

ORDINANCE NO. 1993-11

AN ORDINANCE ESTABLISHING PERMITTING AND ENFORCEMENT OF STATE LAW AND STATE RULES FOR FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, MOBILE FOOD VENDING UNITS, AND ROADSIDE FOOD VENDORS; REQUIRING EDUCATION IN FOOD SERVICE SANITATION FOR EMPLOYEES AND OWNER/MANAGERS OF FOOD SERVICE ESTABLISHMENTS, MOBILE FOOD VENDING UNITS, AND ROADSIDE FOOD VENDORS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INGLESIDE ON THE BAY, TEXAS AS FOLLOWS:

SECTION 1. DEFINITIONS:

NON-PROFIT:

All governmental agencies, school districts, community agencies, civic and fraternal organizations, church organizations, and daycare centers.

FOOD SERVICE ESTABLISHMENTS:

Any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare sandwiches intended for individual portion service. The term does not include private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.

RETAIL FOOD STORE:

Any establishment or section of any establishment where food and food products are offered to the consumer and intended for off-premise consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishment which handle only prepackaged, non-potentially hazardous foods; roadside markets that offer only fresh fruits and fresh vegetables for sale; food service establishments; farmers markets; or food and beverage vending machines as defined in the Vending of Food and Beverages. 1978 Department of Health, Education and Welfare Publication No. (FDA) 78-2091.

HEARING OFFICER:

Shall mean medical director of the San Patricio County Health Department, a food service officer of the Texas Department of Health, or a person appointed by the health authority that has satisfactorily completed training on the intent and application of state rules addressed by this ordinance.

HEALTH AUTHORITY:

Shall mean medical director of the San Patricio County Health Department.

EXTENSIVELY REMODELED:

When the kitchen and/or kitchen equipment areas have major reorganization, replacement or repair that would require changes in the fixtures and/or plumbing.



SECTION 2. ENFORCEMENT OF STATE LAW AND RULES.

THE ENACTED DEFINITIONS:

The inspection of food service establishments, retail food stores, mobile food units, and roadside food vending units; the prohibiting of the sale of adulterated or misbranded food or drug; and the enforcement of this ordinance shall be regulated in accordance with Vernon's Texas Civil Statutes, Article 4476-5 Food, Drug and Cosmetic Act and the The Texas Department of Health, Division of Food and Drugs "Rules on Food Service Sanitation", § 229.161 - § 229.173 and "Rules on Retail Food Store Sanitation", § 229.231 - § 229.239. The words "Regulatory Authority" shall be understood to refer to the San Patricio County Health Authority or its authorized agent or employee. The words "Authorized Agent or Employee" shall be understood to refer to authorized personnel of the Regulatory Authority who have satisfactorily completed training on the interpretation and application of state food sanitation rules.

SECTION 3. PERMITS:

(a) GENERAL.

No person within the City limits of the City of Ingleside on the Bay, Texas shall operate a food service establishment, retail food store, mobile food unit or roadside food vending unit without a valid permit issued by the Regulatory Authority. Only a person who complies with the requirements of the State Laws and Rules shall be entitled to receive or retain a permit. Permits are not transferable from person to person. Permits for food service establishments and retail food stores are not transferable from one location to another. No food service establishment or retail food store may be required to obtain more than one permit under this ordinance. A valid permit shall be posted in every food establishment, unit or vendor regulated by this ordinance.

(b) EXEMPTIONS.

Food service establishments, retail food stores, mobile food units or roadside food vending units operated solely by non-profit organizations but comply with SECTION 3(a), but will be exempt from the permit fee required by this ordinance.

(c) ISSUANCE OF PERMITS.

(1) Any person desiring to operate a food service establishment, retail food store, mobile food unit or roadside food vending unit shall make written application for a permit on forms provided by the Regulatory Authority. Such application shall include the name and address of each applicant, the location and type of proposed food service establishment, retail food store, mobile food unit or roadside food vending unit, and a permit fee as established by the Commissioner's Court.

(2) Prior to approval of an application for a permit, the Regulatory Authority shall inspect the proposed food service establishment, retail food store, mobile food unit or roadside food vending unit to determine compliance with State Law and Rules.

