

ORDINANCE NO. 000-011

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 46, HEALTH AND SANITATION, BY AMENDING ARTICLE IN ITS ENTIRETY; ADOPTING THE TEXAS FOOD ESTABLISHMENT RULES ADOPTED BY THE TEXAS DEPARTMENT OF HEALTH AT 25 TEX. ADMIN. CODE 229.161-229.171 AND 229.173-229.175 AS THE STANDARD FOR THE TOWN; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF \$2,000.00 FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in connection with the storage, preparation, handling, and service of food at food service establishments within the Town, the Town Council desires to adopt the Texas Food Establishment Rules adopted by the Texas Department of Health.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Amendment. The Code of Ordinances of the Town of Addison, Texas is hereby amended by amending Article II (Food) of Chapter 46 (Health and Sanitation) in its entirety, and all other chapters, sections, subsections, paragraphs, sentences, phrases and words of the said Code are not amended but are hereby ratified, verified, approved and affirmed:

A. Article II., Food, of Chapter 46 is hereby amended by deleting Divisions I, II and III in their entirety (and including Section 26-31 through Section 46-281) and by substituting therefor the provisions set forth on Exhibit A attached hereto and incorporated herein.

Section 2. Savings. Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

Section 3. Savings. This Ordinance shall be cumulative of all other ordinances of the City affecting health and sanitation, and the handling of food, and shall not repeal any of the provisions of those ordinances or of the Code of Ordinances except in those instances where the provisions of those ordinances or of the Code are in direct conflict with the provisions of this Ordinance; provided, however, that an offense committed before the effective date of this Ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

Section 4. Penalty. Any person, firm, or corporation violating any of the provisions of this ordinance or of the Code of Ordinances, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the Town of Addison Texas, shall be subject to a fine not to exceed the sum of \$2,000 dollars for each offense; and each and every day said violation is continued shall constitute a separate offense.

Section 5. Effective Date. This Ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 28th day of March, 2000.



Scott Wheeler, Mayor

ATTEST:

By:



Carmen Moran, City Secretary

EXHIBIT A
TO ORDINANCE NO. 000-011

Article II. Food

SEC. 46-31. ADOPTION OF STATE RULES ON FOOD ESTABLISHMENT SANITATION.

The Texas Food Establishment Rules ("Rules") adopted by the Texas Department of Health at 25 TEX. ADMIN. CODE 229.161-229.171 and 229.173-229.175 as amended herein are hereby adopted as the Rules for Food Sanitation. A copy of the Rules shall be kept and maintained in the Office of the City Secretary.

SEC. 46-32. FOOD SERVICE REGULATIONS

(a) GENERALLY. The Rules are hereby amended as follows:

1. 25 TEX. ADMIN. CODE 229.162 (75) of the Rules, "Regulatory Authority", is amended to read as follows:

"(75) Regulatory authority-- the Town of Addison Environmental Services Dept.."

2. 25 TEX. ADMIN. CODE 229.171(q) of the Rules, Food establishment inspector qualifications, is amended to read as follows:

"(q) Food establishment inspector qualifications. An individual conducting inspections of food establishments shall be a Registered Professional Sanitarian in Texas, as defined in §337.181 of this title (relating to Definitions), and meet the equivalent educational requirements in order to:

- (1) assure application of basic scientific principles, including HACCP principles of food safety, during inspections;
- (2) properly conduct foodborne illness investigations;
- (3) assure uniformity in the interpretations of these rules; and
- (4) assure fair and uniform enforcement of these rules."

3. 25 TEX. ADMIN. CODE 229.166(j)(3) of the Rules, "Grease trap" is amended to read as follows:

"(3)(a) Grease traps; garbage grinders. If a food establishment is required to install, a grease trap or grease interceptor, the trap or interceptor shall be located and sized according to the specifications for the regulatory authority. Food Service establishments with seating capacity of 50 or more, are required to have a 750 lb capacity grease trap, unless otherwise decided up by the regulatory authority. Grease traps should be located out of doors in a location easily accessible for cleaning.

