### ARTICLE V. FOOD SERVICE ESTABLISHMENTS[[1]](#footnote-1)

Sec. 10-141. Adoption of state rules on food service establishment.

There is hereby adopted the Texas Department of State Health Services' "Retail Food" rules and regulations, V.T.C.A., Texas Administrative Code, Title 25, Chapter 228, as presently enacted, and as may be amended from time to time. A copy of such rules shall be maintained in the office of the city secretary.

(Ord. No. 023-06, § 1, 6-6-2006; Ord. No. 036-16, § 1, 10-18-2016)

Sec. 10-142. Definitions of terms.

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

(1) The term *"local food establishment"* means any food processing establishment, food service establishment, mobile food unit, commissary, and temporary food establishments.

(Ord. No. 023-06, § 1, 6-6-2006)

Sec. 10-143. Permits and exemptions.

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

(b) Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the city. 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 permits. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.

(Ord. No. 023-06, § 1, 6-6-2006; Ord. No. 008-09, § 1, 3-17-2009)

Sec. 10-144. Review of plans.

(a) 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 city health services division for review before work is begun. Extensive remodeling means that 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 city health services division if they meet the requirements of the rules adopted in this article. The approved plans and specifications must be followed in construction, remodeling or conversion.

(b) Failure to follow approved plans and specifications will result in a permit denial, suspension, or revocation.

(Ord. No. 023-06, § 1, 6-6-2006; Ord. No. 011-07, § 1, 5-15-2007)

Sec. 10-145. Suspension of permit.

(a) The city health services division 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 notice required by this section. 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 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 notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed for with the municipal court of the city and the city health services division 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 city health services division may end the suspension at any time if reasons for suspension no longer exist.

(Ord. No. 023-06, § 1, 6-6-2006)

Sec. 10-146. Revocation of permit.

(a) The city health services division may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or interference with the city health services division in the performance of its duties. Prior to revocation, the city health services division 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 municipal court of the city and the health services division by the holder of the permit within such ten day period.

(b) If no request for hearing is filed within the ten day period, the revocation of the permits becomes final.

(Ord. No. 023-06, § 1, 6-6-2006)

Sec. 10-147. 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 city health services division.

(b) The hearings provided for in these rules shall be conducted by the municipal court of the city at a time designated by the court. Based upon the recorded evidence of such hearing, the municipal court of the city 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 city health services division.

(Ord. No. 023-06, § 1, 6-6-2006)

Sec. 10-148. Dogs within outdoor patio areas.

(a) Dogs may be allowed to be present, at the option of the local food establishment, in outdoor dining or patio areas of the establishment under the following conditions:

(1) A separate entrance must be provided from the outside of the premises of the establishment to the outdoor patio area so that dogs will have direct access to the outdoor area without passing through any interior portion of the establishment;

(2) A sign must be conspicuously posted at the front entrance of the establishment, readily visible to the public, which in substance states: "DOG FRIENDLY PATIO - DOG ACCESS ONLY THROUGH OUTDOOR PATIO ENTRANCE";

(3) All means of ingress and egress and doors to the outdoor area from the interior of the establishment must be protected with self-closing hardware;

(4) No food preparation, including but not limited to mixing drinks, serving ice, and tableside preparations, may be conducted in outdoor areas, regardless of whether a dog is present;

(5) Outdoor areas must be adequately cleaned to sanitize the area. All animal waste must disposed of outside of the establishment in appropriate waste receptacles;

(6) In the event that a dog urinates, defecates or discharges any bodily fluids in an outdoor area, food establishment personnel must respond to clean and sanitize the area immediately, within not less than five minutes of the event. The area must be cleaned and sanitized properly with all waste deposited in proper exterior waste disposal receptacles.

(7) All equipment used to clean the outdoor patio areas of the establishment must be kept and stored on the exterior of the establishment;

(8) While on duty, no food handler of the establishment, including but not limited to wait staff, bar tenders and cooks, may have any physical contact with dogs present;

(9) All dogs must be kept maintained on a leash with a collar or harness of sufficient strength to restrain the dog at all times;

(10) All dogs must have a current rabies tag affixed on the dog's collar at all times; and,

(11) No dog may occupy a seat, stool, bench, table, countertop, or other similar surface.

(b) An owner, officer, manager, or other person with supervisory authority of a food establishment commits an offense if he causes or allows a violation of this section. A violation of this section shall be punishable by fine not to exceed $500.00. A violation of this section may be punished by administrative action including, but not limited to, the revocation or suspension of permits and certificates of occupancy. The remedies provided herein are in addition to any other remedies provided by law, all such remedies being cumulative and nonexclusive.

(c) It is the intent of the city council of the city in adopting this section that an offense be a strict liability offense. In the prosecution of an offense under this section, no pleading or proof of intent shall be required to establish the guilt of the accused.

(Ord. No. 037-16, § 1, 10-18-2016)

Secs. 10-149—10-180. Reserved.

1. Editor's note(s)—Ord. No. 023-06, § 1, adopted June 6, 2006, repealed the former Art. V, §§ 10-141—10-153, and enacted a new Art. V as set out herein. The former Art. V pertained to similar subject matter and derived from Code 1982, §§ 3-7-4—3-7-9.

Cross reference(s)—Smoking in local food establishments, § 22-244.

State law reference(s)—Food service establishments, V.T.C.A., Health and Safety Code § 437.001 et seq. [↑](#footnote-ref-1)