

DIVISION 1
Generally

§ 6.04.001. Texas Food Establishment Rules adopted.

The regulations set forth in Texas Administrative Code, title 25, part 1, chapter 228, (the Texas Food Establishment Rules), as amended from time to time, are hereby adopted as regulations of the city to govern food establishments, to safeguard public health, and to ensure that consumers are provided food that is safe, unadulterated, and honestly presented; and each and all of the Texas Food Establishment Rules are hereby referred to, adopted and made a part of this section as if fully set out herein.

(Ordinance 2015-O-485 adopted 11/12/15)

§ 6.04.002. Definitions.

Unless stated otherwise, all definitions will be the same as utilized by the applicable state regulation, as the same may be amended from time to time.

(Ordinance 2013-O-451, sec. 4, adopted 8/8/13)

§ 6.04.003. Penalty; additional remedies.

(a) Any person who shall violate any of the provisions of this article, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of two thousand dollars (\$2000.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(b) Upon the request of the city council, the city attorney shall file an action in the district courts to enjoin the violation or threatened violation of this article, or to obtain declaratory judgment, and to seek and recover court costs and attorney fees, and/or to recover damages as appropriate.

(1995 Code, sec. 44.009)

§ 6.04.004. through § 6.04.040. (Reserved)

DIVISION 2
Permit

§ 6.04.041. Required.

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

(1995 Code, sec. 44.003)

§ 6.04.042. Application; fee.

- (a) 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, the zoning district of the location 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 or the renewal of an existing permit, the city shall inspect the proposed food establishment to determine compliance with state laws and rules, the city's zoning regulations, and this article. The proposed food establishment must be an authorized use in the zoning district in which the proposed food establishment is to be located. A food establishment that does not comply with state laws and rules, the city's zoning regulations, or this article will be denied a permit or the renewal of a permit.
- (c) The fee schedule for permits issued under this article is set forth in the fee schedule in appendix A of this code.

(1995 Code, sec. 44.004)

§ 6.04.043. 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 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 plans and specifications will be approved by the city if they meet the requirements of the rules adopted by this article. The approved plans and specifications must be followed in construction, remodeling or conversion of the food establishment.

- (b) Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.
(1995 Code, sec. 44.005)

§ 6.04.044. Suspension.

- (a) The city 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 required by subsection (b) of 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 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 city 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 may end the suspension at any time if reasons for suspension no longer exist.
(1995 Code, sec. 44.006)

§ 6.04.045. Revocation.

- (a) The city 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 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.
- (b) If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.
(1995 Code, sec. 44.007)

§ 6.04.046. Notices; hearings.

- (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.
- (b) The hearings provided for in these rules shall be conducted by the city administrator at a time and place designated in the notice. The city administrator's decision may be appealed to the city council within ten days of written notice of the city administrator's decision. If no written request for an appeal is filed within ten days, the city administrator's decision will be final. The city council shall conduct a

hearing to determine the issues stated in the written appeal. At the hearing, the formal rules of evidence do not apply. The city council shall make its decision on the basis of preponderance of the evidence presented at the hearing. The city council may modify, overturn, or uphold the city administrator's decision. The decision of the city council shall be final.

(1995 Code, sec. 44.008)