



STATE OF TEXAS O
 COUNTY OF HAYS O

ON THIS THE 8TH DAY OF MAY, A.D., 2001, THE COMMISSIONERS' COURT OF HAYS COUNTY, TEXAS, MET IN REGULAR MEETING. THE FOLLOWING MEMBERS WERE PRESENT, TO-WIT:

JAMES L. POWERS	COUNTY JUDGE
DEBBIE GONZALES INGALSBE	COMMISSIONER, PCT. 1
H. S. "SUSIE" CARTER	COMMISSIONER, PCT. 2
WILLIAM "BILL" BURNETT	COMMISSIONER, PCT. 3
RUSS G. MOLENAAR	COMMISSIONER, PCT. 4
LEE CARLISLE	COUNTY CLERK

WHEN THE FOLLOWING PROCEEDINGS WERE HAD, THAT IS:

Judge Powers called the meeting to order and gave the invocation. Commissioner Molenaar led the Court in the Pledge of Allegiance to the Flags.

19475 ADOPT A RESOLUTION IN SUPPORT OF SENATE BILL 304 [T1-33]

J. L. Howze, Neiderwald resident, spoke in support of SB304. City of San Marcos Mayor David Chui spoke of SB304 designating the San Marcos Airport as a general aviation airport (serve up to a 30 passenger plane) and federal funds would fast track their plans. Judge Powers spoke of having spoken to Mayors throughout the county and they are in support of SB304. A motion was made by Judge Powers, seconded by Commissioner Molenaar to adopt Resolution of Support of Senate Bill 304. All voting "Aye".

***A Resolution of the Commissioners' Court of Hays County, Texas
 Requesting the State Legislature approve SB 304
 Creating a State Airport in Central Texas***

WHEREAS, the Texas Legislature desires that the State Aircraft Pooling Board establish and maintain in Central Texas an airport open to the general public for use of licensed aircraft and further desires that the State Aircraft Pooling Board move its headquarters to the new state airport in Central Texas; and

WHEREAS, City of San Marcos officials have expressed an interest in converting their airport to a general aviation facility which will enable it to serve the needs of the State Aircraft Pooling Board; and

WHEREAS, conversion of the San Marcos Airport to the State Airport in Central Texas is consistent with current state and regional needs and supports transportation planning for Hays and Caldwell Counties and the I 35 Corridor;

NOW, THEREFORE, BE IT RESOLVED that the Commissioners' Court of Hays County requests that the Texas Legislature approve Senate Bill 304 as amended relating to the continuation and functions of the State Aircraft Pooling Board.

ADOPTED this the 8th day of May, 2001.

PRESENTATION BY ROLANDO L. RIOS LAW FIRM ON REDISTRICTING PLAN [T1-115]

There are five plans being presented (plan A-E). Rolando Rios spoke of 3 basic laws that must be complied with: \geq one person one vote rule (same number of people in each precinct with a deviation of 10%) \neq Section 2 & 5 of the Voting Rights Act - cannot dilute the minority population, \subset Shaw vs. Reno - you are not required to maximize the minorities and disregard the other principles. Hays County is required to redistrict because of growth that has occurred over the last ten years. George Korbek explained each plan - they tried to minimize the cutting up of communities of interest. Plan C maintains the same rural configuration as currently had - Plan A, D & E pulls Pct. 2 out of San Marcos. They tried to minimize the cutting up of voting precincts. All deviations numbers are under 10% (except Plan E) - Place C has the least deviation. [T1-273] Commissioner Carter spoke of seminar she went to in Austin in which the principles of redistricting was discussed - one of the things they said the Justice Department was not very interested in was "communities of interest" because everybody has their own interpretation of what a community of interest is. Rolando Rios spoke of Justice Dept. primarily interested in minority issues. George Korbek stated that almost all counties and cities want to maintain "communities of interest" (cities, school district, organizations, etc.) Rolando Rios spoke of trying not to split voting precincts when possible. Lindell Bollinger asked why all the plans put more of Pct. 2 into Pct. 1. George Korbek advised that Pct. 1 is a potential problem as far as the Dept. of Justice is concerned - Pct. 1 is 3700 people short - he spoke of maintaining the minority population in Pct. 1, therefore, they had to add areas that are primarily minority. Mr. Bollinger spoke of wanting to stay in his community. David Morales asked about principle of protecting an incumbent. George Korbek spoke of consideration that was given - protecting an incumbent is traditional because it is done by incumbents - most of the plans tried to preserve the base of the current commissioners. George Korbek advised that Plan B would preserve Commissioner Carter's position. He stated that he is familiar with Hays County and these proposals are not intended as plans to adopt but are plans to start discussions - you need to maintain the rural areas as they are.