(b) Garbage grinders. Garbage grinders are not allowed in new, extensively remodeled or reoccupied food service facilities. If used and allowed by law, garbage grinders shall be maintained according to law.”

4. 25 TEX. ADMIN. CODE 229.165(f)(24) of the Rules, “Food equipment certification, classification, acceptability”, is amended to read as follows:

“(24) Food equipment certification, classification, acceptability. Food equipment installed in an establishment after the adoption of these rules, and food equipment in new or extensively remodeled establishments shall be of National Sanitation Foundation or equivalent approval. Any other equipment is subject to approval by the Town of Addison.”

(b) PERMIT REQUIRED / ISSUANCE / EXCEPTIONS

1. It shall be unlawful for any person to operate a food establishment within the limits of the Town of Addison without having been issued a valid Food Service Permit. Only a person who complies with the requirements in this Article shall be entitled to receive or retain a permit, and notwithstanding the fact that all inspections necessary for obtaining a Food Service Permit have been completed, such permit shall not be issued until after the building in which the establishment is to be located has been issued a Certificate of Occupancy by the Town of Addison. Permits are not transferable from one person to another person or place. A valid permit shall be posted in or on a conspicuous place of every food establishment regulated by this ordinance. Permits shall remain in effect for twelve (12) months from the date of issuance unless sooner revoked for cause. If the permit is granted to a temporary food establishment, the permit shall be in effect for a period of time not exceeding three (3) consecutive days in conjunction with a single event or celebration. All permits are to be displayed in public view.
2. Any person desiring to operate a food establishment shall make written application for a permit on a form provided by the Town of Addison, Environmental Services Department. The application shall include: The applicants full name and post office box address or street address and whether such applicant is an individual, firm or corporation and, if a partnership, the names of the partners, together with their addresses, the location and type of the proposed establishment and the signature of the applicant. An application for a temporary food Establishment shall include the inclusive dates of the proposed operation.
3. A food establishment operated solely by a nonprofit organization is not exempt from the permit requirements of this Article, or from compliance with the Rules on Food Service Sanitation.
4. The application shall be accompanied by a nonrefundable permit fee in the following amounts:

Establishments where only pre-packaged foods are sold	\$60.00
Temporary Food Service Establishments:	

For Profit	\$30.00
Nonprofit	\$10.00
All other Food Service Establishments fee based on number of employees:	
1-10 employees	\$75.00
11-30 employees	\$100.00
30+ employees	\$125.00

(c) **CERTIFIED FOOD PROTECTION MANAGER.** The Rules are further amended as follows:

1. 25 TEX. ADMIN. CODE 229.163(b) of the Rules, "Knowledge, demonstration" is amended by amending the first paragraph thereof to read as follows:

"(b) Knowledge, demonstration. Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of these rules. The person in charge shall demonstrate this knowledge by compliance with these rules, by being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program, and by responding correctly to the inspector's questions as they relate to the specific food operation. The person in charge may demonstrate such knowledge by:"

2. Every food establishment that has employees whose work brings them in contact with the handling of food, utensils, or food service equipment shall have a Certified Food Protection Manager.

- a. A Certified Food Protection Manager is a manager or person in charge, on duty during all times of operation, and who has completed a Food Protection Management Class from any accredited institution or firm of their choice as accredited by the Texas Department of Health.

- b. Food establishments that serve, sell, or distribute only pre-packaged foods and non-potentially hazardous beverages, and temporary food establishments are exempt from this section.

- c. A Certified Food Protection Manager is required for each food establishment. The Town of Addison may require additional certified operators in sufficient number to insure that all areas of food preparation and food service, during times of operation, are under the direction of certified supervisory personnel.

- d. If a food establishment does not meet the requirements for a Certified Food Protection Manager because of the termination or transfer of certified personnel, the food establishment shall employ another Certified Food Protection Manager within forty-five (45) days after such termination or transfer.

e. Food Protection Management Certification shall be valid for not less than three (3) years at which time an approved Food Protection Re-Certification class must be completed. Re-certification shall be completed within forty-five (45) days after the expiration of the original certification, and every three (3) years thereafter.

f. Fee collected by the Town of Addison for registration with the Town as a Food Protection Manager will be in the sum of \$10.00 per person registered.