(3) The Regulatory Authority shall issue a permit to the applicant providing an inspection reveals that the proposed food service establishment, retail food store, mobile food unit or roadside food vending unit complies with the requirements of State Laws and Rules. All permits shall be renewed annually. Temporary permits shall be issued for a single event not to exceed 14 consecutive days.



(4) A person may renew a permit by making written application on forms provided by the Regulatory Authority. Such application shall include the information described in subsection (c), paragraph (1) of this section, and shall include a renewal fee as established by the Commissioner's Court.

(d) DENIAL, SUSPENSION OR REVOCATION OF PERMIT.

The Regulatory Authority may, after providing opportunity for a hearing, deny, suspend or revoke a permit for violations of any of the requirements of State Laws or Rules or for interference with the Regulatory Authority in the performance of official duties. Prior to denial, suspension or revocation, the regulatory Authority shall notify the permit holder, or the person in charge in writing, of the reason for which the permit is subject to denial, suspension or revocation, and that the permit shall be denied, suspended or revoked at the end of ten days following service of such notice unless a written request for a hearing is filed with the Regulatory Authority by the permit holder. If no request for hearing is filed within the ten day period, the denial, suspension or revocation of the permit becomes final.

(e) SERVICE OF NOTICES.

A notice provided for in this ordinance is properly served when it is delivered in person or sent by certified mail to the permit holder or person in charge. A copy of the notice shall be filed in the records of the Regulatory Authority. If a notice cannot be served then publication in a city paper for two consecutive weeks will constitute proper notice.

(f) HEARINGS.

The hearings provided for in this ordinance shall be conducted by a Hearing Officer at a time and place designated by the Hearing Officer. Based on the evidence presented at such hearing, the Hearing Officer 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 permit holder by the Regulatory Authority.

(g) APPLICATION AFTER DENIAL OR REVOCATION.

Whenever a denial or revocation of a permit has become final, the permit holder may make written application for a new permit.

#### SECTION 4. REVIEW OF PLANS:

Whenever a food service establishment, retail food store, mobile food vending unit or roadside food vending unit is initially constructed, or extensively remodeled, or when an existing structure is converted to use as a food service establishment, retail food store, mobile food vending unit, or roadside food vending unit, a set of plans and specifications for such construction, remodeling or conversion shall be submitted to the Regulatory Authority and the City for review before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The Regulatory Authority shall approve the plans and specifications providing they meet the requirement of state Laws and Rules. No food service establishment, or retail food store, mobile food vending unit or roadside food vending unit shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Regulatory Authority and the city.



## SECTION 5. EDUCATION REQUIREMENTS:

Employees of food service establishments, mobile food vending units, roadside food vendors, and employees of food service facilities within a retail food store shall attend a two-hour Food Service Sanitation Course offered under the supervision or approval of the Regulatory Authority. Upon completion of the above course, the Regulatory Authority shall issue a Food Handlers Certificate. A Food Handlers Certificate shall be obtained by new employees within thirty (30) days after being hired, the Certificate shall remain valid for a period of three years and thru subsequent changes of employment. The obtaining of a new Food Handlers Certificate will require attendance of a two hour Food Service Sanitation Course. An employees certificate may be revoked at any time by the Regulatory Authority if an employee demonstrates unsanitary work habits.

All owners/managers with two (2) or more employees shall complete a 15 hour Food Service Manager's Sanitation Course or obtain other certification recognized by the Regulatory Authority. This course may be taken at a learning institution approved by the Regulatory Authority. When suitable documentation is presented to the Regulatory Authority, a manager's certificate will be issued. Certificates shall be valid for a period of three (3) years after which a Food Service Manager's Refresher Course or other suitable training approved by the Regulatory Authority will be required prior to re-issuance of manager's certificate.

Both employees and managers certificates may be revoked if inspection reveals inadequate sanitation practices. Employees and owner/managers will need to complete retraining as specified by the Regulatory Authority to be re-certified.