George Korbel spoke of need for Precinct 1 to grow and to pick up minorities. [T1- Commissioner Carter spoke of hearing that there is no longer a minimum requirement for minorities for Justice Dept. purposes. George Korbel advised that 60-65% is a suggested number that you can depend on - he spoke of risk you run if you don't maintain the minority numbers [52% hispanic 8% black = 60% consideration]. Plan is not approved until the Dept. of Justice approves it. [T1-627] Clint Frankman spoke of makeup of redistricting committee - he emphasized that the citizens want balance on the committee. [T1-647] Lyle Bollinger read a written submission from his daughter Susan Meckel requesting that the court adhere to the traditional rules of redistricting - she felt like it is wrong to gerrymander a commissioner out of his/her district. [T1-695] Mary Bollinger plead to the court to adhere with traditional principles of redistricting - she spoke in support of Susie Carter and does not want her gerrymandered out of office - she wants a division at CR150. [T1-729] Lindell Bollinger spoke of all plans being presented will move him into Pct. 1 he wants to stay in the area he is currently in. He stated that he is a Republican and this would put him in a Democratic area - he would like to see area west of I35 and Kyle (heavily minority) put in Precinct 1. [T1-767] Ruben Garza spoke of need for hispanic representation on the redistricting committee. He suggested leaving the 60% historic level or there will be a voting rights claim. Mr. Garza stated that it is imperative that everyone work together because you do not want to alienate any segment of the community. [T1-796] David Morales (Pct. 3 resident) spoke of liking his Commissioner (Bill Burnett) and he begged for peace and harmony to work to approve a plan that works for all the commissioners.

19476 SET THE PLACES AND DATES FOR REDISTRICTING PUBLIC HEARINGS, INCLUDING AN UPDATE OF COMMITTEE ACTIVITIES, AND AUTHORIZE EXPENDITURE OF FUNDS FOR THE PUBLIC HEARINGS [T1-849]

Steve Floyd (Hays County GIS Director) presented proposed dates for public hearings: ⊇ **June 4th** @ 7PM at the Hays High School Career & Technology Building ⊘ **June 7th** @ 7PM at the Dripping Springs Elementary School ⊂ **June 13th** @ 7PM at the San Marcos Activity Center ⊆ **June 20th** @ 7PM at the Wimberley ISD facility (exact location not yet determined). He spoke of redistricting committee working out the technical details of getting the maps posted on the county website along with statistics - there will be an email address for redistricting questions (which will also be routed to all committee members - commissioners will be added to this and the redistricting attorneys) - there will also be a fax number and a P. O. Box to receive correspondence. Commissioner Molenaar spoke of need for commissioners to be able to attend all the public hearings - he does not want to be left out. A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to set public hearings as proposed [June 4, June 7, June 13, & June 20] and allocate expenditure of \$5,000 out of the consultant line item for these purposes. All voting "Aye".

19477 APPROVE THE COMMISSIONERS' COURT MINUTES OF MAY 1, 2001

County Clerk Lee Carlisle advised that a correction has been made to the proposed Minutes of May 1, 2001 as per request of Commissioner Carter regarding Resolution #19466 Plum Creek Park Lot 1 Resubdivision. [see memo in file] A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to approve the Commissioners' court Minutes of May 1, 2001 as presented this date. All voting "Aye".

19478 APPROVE PAYMENT OF COUNTY INVOICES

A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to approve payment of county invoices in the amount of \$225,109.11 as presented by the County Auditor. All voting "Aye".

Public Safety Svcs	\$ 55,372.50	Fines	\$ 1,071.12	Auditor's Office	\$ 237.47
Treasurer's Office	\$ 110.72	Extension Office	\$ 233.27	Grants Admin Ofc	\$ 1,739.22
Juvenile Probation Ofc	\$ 2,370.33	Election Adm Ofc	\$ 163.53	Comm & Social Svcs	\$ 5,000.00
Transfer Station	\$ 51.91	Bldg Mtc Dept.	\$ 5,491.40	Environmental Health	\$ 556.03
Civic Center	\$ 1,200.80	Countywide Operating	\$ 12,833.28	Tax A/C Ofc	\$ 247.87
District Clerk's Office	\$ 429.02	Sheriff's Office	\$ 9,066.12	Jail Operations	\$ 16,910.74
County Court at Law 1	\$ 394.72	District Atty's Ofc	\$ 414.99	J.P. 1-1	\$ 184.31
J.P. 1-2	\$ 307.88	J.P. 2	\$ 42.98	J.P. 3	\$ 168.71
J.P. 4	\$ 249.47	Dept of Public Safety	\$ 215.42	Constable 1	\$ 111.65
Constable 2	\$ 101.31	Constable 3	\$ 111.92	Constable 4	\$ 70.58
Constable 5	\$ 93.92	District Court Oper	\$ 3,959.58	Co & JP Court Oper	\$ 4,068.82
Veterans Adm Office	\$ 902.40	Computer Services	\$ 376.40	Fire Marshal/EMC	\$ 224.25
District Court Reporters	\$ 73.911	TJPC CCAP Grant	\$ 1,187.25	Special Counsel Ofc	\$ 160.95
911 Addressing Mtc Grant	\$ 134.12	Juv Justice Alt Ed	\$ 39.00	General Fund Credit	<\$175.34>
R&B Ad Valorem Tax	\$ 437.55	R&B Operations	\$ 85,139.31	Precinct 1	\$ 90.06
Precinct 3	\$ 438.67	Road Reconstruction	\$ 262.38	R&B Gen Fund Credit	<\$3,453.99>
Sheriff Abandoned Veh	\$ 150.00	Anticip Notes '95	\$ 3.86	Hays Co Parks Fund	\$ 83.96
Records Mng/Co Clerk	\$ 1,428.28	Burnett Rd Dist I&S	\$ 13,000.00	Sheriff Spec Projects	\$ 120.74
Courthouse Security Fund	\$ 78.55	Sheriff's Drug Forf	\$ 389.36	Family Health Svcs	\$ 434.95



