

ORDINANCE NO. 2008-12

AN ORDINANCE REPEALING ORDINANCE NO. \_\_\_\_\_  
FOOD SERVICE ORDINANCE, OF THE CITY OF \_\_\_\_\_  
BY SETTING OUT RULES, MAKING  
CERTAIN CHANGES, DELETIONS AND ADDITION TO THE  
REGULATION OF FOOD ESTABLISHMENTS AS HEREINAFTER  
SET OUT; REPEALING ALL ORDINANCES IN CONFLICT  
HEREWITH; PROVIDING FOR SEVERABILITY; AND  
PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
Ingleside on the Bay, TEXAS: (IOB)

The Code of Ordinances of the City of \_\_\_\_\_ is hereby amended as follows:

**SECTION 1. REPEAL**

\_\_\_\_\_ Food Service is hereby repealed in its entirety.

**SECTION 2. ADOPTION**

That the following is hereby adopted as a new \_\_\_\_\_ Food Establishment Rules to the City of IOB Ordinances:

**ARTICLE II. FOOD ESTABLISHMENTS**

**Section I. Adoption of Texas Food Establishment Rules**

- a. The City of IOB adopts by reference the provisions of the current rules or rules amended by the Texas Board of Health found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and 173 through 175 regarding the regulation of food establishments in this jurisdiction, Chapter 437 & 438, Health & Safety Code and Section 38.15 (a) Penal Code.

- b. Definitions.

The words "authorized agent or employee" means the employees of the regulatory authority.

The words "food establishment" mean a food service establishment, a retail food store, a temporary food establishment, a mobile food unit, and/or a roadside food vendor.

The words "municipality of" I O B in this article will be understood to refer to the City of I O B.

The words "state rules" mean the state rules found at 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and Sections 173 through 175. These rules are also known as the Texas Food Establishment Rules.

The words "regulatory authority" means San Patricio County Department of Public Health who has jurisdiction over food establishments.

## **Section II. Permits and Exemptions**

- a. A person may not operate a food establishment without a permit issued by the regulatory authority. Permits are not transferrable from one person to another or from one location to another location, except as otherwise permitted by this ordinance. A valid permit must be posted in or on every food establishment regulated by this ordinance.
- b. A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this ordinance, but is not exempt from compliance with state rules. The regulatory authority may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption.

## **Section III. Application for Permits and Fees**

- a. Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. 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 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 regulatory authority will inspect the proposed food establishment to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules will be denied a permit or the renewal of a permit.
- c. A fee schedule will be adopted by the San Patricio County Commissioner's Court. These fees will be payable to the San Patricio County Treasurer to be deposited in a special account and expended only to defray the cost of issuance of permits and inspections of facilities regulated under this ordinance. An audited statement detailing the receipts of funds collected under this ordinance and all expenditures of funds and fund balances will be filed with the Department of State Health Service on or before the 31<sup>st</sup> day of January each year.
- d. Permits are required for all temporary events such as carnivals, festivals or other related events if they sell food or beverages to the public. The regulatory authority does not differentiate between full-time and part-time employees. All food service permits are required and must be paid prior to the last day in January of each year.

#### **Section IV. 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 will be submitted to the San Patricio County Department of Public Health 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 will indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials in work areas, and the type and model of proposed fixed equipment and facilities. San Patricio County Department of Public Health will approve the plans and specifications if they meet the requirements of the rules adopted by this ordinance. The approved plans and specification must be followed in construction, remodeling or conversion.
- b. Plans will meet all codes of the city. Failure to follow the approval plans and specifications will result in a permit denial, suspension, or revocation.

#### **Section V. Suspension of Permit**

- a. The regulatory authority may, without warning, notice, or hearing suspended 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 Paragraph b of this ordinance. When a permit is suspended, food operations will immediately cease. Whenever a permit is suspended, the holder of the permit will be afforded an opportunity for a hearing within twenty (20) days of receipt of a request for a hearing.
- b. Whenever a permit is suspended, holders of the permit or the person in charge will 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 regulatory authority by the holder of the permit within ten (10) days. If no written request for hearing is filed within ten (10) days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

#### **Section VI. Revocation of Permit**

- a. The regulatory authority 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 regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority will notify the holder for the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit will be revoked at the end of the ten (10) days following service of such notice unless a written request for a hearing is filled with the regulatory by the holder of the permit within this ten (10) day period.
- b. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final.

