

ARTICLE VI. - FOOD SERVICE

Footnotes:

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State Law reference— *Food, drugs, alcohol, and hazardous substances, V.T.C.A., Health and Safety Code § 431.001 et seq.*

DIVISION 1. - GENERALLY

Secs. 10-211—10-225. - Reserved.

DIVISION 2. - FOOD SERVICE ESTABLISHMENTS

Footnotes:

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Editor's note— *Ord. No. 00-1-3, § I, adopted Feb. 7, 2000, did not specifically amend this Code but was treated as superceding §§ 10-226—10-234 at the discretion of the editor to read as herein set out. See the Code Comparative Table.*

State Law reference— *Food service establishments, V.T.C.A., Health and Safety Code § 437.001 et seq.*

Sec. 10-226. - State rules adopted.

The City of Ennis, Texas does hereby adopt various Texas Food Establishment Rules Promulgated by the Texas Department of Health (25 TAC 229.161—229.171, 229-173—229.175) Texas Health Code, effective date 10-06-98.

(Ord. No. 84-11-1, § 1, 11-19-84; Ord. No. 00-1-3, § I, 2-7-00)

State Law reference— *Regulation of food service establishments, V.T.C.A., Health and Safety Code § 437.01 et seq.*

Sec. 10-227. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized agent or employee means the employees of the regulatory authority.

Food establishment means a food service establishment, a retail food store, a mobile food unit, and/or a roadside food vendor.

Pre-packaged foods means any food item which is received, kept, stored, and sold or distributed in unbroken sealed packages.

Regulatory authority means the City of Ennis, Texas.

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

Temporary food establishment means any booth or trailer which operates at a fixed location for a period of time not to exceed five (5) consecutive days in conjunction with a single event or celebration. The temporary food service establishment must operate in conjunction with the event and may not be the event.

(Ord. No. 00-1-3, § I, 2-7-00; Ord. No. 02-12-1, § I, 12-16-02)

Sec. 10-228. - Permits and exemptions.

- (a) A person may not operate a food establishment without a permit issued by the regulatory authority. Permits are not transferrable from one (1) person to another or from one (1) location to another location, except as otherwise permitted by this division. A valid permit must be posted in or on every food establishment regulated by this division.
- (b) A temporary food establishment operated solely by a nonprofit organization is exempt from the permit fee, but is required to apply and receive a permit from the regulatory authority. The regulatory authority may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption.
- (c) Upon completion of a food establishment inspection, the regulatory authority will issue a food establishment rating system certificate which must be posted where it is visible to the general customers of the establishment. Only the certificate issued from the last inspection must be posted.
- (d) Each mobile food unit must be readily identifiable by business name, printed, permanently affixed, and prominently displayed upon at least two (2) sides of each unit, in letters not less than three (3) inches in height.

(Ord. No. 00-1-3, § I, 2-7-00; Ord. No. 02-12-1, § I, 12-16-02)

Sec. 10-229. - Application for permit and fees.

- (a) 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.

- (b) Prior to the approval of an initial permit the regulatory authority shall inspect the proposed food establishment to determine compliance with city and state laws and rules. A food establishment that does not comply with city and state laws and rules will be denied a permit. Additional inspection of food establishments shall be performed as often as necessary for the enforcement of this section.

Sec. 10-230. - Review of plans

- (a) Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use 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 twenty (20) percent 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 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.
- (b) Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

(Ord. No. 00-1-3, § I, 2-7-00)

Sec. 10-231. - Suspension of permit.

- (a) The regulatory authority may, without warning, notice, or hearing suspend any permits 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 required by section 10-230(b) of the division. 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 twenty (20) days of receipt of a request for a hearing.
- (b) 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 (10) days. If no written request for hearing is filed within ten (10) days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.
- (c) Refusal of an owner, manager or employee to allow the city environmental health inspector or

authorized agent 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 halt. Operations cannot resume without written approval from the regulatory authority.

(Ord. No. 00-1-3, § I, 2-7-00; Ord. No. 02-12-1, § I, 12-16-02)

Sec. 10-232. - Revocation of permit.

- (a) 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 (10) days following service of such notice unless a written request for hearing is filed with the regulatory authority by the holder of the permit within such ten-day period.
- (b) 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.
- (c) To request reinstatement of a revoked permit, permit holder may request reinspection and pay [a] fifty dollar (\$50.00) reinspection fee. The regulatory authority will arrange a time with permit holder to perform a reinspection. If permit holder has complied with the requirements of these regulations, the permit shall be reinstated.
- (d) Only food items previously approved by the regulatory authority may be sold on a mobile food unit. Non-food items such as toys, fireworks, or any hazardous substances such as stink bombs are prohibited. Permit shall be revoked upon detection of such items.

(Ord. No. 00-1-3, § I, 2-7-00; Ord. No. 02-12-1, § I, 12-16-02)

Sec. 10-233. - Administrative process.

- (a) 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. A copy of the notice shall be filed in the records of the regulatory authority.
- (b) The hearing 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.

(Ord. No. 00-1-3, § I, 2-7-00)

Sec. 10-234. - Remedies.

- (a) 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 one thousand dollars (\$1,000.00) per day that such violation continues to exist.
- (b) The regulatory authority may seek to enjoin violations of these rules.

(Ord. No. 00-1-3, § I, 2-7-00)

Sec. 10-235. - Farmers market.

- (a) *State rules adopted.* The city does hereby adopt various Texas food establishment rules pursuant to the Health and Safety Code. All references to sections of the Health and Safety Code include other applicable sections of the Health and Safety Code, as well as other applicable law.
- (b) *Definition.* A "farmers market" pursuant to Health and Safety Code § 437.020(1)(a), is defined as a designated location used primarily for the distribution and sale directly to consumers of food by farmers or other producers.
- (c) *Permits and exemptions.*
 - (1) The duration of a temporary food establishment permit is extended pursuant to Health and Safety Code, § 437.0201(b)(c). A temporary food establishment permit issued to a farmers market vendor is effective for the duration of the farmers market season.
 - (2) A seasonal permit fee of fifty dollars (\$50.00) is established for temporary food establishment vendors at the farmers market.
 - (3) An individual who operates a cottage food production operation must successfully complete a basic food safety education or training program for food handlers accredited under Health and Safety Code, § 438(D) and provide the city health department documentary evidence of completing said education or training program.
 - (4) Food samples may be prepared and distributed at a farmer's market if the following sanitary conditions exist pursuant to the Health and Safety Code § 437.020(c):
 - a. Distribute the samples in a sanitary manner.
 - b. Have potable water available.
 - c. Wash produce intended for sampling with potable water to remove any visible dirt or contamination.
 - d. When preparing the samples, wear clean, disposable plastic gloves or observe proper hand washing techniques immediately before preparation.
 - e. Use smooth, nonabsorbent, and easily cleaned utensils and cutting surfaces for cutting

samples, or use disposable utensils and cutting surfaces.

- f. Keep samples of cut produce or other potentially hazardous foods at a temperature of forty-one (41) degrees or colder, or dispose of samples within two (2) hours after cutting or preparation.

(Ord. No. 14-03-02, 3-17-2014)

Secs. 10-236—10-250. - Reserved.