19479 APPROVE BUDGET AMENDMENT NUMBER 01-22

A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to approve Budget Amendment No. 01-22 as proposed by the County Auditor. All voting "Aye".

AMENDMENT NO. <u>2001-22</u> FY 2001 BUDGET 5-08-01				
FUND NO. <u>01</u>				
FUND TITLE <u>GENERAL FUND</u>				
<u>LINE ITEM - EXPENDITURES</u>	APPROPRIATION BEFORE	<u>AMENDMENT</u>		APPROPRIATION AS
	<u>AMENDMENT</u>	<u>INCREASES</u>	<u>DECREASES</u>	<u>AMENDED</u>
<u>TAX OFFICE (415):</u>				
01-415-5211 Office Supply	8,000	2,600		10,600
01-415-5212 Postage	35,000	8,000		43,000
01-415-5448 Contract Services	10,000		(10,000)	-0-
01-415-5461 Printing	3,000		(600)	2,400
		<u>10,600</u>	<u>(10,600)</u>	
<i>Transfer for tax mailings</i>				
<u>DISTRICT ATTORNEY (423):</u>				
01-423-5271 Fuel	1,650	1,000		2,650
01-423-5160 Insurance	51,665		(1,000)	50,665
<i>Transfer for needed expense from personnel savings</i>				
<u>SHERIFF OFFICE (418):</u>				
01-418-5717 Law Enf Equipment	23,828	534		24,362
01-418-5362 C.I.D. Expense	10,000		(534)	9,466
<i>Transfer for metal detector cost</i>				

19480 APPROVE UTILITY PERMIT #01466 ON FISCHER STORE ROAD

A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to approve Utility Permit #01466 on Fischer Store Road issued to Verizon (Wimberley). All voting "Aye".

19481 ACCEPT AUDIT REPORT OF HAYS COUNTY TAX ASSESSOR/COLLECTOR

A motion was made by Commissioner Molenaar, seconded by Commissioner Ingalsbe to accept audit of Hays County Tax Assessor/Collector. All voting "Aye". [see audit report in file]

19482 ACCEPT COMPLETION OF ROADS AND RELEASE CONSTRUCTION SECURITY FOR ILA CREEK SUBDIVISION [T1-1059]

Road Engineer Supt. Jerry Borcharding advised that Ila Creek has a privately maintained road, therefore, no maintenance bond is required. Dale Pound, P.E., has submitted the concurrence letter and the as-built plans as required and they have been reviewed and approved. Environmental Health Director Allen Walther gave staff recommendation for approval. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to accept completion of road construction and approve release of construction security (Letter of Credit) for Ila Creek Subdivision. All voting "Aye".

19483 SUNSET HILLS [PCT. 2 #99A-2-053] * REVISED PRELIMINARY PLAT REJECTED [T1-1075]

This is a 215 lot subdivision (212 residential lots and 3 commercial lots) on State Highway 21 & Rhode Road/CR126 – the commercial lots are located in Caldwell County. Environmental Health Director Allen Walther spoke of extension given for completion of platting process and he spoke of temporary turnarounds shown on the plat. Staff is requesting permanent culdesacs instead of temporary turnarounds. Joe Martinez (representing developer) spoke of proposed Brushy Creek subdivision at one of these locations and other proposed subdivisions (safety valves). A motion was made by Commissioner Carter, seconded by Commissioner Ingalsbe to approve revised preliminary plat of "Sunset Hills". Allen Walther requested withdrawal of approval at this time because as the plat is currently drawn the temp culdesacs are encroaching on lots and the property owners will be paying taxes on portions of the culdesac. The roads will be county maintained in the future. Motions were withdrawn. No further action taken.



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19484 BLUE SKY RANCH [PCT. 4 #01-4-031] * **APPROVE PRELIMINARY PLAT** [T1-1193]

This is a 16 lot subdivision located off Sawyer Ranch Road/CR164 and lying in the ETJ of the City of Dripping Springs. Environmental Health Director Allen Walther advised that there is a dedicated park (Greenbelt & drainage easement dedicated to the City of Dripping Springs) allowing lot averaging – he gave staff recommendation for preliminary approval. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve preliminary plat of “Blue Sky Ranch”. All voting “Aye”.

