manager / Food Handler Education

1. Requirement:
  - 1.1. Each food service establishment shall have at least one person employed in a managerial capacity possessing a current food manager certificate approved by the regulatory authority.
  - 1.2. Each food service establishment with six or more employees that is required to have certified food managers must have at least one certified manager on site during all operations.
  - 1.3. Every employee of a food service establishment other than a certified Food Manager must maintain a valid food handler certification registered with the regulatory authority.
  - 1.4. Food Handler certification shall be valid for a period of up to three years as determined by the regulatory authority.
  - 1.5. Food Manager and Food Handler certification documentation must be maintained in the food service establishment and presented upon request by the regulatory authority

### Sec. 66-39 Suspension of Permit

1. The regulatory authority may, without warning, notice, or hearing suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon service of the notice

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required by Sec. 66-39 (2) of this ordinance. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within ten days of receipt of a request for a hearing.

2. Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

### Sec. 66-40 Revocation of Permit

1. The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such ten day period.
2. If no request for hearing is filed within the ten day period, the revocation of the permit becomes final.

### Sec. 66-41 Administrative Process

1. A notice as required in these rules is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit as shown on their permit application. A copy of the notice shall be filed in the records of the regulatory authority.
2. The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority.

### Sec. 66-42 Remedies

1. Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be fined not more than \$2,000 dollars.
2. The regulatory authority may seek to enjoin violations of these rules.

### Sec. 66-43 Severability

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

### Sec. 66-44 – 66-65 Reserved

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ARTICLE III. SWIMMING POOL, SPA OR INTERACTIVE WATER FEATURES

Sec. 66-66 State regulations and guidelines adopted.

There is hereby adopted by reference of the V.T.C.A., Health and Safety Code § 341.064; Tex. Admin. Code §§ 265.181—265.208, "Standards for Public Pools and Spas," and Tex. Admin. Code §§ 265.301—265.308 "Public Interactive Water Features and Fountains" A copy of each shall be kept on file in the official records of the City.

Sec. 66-67 Definitions

All definitions in the V.T.C.A., Health and Safety Code Ch. 341 and Title 25, Chapter 265, Subchapter L of the Texas Department of State Health Services regulations, "standards for public pools and spas," are hereby adopted. In addition, the following definitions shall apply in this article:

***Certified pool operator.*** A person who possesses a valid pool operator's certificate from a course approved by the City.

***City.*** Authorized representatives of the City of Bedford, which shall include the director and representatives of the Tarrant County Public Health Department.

***Director.*** Director of the Tarrant County Public Health Department, who shall be an authorized representative of the City with respect to public pool and spa inspections and permitting.

***Pool.*** Any manmade permanently installed or non-portable structure, basin, chamber, or tank containing an artificial body of water that is used for swimming, diving, aquatic sports, or other aquatic activity other than a residential pool and that is operated by an owner, lessee, operator, licensee or concessionaire, regardless of whether a fee is charged for use. The pool may be either publicly or privately owned. The term does not include a spa or a decorative fountain that is not used as a pool.

***Private residential pool.*** A pool that is located on private property that is intended for use by one single-family and their invited guests, located on property used for the placement of a single-family residence.

***Private residential spa.*** A spa that is located on private property that is intended for use by one single-family and their invited guests, located on property used for the placement of a single-family residence.

***Public interactive water feature and fountain (PIWF)***--Any indoor or outdoor installation maintained for public recreation that includes water sprays, dancing water jets, waterfalls, dumping buckets, or shooting water cannons in various arrays for the purpose of wetting the persons playing in the spray streams.

***Regulatory authority.*** The director and representatives of the Tarrant County Public Health Department.

***Spa.*** A constructed permanent or portable structure that is two feet or more in depth and that has a surface area of 250 square feet or less or a volume of 3,250 gallons or less and that is intended to be used for bathing or other recreational uses and is not drained and refilled after each use. It may include, but is not limited to, hydrojet circulation, hot water, cold water, mineral baths, air induction bubbles, or any combination thereof. A spa does not refer to a business establishment, such as a day spa or a health spa. Industry terminology for a spa includes, but is not limited to, "hydrotherapy pool," "whirlpool," "hot spa," "hot tub," etc. A spa does not include a private residential spa.

Sec. 66-68 Pool and spa permits.

1. ***Required.*** It shall be unlawful for any person to operate a public pool, spa or interactive water feature in the City without a current and valid pool, spa or interactive water feature permit.