#### **Section VII. 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 will be filed in the records of the regulatory authority.

- b. The regulatory authority will conduct the hearing provided for in these rules at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority will make final findings, and will sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision will be furnished to the holder of the permit by the regulatory authority.

### **Section VIII. Remedies**

- a. Any person who violates a provision of these rules and any person who are the permit holders of or otherwise operates a food service establishment that does not comply with the requirements of these rules and any responsible officer of the permit holder or those persons will be guilty of a Class C Misdemeanor and will be punished by a fine not exceeding \$500. Each day on which a violation occurs constitutes a separate offense.
- b. The regulatory authority may seek to enjoin violations of these rules.
- c. The regulatory authority may seek administration penalties not to exceed \$500 per day and each day a violation continues or occurs is a separate violation.

### **Section IX. Education Requirements**

- a. Employees of food services establishments, mobile food vending units, roadside food vendors, and employees of food service facilities within a retail food store will attend a two-hour Food Service Sanitation Course offered under the supervision or approval of the Regulatory Authority. Upon completion of the course, the Regulatory Authority will issue a Food Handlers Certificate. The Certificate will remain valid for a period of three years. Prior to the expiration date of the Food Handlers Certificate one is required to follow the initial steps of retaking the two-hour Food Handlers Certification Course and repeat this process each time the Certification becomes expired. A Food Handlers Certificate will be obtained by new employees within thirty (30) days after being hired. An employee's card may be revoked at any time by the Regulatory Authority if an employee demonstrates unsanitary work habits.

All owners/managers are required to complete a Texas Department of State Health Service accredited fifteen (15) hour Food Manager's Training Course recognized by the Regulatory Authority. This course may be taken from a Certified Food Managers Training Program. Suitable certificates issued for passing an approved Food Managers examination must be filed and recorded with the regulatory Authority. A nominal administration fee will be required at that time. A license will then be issued by the Regulatory Authority. The Food Managers Certificate holder is responsible for re-certifying their certificate as required by the Department of State Health Services Both employees and manager's certificates may be revoked if inspection reveals inadequate sanitation practices.

### **Section X. Examination and Condemnation of Food.**

The authorized agent or employee may examine food as often as necessary for the enforcement of this ordinance and the state laws and rules. The authority agent may, upon written notice to the owner or person in charge, place a hold order on any food, which it believes is in violation of any state laws. A written notice must specify the reason for the hold order. The authorized agent will tag, label, or otherwise identify any food subject to

the hold order. No food subject to the hold order will be used, served or moved from the establishment. The authorized agent will 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 will be ordered and accomplished.

**Section XI. RETAIL FOOD ESTABLISHMENT INSPECTION REPORT.**

The City of FOB adopts the Regulatory Authority's Retail Food Establishment Inspection Report. (See Appendix A)

**Section XII. REPEALING CLAUSE**

All sections of the Code of Ordinances of the City FOB in conflict with this ordinance are hereby expressly repealed in so far as such conflict herewith, and all other ordinances not in conflict herewith, shall remain in full force and effect.

**Section XIII. SEVERABILITY.**

Any previously adopted ordinances, and any subsequent amendments to them, which are in conflict with this Ordinance, are all hereby repealed.

**Section XIV. EFFECTIVE DATE**

This ordinance shall become effective upon adoption on second reading by the FOB City Council and publication of the ordinance caption in the official newspaper of the City of FOB.