19485 HEATHER HILLS [PCT. 4 #01-4-038] * **APPROVE PRELIMINARY PLAT** [T1-1207]

Environmental Health Director Allen Walther spoke of this being a large lot development (15 lots). This development required a water availability report which was submitted and reviewed by staff for compliance with Section 3.12 of the Hays County Subdivision & Development Regulations. He gave staff recommendation for approval of preliminary plat. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to approve preliminary plat of “Heather Hills”. All voting “Aye”.

19486 APPOINT DR. MICHAEL KELLEY AS MEDICAL AUTHORITY FOR HAYS COUNTY

[T1-1224] Gay Helmly, Health Department Director, advised that the State Dept. of Health is strongly encouraging the county to have an official medical authority – this is not required. Dr. Kelley is currently our Medical Director and he would act as final medical authority in the event of a public health emergency in matters of assessment, investigation, protocols and response. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Carter to appoint Dr. Michael Kelley as Medical Authority for Hays County. All voting “Aye”.

19487 APPROVE APPOINTMENT OF RODNEY COBB AND MIKE THIELEN TO THE HAYS COUNTY PARKS ADVISORY BOARD [T1-1247]

A motion was made by Commissioner Ingalsbe, seconded by Commissioner Carter to approve appointment of Rodney Cobb (City of San Marcos Parks & Recreation) and Mike Thielen (Hays County Sheriff's Dept) to the Hays County Parks Advisory Board. All voting “Aye”.

19488 ROAD NAME DESIGNATION * NAME A PRIVATE EASEMENT “GYPSY COVE” (LOCATED OFF OF CENTERPOINT ROAD) [T1-1262]

Environmental Health Director Allen Walther gave staff recommendation for approval to name a private easement “Gypsy Cove”. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Carter to approve road name designation of “Gypsy Cove” to a private easement located off Centerpoint Road. All voting “Aye”.

19489 FILL TWO VACANCIES ON THE REDISTRICTING COMMITTEE WITH RUBEN GARZA AND ELIAS SALINAS [T1-1282]

A discussion was had regarding the makeup of the redistricting committee. Commissioner Molenaar spoke of his thought that the committee was to be done away with and now we are appointing new people. Elections Administrator Joyce Cowan spoke of other issues that will need to be addressed by the committee (ie polling places, etc.). Commissioner Molenaar spoke of hiring attorneys to come up with the end result - Election Administrator & GIS Tech will work with attorneys. Special Counsel Jacquelyn Cullom Murphy advised that the appointments today were intended to fill the vacancies. Joyce Cowan advised that the committee is responsible for gathering the information. Commissioner Molenaar agrees that county staff could gather the information for the attorneys. He felt like that if the committee continues, each precinct should have a committee member. County Clerk/Co-Chair of the Redistricting Committee Lee Carlisle spoke of creation of the committee - they did the legwork and they had no voting power - he would like to see the committee restructured with Technical staff: Jeff McGill (computer services), Steve Floyd (GIS), and Joyce Cowan (Election Dept). Judge Powers suggested removing all elected officials from the committee and have each commissioner and the county judge appoint two people to serve on the committee that work with Joyce Cowan and Steve Floyd (who will head the committee up) and work with legal staff and come back with their recommendation. Commissioner Ingalsbe spoke of need to have Joyce Cowan involved in the committee. Commissioner Burnett asked about criteria. Ruben Garza advised that he would not want to serve on a committee that is finished - he spoke of creating a citizens taskforce - make sure that the committee knows that they only make recommendations and they are not mandated to pick a plan. Sue Basham feels like the committee should be on hold at this time and let the stakeholders be involved at this time and committee will go back together to help determine voting precincts. Commissioner Molenaar spoke of need for support staff to assist attorneys. Charlie Johnson feels like the current committee should be discharged; appoint a new committee with needed staff, attorneys, and precinct appointees; and only the Commissioners Court will make a final decision. Joyce Cowan spoke of need for committee to be familiar with what has been going on - the current stakeholders are already representing all the political parties, organizations, etc. - appointment should be made from that list. Commissioner Carter spoke of leaving the stakeholders as is. Commissioner Burnett spoke of public hearings - he feels like the committee has done what they were set up to do – we need to now listen to public comment. A motion was made by Commissioner Ingalsbe, seconded by Commissioner Carter to fill two vacancies on the Redistricting Committee with Ruben Garza and Elias Salinas. All voting “Aye”.