(d) SUBMISSION AND 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 Town of Addison for review and approval before construction, remodeling or conversion is commenced. The plans and specifications shall include a proposed kitchen floor plan, equipment schedule and arrangement, mechanical and plumbing plans, and room finish materials in all work areas. No food establishment shall be constructed, extensively remodeled, or converted except in accordance with said approved plans and specifications.
2. Deviation from the approved plans and specifications shall result in a food establishment permit denial, suspension, or revocation.

(e) INSPECTIONS

1. The Town of Addison shall inspect the food establishment prior to the issuance of the food establishment permit to determine compliance with any approved plans and specifications, compliance with other requirements of this Article and shall determine that a Certificate of Occupancy has been issued for the building in which the establishment is to be located. Upon making such findings the food establishment permit may be issued subject to annual renewal, continued compliance with the provisions of this Article, and the existence of a valid Certificate of Occupancy for the building in which the establishment is located.
2. The Town of Addison shall conduct periodic routine inspections to determine if a food establishment is in compliance with the Rules. If during a routine inspection, immediate correction of a critical item is not achieved, the Town of Addison shall verify correction of the violation within 24 hours.
3. When the total cumulative demerit value of an establishment exceeds 30 demerits, the establishment shall immediately cease operations. The establishment shall remain closed until corrective action on all identified critical violations is complete. Corrective action on all other violations must be initiated within forty-eight (48) hours. The establishment shall remain closed until reopened by the Health Authority.

(f) SUSPENSION OF A HEALTH PERMIT

1. The Town may, without warning, notice, or hearing suspend any permit to operate a food establishment if the holder of such permit does not comply with the requirements of this Article, or the operation of its establishment does not comply with the requirements set forth herein, or, if the operation of the food establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice. When a permit is suspended, food service operations shall immediately cease. Whenever a permit is suspended the holder thereof shall be afforded an opportunity for a hearing within five (5) days after receipt of a written request for hearing.
2. Whenever a permit is suspended, the holder thereof or the person in charge shall be notified in writing that an opportunity for a hearing shall be provided if a written request for hearing is filed with the Town of Addison within five (5) days after receipt of notice. If no written request for hearing is filed within a five (5) day period, the suspension is sustained. The Town of Addison may terminate the suspension at any time if reasons for suspension no longer exist.

(g) REVOCATION OF A FOOD PERMIT

1. The Town of Addison may, after providing opportunity for hearing, revoke a permit for serious or repeated violations of any of the requirements of this Article or for interference with the regulatory authority in the performance of its duties.
2. Prior to revocation, the Town of Addison shall notify, in writing, the holder of the permit or the person in charge, of the specific reason(s) for which the permit is to be revoked and that the permit shall be revoked at the end of the five (5) days after service of such notice unless a written request for hearing is filed within the five (5) day period. If no request for hearing is filed within the five (5) day period, the revocation of the permit becomes final.
3. The holder of the revoked permit may make written application for a new permit.

(h) EXAMINATION AND CONDEMNATION OF FOOD

1. A representative of the Town of Addison Environmental Services Dept. shall tag, label, or otherwise identify any food subject to a hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The Town of Addison's hold order shall permit storage of the food under the conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished.
2. A hold order shall state that a request for a hearing may be filed within five (5) days after issuance thereof and that if no hearing is requested the food shall be destroyed. On the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to

denature or destroy such food or to bring it into compliance with the provisions of this Article.”

(i) HEARINGS/NOTICE FOR HEARINGS

1. The hearing provided for in these rules shall be conducted by the regulatory committee at the time and the place designated by the regulatory authority. Based upon the recorded evidence of such hearing, 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, license or certificate by the regulatory authority.
2. A notice provided for in this Article 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.