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2. **Posting.** A valid permit shall be posted in public view in a conspicuous place at the public swimming pool for which it is issued or on file in a secure area of the permitted facility's premises.
3. **Nontransference (change of ownership).** Permits issued under the provisions of this article are not transferable. Upon change of ownership of a business, the new business owner will be required to meet current standards as defined in City ordinances and state law before a permit will be issued. The new owner shall notify the City within ten days after assuming ownership of the pool, spa or interactive water feature.
4. **Multiple permits.** A separate permit shall be required for every public pool, spa or interactive water feature except that public pools or spas or interactive water features on a single water filtration system require one permit.
5. **Denial of permit.** A permit may be denied if the City, upon inspection, determines that the requestor has failed to comply with approved plans and specifications adopted in accordance with these rules.
6. **Inspections for permits.** An inspection shall be required annually to qualify for a permit. A permit is valid for one year from the date of issuance.

**Sec. 66-69 Review of plans and specifications.**

1. **Submission of plans.** Before a public pool's and/or spa's and/or interactive water feature's construction or extensive remodeling begins, the person proposing to construct or remodel shall submit an application to the regulatory authority for review and approval. The application shall include:
  - 1.1. The construction or remodeling plans, under an engineer's seal, and specifications stating that the proposed construction or remodeling complies with these rules and indicating that the proposed layout, mechanical plans, construction materials of work areas, and the type and model of proposed fixed equipment and facilities;
  - 1.2. The date on or after which proposed construction is to begin;
  - 1.3. The phone number and address of the entity primarily responsible for constructing the pool, spa or interactive water feature and the phone number and address of the entity primarily responsible for operating the pool, spa or interactive water feature;
  - 1.4. A check or money order in the amount of \$150.00 payable to Tarrant County, Texas; and,
  - 1.5. And any necessary additional information necessary to verify compliance.
2. **Approval.** The City shall approve plans and specifications that meet the requirements of these rules. No public pool, spa or interactive water feature shall be constructed or extensively remodeled except in accordance with plans and specifications approved by the City.

**Sec. 66-70 Inspections.**

1. **Preoperational inspections.** The City shall inspect a newly constructed or remodeled public pool, spa or interactive water feature prior to operation to determine compliance with approved plans and specifications, and with the requirements of these regulations. Requested inspections must be made a minimum of three working days prior to the desired opening date.

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2. **Inspections.** The City shall inspect all public pools, spas and interactive water features at least once per year. The owner or operator shall request an inspection by permit application providing the pool, spa or interactive water feature owner's name and address and, if different, the pool, spa or interactive water feature operator's name and address.
3. **Inspection fees.** A fee, as set forth in the City's fee ordinances, shall be required to be paid for preoperational inspections and, thereafter, on an annual basis. Fees shall be paid to Tarrant County Public Health Department at 1101 South Main, Fort Worth, Texas 76104. Only one permit will be required for a public pool, spa or interactive water feature connected to a single filtration system. Inspection fees shall be based on the number of filtration systems located at a single address. Inspection fees for single filtration systems shall be \$250.00 each.

**Sec. 66-71 Pool, spa or interactive water feature closures.**

1. A public pool, spa or interactive water feature shall be closed if any of the following conditions occur:
  - 1.1 Disinfectant level below the minimums set by the Texas Department of State Health Services;
  - 1.2 pH below 7.0;
  - 1.3 Inability to see bottom drain (poor visibility);
  - 1.4 Chlorine levels above eight ppm; or
  - 1.5 Any other imminent health hazards.
2. A closed sign shall immediately be posted and the pool, spa or interactive water feature access gate shall be locked until all violations have been corrected.

**Sec. 66-72 Pool and spa records.**

Daily records for each permitted public pool, spa or interactive water feature shall be kept on premises and shall include information pertaining to:

1. Disinfectant—Three times per day;
2. pH—Three times per day;
3. Alkalinity—One time per week;
4. Chemicals added—As noted by name, amount and date; and
5. Other information needed to ensure the facility's proper operation.

**Sec. 66-73 Suspension and revocation of permit.**

1. **Notice of suspension.** The City may temporarily suspend the permit of a public pool, spa or interactive water feature for noncompliance with state pool, spa or interactive water feature standards, by issuing a written notice for suspension. When a permit is suspended, pool, spa or interactive water feature operations shall immediately cease. A closed sign shall be immediately posted and the pool, spa or interactive water feature access gate shall be locked until any and all violations have been corrected.