19490 AUTHORIZE THE COUNTY JUDGE TO FORWARD A LETTER ON BEHALF OF THE COMMISSIONERS' COURT RELEASING OWNERSHIP OF LEHMAN ROAD (AKA COUNTY ROAD 204) TO THE CITY OF KYLE FROM FM 150 EAST TO GOFORTH ROAD, COUNTY ROAD 157 FROM WHERE IT INTERSECTS LEHMAN ROAD TO ITS INTERSECTION WITH COUNTY ROAD 130, AND COUNTY ROAD 130 FROM WHERE IT MEETS COUNTY ROAD 157 TO ITS END AT I-35 [T1-1808]

Commissioner Carter spoke of request from City Manager of Kyle for County to release these roads to the City (both sides of the road have already been annexed). County Engineer Supt. Jerry Borcharding spoke of City Council not being able to request these roads from the County, therefore, the county must request the City to take over the roads. Commissioner Molenaar spoke of a lawsuit regarding this issue - when a city takes in both sides of a road, they must take over the road as well. Special Counsel Jacqueline Cullom Murphy advised that she is willing to talk to the city attorney regarding this issue - the annexation made it their road. She felt like this is probably just a legal mechanism to get this road off our record and in to their record. Commissioner Burnett asked for change in wording of the proposed letter: change the word "Annexation" to "Release of ownership" of Lehman Road. Commissioner Molenaar requested that all references to annexation be taken out of the letter. A motion was made by Commissioner Carter, seconded by Commissioner Burnett to authorize the County Judge to forward a letter on behalf of the Commissioners' Court releasing ownership of Lehman Road (AKA County Road 204) to the City of Kyle from FM150 east to Goforth Road, County Road 157 from where it intersects Lehman Road to its intersection with County Road 130 and County Road 130 from where it meets County Road 157 to its end at IH35. All voting "Aye". [Description of Annexation Area in file]

19491 APPOINT ELECTION JUDGES AND ALTERNATE JUDGES FOR JUNE 2, 2001 BOND ELECTION

A motion was made by Commissioner Burnett, seconded by Commissioner Molenaar to appoint Election Judges and Alternate Judges for June 2, 2001 Bond Election as proposed. All voting "Aye".

PCT	JUDGES	ALTERNATES
110 & 113	Rose Brooks	Baudelia Arredondo
111	Nell Burleson	Carman Robbins
112	Hector Mendez	Rosa Aldape
114	Rosemary Suniga	Elizabeth Champagne
116	Johnnie Armstead	Cheryl Eisman
120 & 121	Melvia Randle	Eva Leal
222, 226, 230	Jo Burdette	Mary Lou Kelly
223 & 225	Robert Ronson	Paul Terry
224	Mark Brinkley	Charlene Jones
227 & 229	Vickie Simpson	Brenda Schlomach
228	Gus Carrillo	Joyce Wilkinson
315	Carol Kutscher	David Livingston
330 & 334	Ofelia Vasquez-Philo	Pat Lackey
331 & 336	Stephen Prentice	Victoria St. John
335 & 337	Craig Payne	Bernice Neumann
440,441,449	Sybil Floyd	Hazel Bassett
442 & 448	Stan Jones	Paula Anderlitch
443	Jo Overton	John M. Bryant
445 & 451	Ted Hindson	Gloria Aranda
446 & 447	Mary Borm	Ramona Ford

Central Counting Station Manager	Ernest Weiss
Central Counting Station Tabulation Supv	Jeff McGill
Central Counting Station Judge	Nick Iccossipentaros
Central Counting Station Clerk	Liz Gonzalez
Central Counting Station Clerk	Terry McGill
Central Counting Station Clerk	Chris Baker
Central Counting Station Clerk	Rosemary Iccossipentaros
Central Counting Station Clerk	Marva Filla
Early Voting Ballot Board Judge	Nick Iccossipentaros
Early Voting Ballot Board Alternate Judge	Delia Lucio
Early Voting Ballot Board Clerk	Fraye Stokes
Early Voting Ballot Board Clerk	Rosemary Iccossipentaros



19492 AMEND ANIMAL CONTROL ORDINANCE SECTION 8.4(b) [T1-2023]

Commissioner Molenaar spoke of Section 8.4 of the Animal Control Ordinance regarding animals creating a public nuisance. He suggested changing Section 8.4(b) from mandatory to permissive by the changing of the word “will” to “may”. A motion was made by Commissioner Molenaar, seconded by Commissioner Burnett to amend the Hays County Animal Control Ordinance Section 8.4(b) by changing the word “will” to “may”. All voting “Aye”.

Section 8.4. Animals Creating a Public Nuisance.
 (b) Any animal that is a public nuisance ~~will~~ **may** be confiscated and impounded by the Animal Control Officer for seventy-two (72) hours, not counting weekends and holidays.

19493 AMEND HAYS COUNTY FOOD SERVICES SANITATION REGULATIONS [T1-2047]

Environmental Health Director Allen Walther presented a revised Food Sanitation Regulations (enforcement provisions & fee schedule changes) – we are limited by law to have fees no greater than the largest municipality in the county. He recommended fees that are 50% of what the City of San Marcos charges. A motion was made by Commissioner Molenaar, seconded by Commissioner Carter to amend the Hays County Food Sanitation Regulations as proposed to be effective immediately. Commissioner Ingalsbe, Commissioner Carter, Commissioner Burnett, and Commissioner Molenaar voting “Aye”. Judge Powers abstained.

