

Chapter 11 - FOOD AND FOOD HANDLERS

ARTICLE I. - IN GENERAL

Sec. 11-1. - Purpose; scope.

- (a) *Purpose.* The purpose of this chapter is to provide rules to safeguard public health and to provide consumers food that is safe, unadulterated, and honestly presented.
- (b) *Scope.* The rules in these sections shall cover food establishments and food processing plants operating and conducting business within the City. It shall be the duty of the City Manager or his designee (the "Administrator") to enforce the provisions of this chapter.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99; Ord. No. 01-2016, pt. 1(Exh. A), 1-14-16)

Sec. 11-2. - Penalty.

Any person who violates any of the provisions of this Code shall be deemed guilty of a misdemeanor and, upon conviction of any such violation, shall be punished as provided in section 1-9 of this Code. Each day during which such violation continues shall constitute a separate and distinct offense. In any case of a violation of any of the terms or provisions of this chapter by any corporation, the officers and agents actively in charge of the business of such corporation shall be subject to the penalty herein provided. Any offense defined herein which has been defined by laws of the state as an offense and for which penalty has been prescribed shall be punished as provided in state law, and nothing herein shall be held as fixing any penalty contrary to a penalty provided by the laws of the state.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99)

Sec. 11-3. - Adopted.

The City adopts by reference the provisions of the current rules, and as amended by the Executive Commissioner of the Health and Human Services Commission found in 25 Texas Administrative Code, chapter 228, regarding the regulation of food establishments in this jurisdiction, and the rules found at 25 Texas Administrative Code, chapter 229, subchapter K, regarding the regulation of accreditation and certification of food managers and food handlers, and as amended. Copies of these rules are on file with the Administrator.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99; Ord. No. 01-2016, pt. 1(Exh. A), 1-14-16)

Sec. 11-4. - Appeals; Administrator; Department of State Health Services; generally.

- (a) *Administrator.* Any person dissatisfied with an order or ruling of the Environmental Health Inspector in the enforcement of the provisions of this chapter may appeal for an administrative review by the Administrator.
- (b) *Department of State Health Services.* Any person dissatisfied with an order or ruling of the Administrator in the enforcement of this chapter, and all amendments thereto, may appeal to the Department of State Health Services, Bureau of Food and Drugs, Retail Food Division, 1100 West 49th Street, Austin, Texas 78756. Pending a decision of this appeal, the Director of the Administrator may issue a provisional permit to operate. The provisional permit to operate shall be good for a period of sixty (60) days from date of issuance and may be extended for an additional sixty (60) days from date of issuance and may be extended for an additional sixty (60) days.
- (c) *Generally.* A person desiring to so appeal shall file in the office of the Administrator, within fifteen (15) days of the ruling or order appealed from, a copy of the written appeal which shall include a brief statement of the reasons and a detailed statement of the facts supporting the appeal. Upon the expiration of the fifteen-day period without a written appeal being filed with the Administrator, as herein provided, the order or ruling of the environmental health inspector shall become final and non-appealable.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99; Ord. No. 42-2005, pt. 1(Exh. A), 8-25-05; Ord. No. 01-2016, pt. 1(Exh. A), 1-14-16)

Sec. 11-5. - Dogs in food establishments.

- (a) A food establishment may permit a customer to be accompanied by a dog in an outdoor dining area if:
 - (1) The establishment posts a sign in a conspicuous location in the area stating that dogs are permitted;
 - (2) The customer and dog access the area directly from the exterior of the establishment;
 - (3) The dog does not enter the interior of the establishment;
 - (4) The customer keeps the dog on a leash and controls the dog;
 - (5) The customer does not allow the dog on a seat, table, countertop, or similar surface; and
 - (6) In the area, the establishment does not:
 - a. Prepare food; or
 - b. Permit open food other than food that is being served to a customer.

(b) The requirements described by subsection (a) do not apply to a service animal as defined in V.T.C.A., Health and Safety Code § 437.023(c).