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2. ***Reinstatement of permit after suspension.*** Whenever a notice of suspension is issued by the City, the holder of the permit or the person in charge will be given an opportunity to correct the violation(s) prior to final revocation of the permit. The City may end the suspension any time if the reasons for suspension no longer exist.
3. ***Revocation of permit.*** The City may, after providing notice of pending revocation and an opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the City in the performance of its duties. Prior to revocation, the City shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten days following service of such notice. Unless a written request for a hearing is filed with the City by the holder of the permit within such ten-day period, the revocation of the permit becomes final.
4. ***Service of notices.*** A notice provided for in these rules is properly served when it is delivered to the holder of the permit or the person in charge of pool and/or spa operations, or when it is sent by registered or certified mail, return receipt requested, to the address listed on the permit application. A copy of the notice shall be filed in the records of the regulatory authority.
5. ***Hearings.*** The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearings, the regulatory authority shall make a final finding, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority.
6. ***Right of appeal.*** Any permit holder who wishes to dispute the decision of a hearing may appeal the decision to the Director of the Tarrant County Health Department.
7. ***Application after revocation.*** Final revocation of a pool and/or spa permit shall not prevent the holder of the revoked permit from making written application for a new permit to the regulatory authority.
8. ***Closed pool, spa or interactive water feature.*** Prior to reopening, the owner or operator shall provide the application and fee required by Sec. 66-69 (1) if a pool, spa or interactive water feature:
  - 8.1 Closes voluntarily at the request of the regulatory authority on more than two occasions in one calendar year; or
  - 8.2 Closes on court order on more than two occasions in one calendar year.

Sec. 66-74 Public pool, spa or interactive water feature operator certification.

1. ***Requirement.*** The person in charge of pool, spa or interactive water feature operations at a Class C pool as defined by the adopted regulations, shall have at least one certified pool, spa or interactive water feature operator employed to maintain the pool, spa or interactive water feature for each apartment complex or municipal location. The certificate must be kept on premises to facilitate inspections.
2. ***Termination of certified pool, spa or interactive water feature operator.*** In the event that a certified pool, spa or interactive water feature operator is terminated or transferred, the business shall have 60 days from the operator's termination or transfer date to designate a new certificate holder. This requirement is applicable even if pool, spa or interactive water feature maintenance operations are contracted to an outside company.

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**Sec. 66-75 Penalty for violation.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this article shall be fined not more than \$2,000.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

**Sec. 66-76 Designation of health authority.**

The City designates the Medical Director of the Tarrant County Public Health Department as its health authority for the purpose of insuring minimum standards of environmental health and sanitation within the scope of that department's function.

**ARTICLE IV. TARRANT COUNTY FEE SCHEDULE**

**Sec. 66-77 Fees**

Fees for permitting and inspection services regulated under the City's ordinances, Chapter 66, "Health and Sanitation" shall be paid as required to the Tarrant County Public Health Department in accordance with the fee schedule in this article, "Tarrant County Fee Schedule."

**Sec. 66-78 Food program fee schedule**

<b>Food Store</b>	
≤ 5000 sq. ft.	\$200
> 5000 sq. ft.	\$300
<b>Food Service</b>	
< 500 sq. ft.	\$100
> 500≤1500 sq. ft.	\$150
> 1500≤ 3000 sq. ft.	\$200
> 3000≤6000 sq. ft.	\$250
> 6000 sq. ft.	\$300
<b>Child Care Food Service</b>	\$150
<b>Catering Operation</b>	\$250
<b>Food Court</b>	\$200 per establishment
<b>Adjunct Operation</b>	
Food Service	\$150 per independent operation
Food Store ≤5000 sq. ft.	\$150 per independent operation
Food Store >5000 sq. ft.	\$200 per independent operation
<b>Commissary</b>	
No food prep	\$100
With food prep	\$200
<b>Mobile Units</b>	
Prepackaged food only	\$100
Open and/or food prep	\$200
Push Carts	\$200
<b>Plan Review</b>	
≤ 500 sq. ft.	\$0

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> 500≤3000 sq. ft.	\$50
> 3000 sq. ft.	\$100

**Late Fee**

From 1-30 days	10% of fee owed
From 31-60 days	20% of fee owed

The late fee increases 10% for each 30 day block until permit fee and late fee is paid.  
Permits that are more than 90 days overdue will be void and required to reapply.

**Reinspection Fee**

Required reinspection	\$75
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**Sec.66-79 Swimming pool spa & interactive water feature fee schedule**

Plan Review and opening inspection	\$150
Annual Permit	\$250
Required reinspection	\$75

**Sec 66-80 Reserved**

**PRESENTED AND PASSED** this 13th day of December 2011 by a vote of 7 ayes, 0 nay and 0 abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

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**Jim Story, Mayor**

**ATTEST:**

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**Michael Wells, City Secretary**

**APPROVED AS TO FORM:**

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**Stan Lowry, City Attorney**