**HAYS COUNTY HEALTH DEPARTMENT
FOOD SANITATION REGULATIONS**

REGULATIONS PRESCRIBING RULES FOR ALL FOOD ESTABLISHMENTS IN THE COUNTY AND MEMBER CITIES OF HAYS COUNTY HEALTH DEPARTMENT DEFINING CERTAIN WORDS AND PHRASES USED IN THESE REGULATIONS; PROVIDING FOR ISSUANCE BY THE HAYS COUNTY HEALTH DEPARTMENT OF PERMITS FOR OPERATION OF FOOD ESTABLISHMENTS AND PRESCRIBING FEES FOR SUCH PERMITS; AUTHORIZING THE HEALTH OFFICIAL TO MAKE INSPECTIONS OF FOOD ESTABLISHMENTS; PRESCRIBING SANITATION REQUIREMENTS FOR FOOD ESTABLISHMENTS; ADOPTING REQUIREMENTS FOR FOOD HANDLER REGISTRATIONS; ADOPTING THE REQUIREMENTS OF THE TEXAS BOARD OF HEALTH REGULATING EATING AND DRINKING ESTABLISHMENTS; PRESCRIBING PENALTIES FOR VIOLATIONS OF PROVISIONS OF THESE REGULATIONS; AND PROVIDING A SAVING CLAUSE. BE IT ORDAINED BY THE HAYS COUNTY COMMISSIONERS COURT:

ARTICLE 1

NAME AND AUTHORITY OF THE REGULATIONS: These regulations shall hereafter be referred to as the “Food Sanitation Regulations”. Hays County adopts by reference the provisions of Chapter 437 applicable to counties/public health districts , the current rule or rules as amended by the Texas Board of Health 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, Chapter 341 regarding Food Establishments and Chapter 431 regarding the Food, Drug and Cosmetic Act.

WORDS AND PHRASES DEFINED

SECTION 1: Definitions: The following definition shall apply in the interpretation and enforcement of these regulations.

- A. **Food Establishments:** An operation that stores, prepares, packages, serves, or otherwise provides food for human consumption such as: a food service establishment; retail food store; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; remote catered operations; conveyance used to transport people; institution; or food bank; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers. The term “food establishments” shall mean coffee shop, cafeteria, short order, short order café, luncheonette, day care center, tavern, sandwich stand, soda fountain, and all other eating or drinking establishments, as well as kitchens or other places in which food or drink is prepared for sale elsewhere, or a retail food outlet.
 - 1. The term includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; a restaurant; a grocery store; an operation that is conducted in a mobile, roadside, stationary , temporary , or permanent facility or location; group residence; outfitter operations; bed and breakfast extended and bed and breakfast food establishments; where consumption is on or off the premises; and regardless of whether there is a charge for the food.
 - 2. The term does not include: an establishment that offers only prepackaged foods that are not potentially hazardous; a produce stand that only offers whole, uncut fresh fruits and vegetables; a food processing plant; a kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function, such as a religious or charitable organization's bake sale; a Bed and Breakfast Limited facility as defined in these rules; or a private home.
- B. **Temporary Food Establishment:** The term “temporary food establishment” shall mean a food establishment operating for a temporary period in connection with a fair, carnival, circus, public exhibition, or other similar gathering. Non-profit fund raising events and related establishments which are open for business no longer than three (3) days consecutively or for a longer period than ten (10) days in any calendar year are exempt from this definition.



- C. Food Handler: The term "food handler" shall mean any person in a food establishment who handles food or drink during preparation or serving; or who comes in contact with any eating or cooking utensils; or who is employed in a room where food or drink is prepared, served, transferred, stored, packed, sold, or otherwise handled.
- D. Utensils: "Utensils" shall include kitchenware, tableware, glassware, cutlery, utensils, containers, or other equipment with which food or drink comes in contact during storage, preparation or serving.
- E. Health Official: The term "health official" shall mean the authorized representative of the Hays County Environmental Health Department.
- F. Person: The word "person" shall mean associations, corporations, firms, partnerships, as well as individuals.
- G. Plumbing Ordinance: The term "plumbing ordinance" shall mean the plumbing ordinances, sewage facility regulations and all amendments thereto, in force in the member cities of Hays County.
- H. Health Department: The phrase "health department" shall mean the Hays County Environmental Health Department.
- I. City: The term "city" shall mean the member cities of Hays County.
- J. Commissioners Court: The term "Commissioners Court" shall mean the Hays County Commissioners Court which administers the Hays County Health Department.
- K. Area of Jurisdiction: The term "area of jurisdiction" shall mean the areas within the corporate limits of the member cities of Hays County and all unincorporated areas of Hays County.
- L. Person in Charge: The individual present at a Food Establishment who is responsible for the operation at the time of inspection. If no individual present has been designated as the Person in Charge, the Health Official shall designate any employee present as the Person in Charge.