## SECTION 6. EXAMINATION AND CONDEMNATION OF FOOD.

Food may be examined or sampled by the authorized agent of the Regulatory Authority as often as necessary for enforcement of these rules. The Regulatory Authority's agent may, upon written notice to the owner or person in charge specifying with particularity the reasons therefor, place a hold order on any food which it believes is in violation of any provision of any Laws or Rules adopted in SECTION 1 of this ordinance. The agent shall tag, label or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served or moved from the establishment. The agent shall permit storage of the food under 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. The hold order shall state that a request for hearing may be filed within ten (10) days and that if no hearing is requested, the food shall be destroyed. A hearing shall be held if so requested, and on the basis of evidence produced at the hearing, written instructions shall be issued concerning the disposition of the food.

## SECTION 7. FEES.

A fee schedule shall be adopted by the San Patricio County Commissioner's Court. These fees shall be payable to the San Patricio County Treasurer.

Fees shall be applicable on the effective date of this ordinance.



**SECTION 8. PENALTIES:**

- (a) A person commits an offense if the person operates a food service establishment, retail food store, mobile food unit or roadside food vendor without a permit required by the county in which the establishment or store is operating.
- (b) An offense under this section is a Class C misdemeanor.
- (c) Each day on which a violation occurs constitutes a separate offense.

**SECTION 9. INJUNCTIVE RELIEF;**

In addition to an cumulative of all penalties, the City/County Attorney shall have the right to seek injunctive relief if a food service establishment, retail food store, mobile food unit or roadside food vendor is operating without a permit.

**SECTION 10. SEVERABILITY:**

If any section, sub-section, sentence, clause, phrase, or portion of this ordinance is for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

**SECTION 11. INDEMNITY:**

This Ordinance shall not be construed as imposing upon the City of Ingleside on the Bay, Texas or any official or employee thereof any liability or responsibility for damages to any person injured by actions taken under this Ordinance or by reason of inspections authorized hereunder, or the issuance of any permit or the approval of any facility, place or condition. The San Patricio County Health Authority shall indemnify and hold harmless the City of Ingleside on the Bay, Texas for any and all claims whatsoever arising out of the Health Authority's actions hereunder.

SECTION 12. REPEALING ORDINANCE IN CONFLICT:

Any and all other ordinances in conflict herewith are hereby repealed.

SECTION 13. EFFECTIVE DATE:

The provisions of this ordinance shall take effect \_\_\_\_\_, 1993.

PASSED AND ADOPTED by the City Council of Ingleside on the Bay, Texas this the 19<sup>th</sup> day of October, 1993.

CITY OF INGLESIDE ON THE BAY



Alfred Robbins, Mayor

ATTEST:



Ann M. Rosenkranz  
City Secretary

APPROVED AS TO LEGAL FORM:

Hal George, City Attorney



THE STATE OF TEXAS }  
COUNTY OF SAN PATRICIO }

This agreement made and entered into this 19th day of October, 1993 by and between the City of Ingleside on the Bay, a Class "B" City of the State of Texas (herein called "City") and the County of San Patricio, a political subdivision of the State of Texas, (herein called "County") each acting herein by and through its duly authorized officials:

WITNESSETH:

WHEREAS, Section 2.02 of Article 4436b VICS authorizes Interlocal cooperation agreements in accordance with Article 4413(32c) VICS between Cities and Counties to provide health related services and;

WHEREAS, the City and County desire to enter into an agreement to allow the County to provide the health related services and to charge recipients of the services for said services (by establishing a permitting and fee system where appropriate).

NOW THEREFORE, said parties agree and covenant upon the terms and conditions as follows:

1. City agrees to authorize County to act as its authorized representative in all health related activities.
2. County agrees to act as City's authorized representative in all food service inspection activities. County agrees to charge recipients of the services in an amount authorized by the Commissioners Court of County and to be responsible for the collection of said charges (and issuance of said permits).
3. This agreement may be terminated by either party hereto by the giving of thirty (30) days written notice of cancellation.

EXECUTED in duplicate originals by the parties hereto on the 19th day of October, 1993.

CITY OF INGLESIDE ON THE BAY  
Alfred Robbins  
Alfred Robbins, Mayor

ATTEST:

Ann M. Rosenkranz  
Ann M. Rosenkranz  
City Secretary

COUNTY OF SAN PATRICIO

Approved by \_\_\_\_\_ Judge  
Comm. Court on .....

ATTEST:

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