# Appendix A




## San Patricio County Department of Public Health Retail Food Establishment Inspection Report


San Code	Date	Time In	Time Out	Establishment Number	Permit Number	Risk Category
Purpose of Inspection: 1-Compliance 2-Routine 3-Field Investigation 4-Visit 5-Other						
Establishment:					Owner:	
Physical Address:					Zip:	Phone: ( )
OUT 5 Pts	IN	NA	NO	COS	<b>Food Temperature/Time Requirements</b> Violations Require Immediate Corrective Action (Remarks)	
					1. Proper Cooling for Cooked/Prepared Food	
					2. Cold Hold (41 degrees Fahrenheit /45 degrees Fahrenheit)	
					3. Hot Hold (135 degrees Fahrenheit)	
					4. Proper Cooking Temperatures	
					5. Rapid Reheating (165 degrees Fahrenheit in 2 Hrs)	
Item/Location/Temperature						
OUT 4 Pts	IN	NA	NO	COS	<b>Personnel/Handling/Source Requirements</b> Violations Require Immediate Corrective Action (Remarks)	
					6. Personnel with Infections Restricted/Excluded	
					7. Proper/Adequate Handwashing	
					8. Good Hygienic Practices (Eating/Drinking/Smoking/Other)	
					9. Approved Source/Labeling	
					10. Sound Condition	
					11. Proper Handling of Ready-To-Eat Foods	
					12. Cross-contamination of Raw/Cooked Foods/Other	
					13. Approved Systems (HACCP Plans/Time as Public Health Control)	
					14. Water Supply – Approved Sources/Sufficient Capacity/Hot and Cold Under Pressure	
OUT 3 Pts	IN	NA	NO	COS	<b>Facility and Equipment Requirements</b> Violations Require Immediate Correction, Not To Exceed 10 Days (Remarks)	
					15. Equipment Adequate to Maintain Product Temperature	
					16. Handwash Facilities Adequate and Accessible	
					17. Handwash Facilities with Soap and Towels	
					18. No Evidence of Insect Contamination	
					19. No Evidence of Rodents/Other Animals	
					20. Toxic Items Properly Labeled/Stored/Used	
					21. Manual/Mechanical Warewashing and Sanitizing at ( )ppm/temperature	
					22. Manager Demonstration of Knowledge/Certified Food Manager	
					23. Approved Sewage/Wastewater Disposal System, Proper Disposal	
					24. Thermometers Provided/Accurate/Properly Calibrated (±2 degrees Fahrenheit)	
					25. Food Contact Surfaces of Equipment and Utensils Cleaned/Sanitized/Good Repair	
					26. Posting of Consumer Advisories (Heimlich/Disclosure/Reminder/Buffer Plate)	
					27. Food Establishment Permit	
OUT 2 Pts	IN	NA	NO	COS	<b>Other Violation</b> – Violations Require Immediate Correction, Not To Exceed 90 Days or the next inspection, whichever comes first (Remarks)	
					28. Dispensing Utensils Property Stored, Clean	
					29. Non-Food Contact Surfaces	
					30. Storage Equipment	
					31. Re-Use of Single Service Articles	
					32. Plumbing	
					33. Garbage and Refuse Disposal	
					34. Floors, Walls, and Ceilings	
					35. Miscellaneous:	
					36. Food Handler's Permits on Files (#Employees _____ #Cards _____ )	
<b>Subtotal:</b>		<b>Total Demerits:</b>		<b>Comments:</b>		
5pt			Inspected by:			
4pt						
3pt						
2pt						
<b>Follow-Up</b> Y or N	Received by:			Print:		Title:

PASSED and APPROVED this the 4<sup>th</sup> day of November, 2008.

City of Ingleside on the Bay, Texas.

  
Howard Gillespie  
Mayor

ATTEST:

  
Diane Hosea  
City Secretary



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NO. 2008-12**  
 AN ORDINANCE BY  
 THE CITY OF INGLE  
 SIDE ON THE BAY  
 TEXAS, SETTING  
 OUT RULES, MAK-  
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 SET OUT; REPEAL-  
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 NANCES IN CON-  
 FFLICT HEREWITH;  
 PROVIDING FOR  
 SEVERABILITY; AND  
 PROVIDING AN  
 EFFECTIVE DATE.  
 PUBLISHED IN THE  
 INGLESIDE INDEX,  
 NOVEMBER 12, 2008.

THE STATE OF TEXAS  
 COUNTY OF SAN PATRICIO:

Before me, the undersigned authority, personally appeared

Clay Morgan of The Ingleside Index, who after being

by me duly sworn, on his oath deposes and said:

1. That (he) (she) is Publisher of The Ingleside Index a weekly newspaper published in San Patricio County, Texas.

2. That the City of Ing Bay - Ordinance 2008-12

hereto annexed, was published in the regular issues of said Ingleside Index once each week for One (1) week successive weeks said publications having been made on the November 12, 2008

3. That a printed copy of said Notice as the same appeared in said issues is attached hereto.

Clay Morgan

Patsy Dicken  
 Notary Public  
 State Of Texas  
 Comm. Exp. 8-1-09

Sworn to and subscribed before me this 24<sup>th</sup> day of November, 2008.

Patsy Dicken

PUBLICATION FEE: \$ 20.00 Notary Public, San Patricio County, Texas

SEARCHED  
 INDEXED  
 SERIALIZED  
 FILED

ROBERTS  
 ROBERTS  
 COURT OF SAN PATRICIO  
 COUNTY, TEXAS