ARTICLE II

PERMITS AND EXEMPTIONS.

SECTION 2. A person may not operate a food establishment without a permit issued by Hays County. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this order. A valid permit must be posted in or on every food establishment regulated by this order.

A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this order, but is not exempt from compliance with the Texas Food Establishment Rules. Hays County may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption.

A bed and breakfast establishment with seven or fewer rooms for rent that serves only breakfast to its overnight guests is not a food establishment for purposes of this order. Any other bed and breakfast is a food establishment and shall follow the applicable state rules and must obtain a permit under this order.

SECTION 3. The following application, permit fees, and review of plans shall be required under the terms of these Regulations.

- I. Application: Every person who may desire to operate a food establishment in the area of jurisdiction shall make application and pay a fee to be designated by the Hays County Commissioners Court, upon forms prescribed and furnished by the Health Department. Upon filing of such application, the Health Official shall make or cause to be made an inspection of the premises. When the conduct of such business satisfies the requirements of these Regulations, the Health Official shall approve said application. Thereupon, following procedures designated by the Hays County Health Department, such application shall receive a permit in writing for the operation of the food establishment described in the application. Every such permit shall be non-transferable, shall permit the operation of a food establishment only at the location for which granted and shall expire at midnight on the 31st day of December of the calendar year in which the permit is issued. Such permit shall be posted in a conspicuous place in the food service area of the food establishment at all times.
- II. Permit Fees: The following fee schedule applies to permits issued under this order: Based on the number of employees 1 – 5 = \$50, 6 – 19 = \$100, & 20 and above = \$150, Food handler registration--\$10.
- III. Review of Plans: Whenever a food establishment is constructed, added on to 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. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. The Hays County will approve the plans and specifications if they meet the requirements of state law and rules. The approved plans and specifications must be followed in construction, remodeling or conversion. Failure to follow approved plans and specifications, when required, will result in a permit denial, suspension, or revocation.

ARTICLE III

INSPECTION OF FOOD ESTABLISHMENTS

SECTION 4. At least once every six (6) months or in response to a complaint, the Health Official shall inspect every food establishment located within the area of jurisdiction. Upon request of the Health Official, the person operating the food establishment shall permit access to all parts of the establishment under inspection and shall permit inspection, examination of Food Handler Registration Cards, employee work schedules, and copying of all records of food purchased. A copy of the Inspection Report based on the findings of each inspection shall be posted on an inside wall of the establishment. The Report shall not be removed or defaced by anyone other than the Health Official.

The Health Official may take and examine samples of food, drink and other substances found on the premises for the detection of unwholesomeness and adulteration and may condemn and forbid the same of, and cause to be removed or destroyed, any food or drink which is unwholesome, adulterated, or potentially hazardous food held at a temperature which would allow the growth of dangerous organisms.



SECTION 5. In case the Health Official discovers a violation of any item of sanitation, he shall immediately notify the permit holder or Person in Charge thereof. Correction of the defect must be made after the lapse of such time as the Health Official deems necessary. The Health Official can use a second inspection to determine compliance with the requirements of the Regulations. Any violation of these Regulations which involves an imminent health hazard, operation without a permit or repeated violations of unregistered food handlers on such second inspections shall be grounds for immediate suspension of the permit.

SECTION 6. Any person whose permit has been revoked, or suspended, may at any time make application to the Health Official for reinstatement of the permit. Such application shall contain a statement signed by the applicant to the effect that the violation of this Regulation has been corrected. Within one week after the receipt of such application, the Health Official shall reinspect the applicant's food establishment to determine whether the applicant is again complying with the requirements of these Regulations, and shall reinstate the permit if the applicant is complying with these Regulations.

ARTICLE IV

SANITATION REQUIREMENTS FOR FOOD ESTABLISHMENTS

SECTION 7. Every food establishment shall comply with all of the following items of the sanitation:

- A. Statutes and Regulations: Compliance with the provisions of the Texas Board of Health found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and 173 through 175 regarding the regulation of food establishments, and this order.
- B. Separation from living quarters: Living or sleeping quarters located on the premises of a food establishment such as those provided for lodging registration clerks, resident managers or resident owners shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.
- C. Temporary Food Establishments: The sanitation requirements adopted by the Texas Board of Health which apply to Temporary Food Establishments shall be applicable to temporary food establishments within the area of jurisdiction. The Health Official is authorized to make such inspections of establishments he may deem necessary for the protection of public health and to require such compliance with provisions of these Regulations as will in his judgment safeguard the public health. No temporary food establishment shall be operated for a longer period than ten (10) days in any calendar year, and any operation for a longer period than ten (10) days shall subject such temporary food establishments to all the provisions requiring permits, permanent installations, prescribed equipment, and specifications for floors, screens, and all other improvements.
- D. Registration of Food Handlers: It shall hereafter be unlawful for any person operating any food establishment, to work or employ a food handler until such food handler has received a food handler's registration certificate from the Hays County Health Department which is valid during the time of such employment.
 1. Issuance of Registration Certificates and Payment of fees.
 Hays County Health Department shall issue food handler's registration certificates to food handlers who satisfactorily complete the steps hereinafter described, which certificates shall be valid for the length of time hereinafter specified and shall be required to be renewed as hereinafter stated. A fee to cover the cost of processing will be charged by Hays County Health Department.
 2. Orientation of applicant: No food worker's registration card shall be issued by Hays County Health Department to any person required by law or by this article to have or exhibit such certificate until the applicant has met the following requirement:
 - a. Complete an orientation in basic food sanitation. The schedule, time and location of orientation sites will be announced by the Director of the Hays County Health Department. The primary emphasis of this orientation will be directed toward the food worker's sanitation practices and behavior when working in a public food establishment rather than extensive training which is the responsibility of each food service manager.
 3. Display of Food Handler Registration Certificate Upon completion of the prescribed orientation and the necessary administrative processing, each individual will be issued a Food Handler Registration Certificate which will be displayed at the place of employment and left posted in a conspicuous location.
 4. Managers and supervisory personnel Managers, assistant managers, shift supervisors and other food service personnel who have completed managers certification will not be required to comply with the provisions of Subsection (D) of the article.
 5. Waiver of Registration This requirement of the registration process may be waived at the discretion of the Director, provided the establishment applies for the waiver in writing, has appropriate in-service employee training in basic hygiene and food sanitation and otherwise meets the Director's requirements as to frequency, type of training and instructor qualifications, or submits other justification for exempting certain workers from registration. When such waivers are granted, the manager of the establishment will be notified in writing of such approval. Retention of this waiver, when granted, will be subject to maintaining acceptable standards of training and sanitation within the establishment.
 6. Actual Issuance and Effective Period of Food Handlers Registration Certificate After the above has been accomplished, the applicant shall thereupon be issued a food handler's registration certificate by the Hays County Health Department which shall be valid twenty four (24) months from the time of issuance. Each such certificate must be renewed by each such applicant each twenty four (24) months by the same procedure as outlined above.



ARTICLE V

ENFORCEMENT & SEVERABILITY OF ORDER & EFFECTIVE DATE

SECTION 8. ENFORCEMENT

Hays County may, after giving notice and providing an opportunity for hearing, deny, suspend, or revoke a permit for any violation of this order, the state law, or the state rules.

The notice of the reasons for the denial, suspension, or revocation of the permit shall be in writing and presented directly to the Person in Charge or mailed by certified mail, return receipt requested, to the permit holder or applicant at the address as shown on the permit application or renewal. The reason for the denial, suspension, or revocation shall be stated in the notice. The permit holder or applicant shall have twenty days from the receipt of the notice letter to request a hearing on the denial, suspension, or revocation. If no request for hearing is received by Hays County after twenty days of receipt of the notice by the permit holder, or applicant, Hays County may take the proposed action without a hearing.

If a hearing is requested within the twenty-day period, the hearing shall be conducted by a hearing officer or other body as determined by Hays County Commissioners Court. The hearing officer shall appoint a time, day, and location for the hearing. Both Hays County and the permit holder or applicant shall have the right to present witnesses and evidence in the hearing. Based on the evidence presented at the hearing, the hearing officer shall make a final written decision in the matter and shall notify Hays County and the permit holder or applicant.

A person commits an offense if the person operates a food service establishment, retail food store, mobile food unit, or roadside food vendor without a permit required by Hays County. An offense under this section is a Class C misdemeanor in accordance with the Texas Health and Safety Code, Chapter 437. Each day on which a violation occurs constitutes a separate offense.

SECTION 9. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this order 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 order.

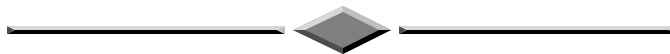
SECTION 10. EFFECTIVE DATE

The provisions of this revised order shall take effect on: May 8, 2001

SECTION 11. FEES

Fees shall be established and revised through a majority vote of the Hays County Commissioners Court.

**INTRODUCED AND PASSED BY AN AFFIRMATIVE MAJORITY VOTE BY THE COMMISSIONERS COURT
OF HAYS COUNTY ON THIS 8th DAY MAY, 2001.**



Clerk's Note: Agenda Items #21 RE: Professional Service Agreement between Hays County and Sunday & Associates Inc. and #22 RE: Workshop on financial planning, retirement & diversification were PULLED. No discussion and no action taken.

Court was adjourned.

MINUTES APPROVED IN OPEN COURT ON THE 15TH DAY OF MAY, 2001.

JAMES L. POWERS, COUNTY JUDGE
H A Y S COUNTY, TEXAS

LEE CARLISLE, COUNTY CLERK
H A Y S COUNTY, TEXAS