(Ord. No. 46-2018, pt. 1(Exh. A), 8-23-18; Ord. No. 53-2019, pt. 1(Exh. A), 9-26-19)

ARTICLE II. - PERMIT

Sec. 11-6. - Issuance.

Prior to beginning operation as a food establishment or food processing plant, a person shall contact the Administrator and request an inspection for permit. This inspection for permit shall only be made if a current certificate of occupancy has been issued by the City Building Official to the building or structure where the food establishment or food processing plant is located. At the time of the inspection for permit the Administrator shall determine that the facility meets all of the rules and regulations of this chapter. Upon such determination, the person shall submit the completed application for permit and the required permit fee to the Administrator for a permit to be issued.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99; Ord. No. 01-2016, pt. 1(Exh. A), 1-14-16)

Sec. 11-7. - Permit fee.

The fee for a food establishment permit or a food processing plant shall be determined from time to time and placed on file in the office of the City Secretary. State law provides that the fee may be waived for a food establishment owned by a charitable nonprofit organization.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99)

Sec. 11-8. - Term; transfer; renewal.

A permit for a food establishment or a food processing plant shall be valid only for the calendar year in which it is issued ending December 31st, unless sooner revoked. The permit shall not be transferred or assigned, and shall be considered revoked should the location of the food establishment be changed or should same be sold or otherwise disposed of by the owner thereof. The permit shall be renewed annually by submission of a completed application and the required permit fee to the Administrator.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99; Ord. No. 01-2016, pt. 1(Exh. A), 1-14-16)

Sec. 11-9. - Revocation or suspension; reinstatement.

Any permit granted herein, at the direction of the Administrator, shall be subject to revocation or suspension for failure of the grantee named therein or any of his employees, agents or representatives to operate the food products establishment in accordance with this chapter and all food and sanitary laws of the state. The permit shall be considered revoked if the City Building Inspections Department revokes the certificate of occupancy for the building or structure in which the food establishment or food processing plant is located. Upon notice of revocation or suspension, the operation of the food establishment or food processing plant shall be immediately discontinued until there is compliance with the terms and provisions of this chapter. An application for reinstatement of this permit shall be made under the same terms and conditions as the original application.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99; Ord. No. 01-2016, pt. 1(Exh. A), 1-14-16)

Sec. 11-10. - Operation near schools.

No person shall operate a vehicle on the public streets of the City and sell food products therefrom within three hundred (300) feet of any public or private school grounds during school hours.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99)

Sec. 11-11. - Reserved.

ARTICLE III. - TEMPORARY FOOD ESTABLISHMENT

Sec. 11-12. - Permit required.

No person shall conduct, operate or maintain a temporary food establishment in the City who does not possess a valid permit from the Administrator as herein provided. Such permit is valid for up to fourteen (14) days and must be kept posted in the temporary food establishment.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99; Ord. No. 01-2016, pt. 1(Exh. A), 1-14-16)

Sec. 11-13. - Requirements.

Requirements for a temporary food establishment shall be developed and provided by the Administrator in accordance with the requirements of state law.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99; Ord. No. 01-2016, pt. 1(Exh. A), 1-14-16)

Sec. 11-14. - Issuance.

Prior to beginning operation as a temporary food establishment, a person shall contact the Administrator and request an inspection for permit. At the time of the inspection for permit, the Administrator shall determine whether the facility meets all of the rules and regulations pertaining to temporary food service, as required by the Administrator. Upon such determination, the person shall submit the completed application for permit and the required permit fee to the Administrator for a permit to be issued.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99; Ord. No. 01-2016, pt. 1(Exh. A), 1-14-16)

Sec. 11-15. - Permit fee.

The fee for a temporary food establishment permit shall be determined from time to time and placed on file in the office of the City Secretary. State law provides that the fee may be waived for a temporary food establishment owned by a charitable nonprofit organization.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99)

Sec. 11-16. - Revocation or suspension; reinstatement.

Any permit granted herein, is subject to revocation or suspension as provided in section 1-9 of this Code.

(Ord. No. 5-1999, pt. 1(Exh. A), 1-28-99)

Secs. 11-17—11-40. - Reserved.