

CITY OF LAVON, TEXAS

ORDINANCE NO. 2003-04-02

AN ORDINANCE OF THE CITY OF LAVON, TX TO PROVIDE FOR THE ADOPTION OF THE RULES OF FOOD SERVICE SANITATION AS FOLLOWS, PROVIDING FOR A REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAVON, COLLIN COUNTY, TEXAS;

FOOD AND FOOD SERVICE ESTABLISHMENTS

SECTION I

ADOPTION OF STATE RULES ON FOOD ESTABLISHMENT SANITATION

- A. The Texas Food Establishment Rules (“RULES”) adopted by the Texas Department of Health at 25 TEX. ADMIN. CODE 229.161-229.171 and 229.173-229.175 as amended herein are hereby adopted as the rules for Food Sanitation, a copy of which is attached as Exhibit A to the adoptive ordinance that amends this Article, and which shall be maintained together with the adoptive ordinance in a separate file in the Office of the City Secretary.

SECTION II

FOOD SERVICE REGULATIONS

A. GENERALLY

1. 25 TEX. ADMIN. CODE 229.162 (75) of Rules, “Regulatory authority” is amended to read “The City of Lavon, Health Department/City Council/City Administrator.”
2. 25 TEX. ADMIN. CODE 229.166(j)(3) of the Rules, “Grease trap” is amended to read: “Grease traps; garbage grinders”

a. Grease traps

If a food establishment is required to install a grease trap or grease interceptor, the trap or interceptor shall be located and sized according to the specifications of the Regulatory Authority. Grease traps should be located out of doors in a location easily accessible for cleaning.

b. Garbage grinders

Garbage grinders are not allowed in new extensively remodeled or reoccupied food service facilities. If used and allowed by law, garbage grinders shall be maintained according to law.

3. 25 TEXAS ADMIN. CODE 229.171 (q) of the Rules, Food Establishment inspector qualifications, is amended to delete: "An individual conducting inspections of retail food establishments should be a Registered Professional Sanitarian in Texas, as defined in 25 TAC chapter 337, 337.181, or meet the equivalent educational requirements in order to" and substitute therefore: "An individual SHALL be a Registered Professional Sanitarian in the State of Texas, as defined in 25 TAC chapter 337, 337.181 and meet the educational requirements in order to."
4. 25 TEX. ADMIN CODE 229.165(f)(24) of the Rules, Food equipment certification, classification, acceptability is amended to delete: "Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program will be deemed to comply with subsections (a)-(f) of this section," and substitute therefore: "Food equipment installed in an establishment after the adoption of these rules, and food equipment in new or extensively remodeled establishments shall be of National Sanitation Foundation or equivalent approval. Any other equipment is subject to approval by the City of Lavon."

B. PERMIT REQUIRED / ISSUANCE / EXCEPTIONS

1. It shall be unlawful for any person to operate a food establishment within the limits of the City of Lavon without having been issued a valid Food Service Permit. Only a person who complies with the requirements in this Article shall be entitled to receive or retain a permit, and notwithstanding the fact that all inspections necessary for obtaining a Food Service Permit have been completed, such permit shall not be issued until after the building in which the establishment is to be located has been issued a Certificate of Occupancy by the City of Lavon. Permits are not transferable from one person to another person or place. A valid permit shall be posted in or on a conspicuous place of every food establishment regulated by this ordinance. Permits shall remain in effect for twelve (12) months from the date of issuance unless sooner revoked for cause. If the permit is granted to a temporary food establishment, the permit shall be in effect for a period of time not exceeding three (3) consecutive days in conjunction with a single event or celebration. All permits are to be displayed in public view.

2. Any person desiring to operate a food establishment shall make written application for a permit on a form provided by the City of Lavon. The application shall include: The applicant's full name and post office box address or street address and whether such applicant is an individual, firm or corporation and, if a partnership, the names of the partners, together with their addresses, the location and type of proposed establishment, the number of certified employees, square footage of the facility, if required; capacity of grease trap and name of service company, name of pest control and the signature of the applicant. An application for a temporary Food Establishment shall include the inclusive dates of the proposed operation.
3. A food establishment operated solely by a nonprofit organization is not exempt from the permit requirements of this Article, or from compliance with the Rules on Food Service Sanitation.
4. The application shall be accompanied by a nonrefundable permit fee in the following amounts:

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| Temporary Establishment1 | \$ 50.00 |
| Restaurant | \$200.00 |
| Catering Truck | \$150.00 |
| Day Care Facility | \$150.00 |
| Grocery Store (Per Outlet) | \$200.00 |
| CISD (Exempt from fees) | xxxxxx |
| Limited Service (Potentially hazardous prepackaged foods) | \$150.00 |

C. CERTIFIED FOOD PROTECTION MANAGER

1. 25 TEX. ADMIN. CODE 229.163(b) of the Rules, Knowledge, demonstration, is amended to replace "or" with "and".
2. Every food establishment that has employees whose work brings them in contact with the handling of food, utensils, or food service equipment shall have a Certified Food Protection Manager
 - a. A Certified Food Protection Manager is a manager or person in charge, on duty during all times of operation, and who has completed a Food Protection Management Class from any accredited institution or firm of their choice as accredited by the Texas Department of Health.
 - b. Food establishments that serve, sell, or distribute only pre-packaged foods and on-potentially hazardous beverages, and temporary food establishments are exempt from this section.

- c. For new food establishments in the City of Lavon, management certification is required before date of operation.
- d. A Certified Food Protection Manager is required for each food establishment at all times of operation. The City of Lavon may require additional certified operators in sufficient number to insure that all areas of food preparation and food service, during times of operation, are under the direction of certified supervisory personnel.
- e. If a food establishment does not meet the requirements for a Certified Food Protection Manger because of the termination or transfer of certified personnel, the food establishment shall employ another Certified Food Protection Manager within forty-five (45) days after such termination or transfer.
- f. Food Protection Management Certification shall be valid for not less than five (5) years at which time an approved Food Protection Re-Certification class must be completed before the expiration of the original certification, and every five (5) years thereafter.
- g. Fee collected by the City of Lavon for registration with the City as a Food Protection Manager will be in the sum of \$30.00 per person registered.

D. SUBMISSION AND REVIEW OF PLANS

1. 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 of Lavon for review and approval before construction, remodeling or conversion is commenced. The plans and specifications shall include a proposed kitchen floor plan, equipment schedule and arrangement, mechanical and plumbing plans, and room finishes materials in all work areas. No food establishment shall be constructed, extensively remodeled, or converted except in accordance with said approved plans and specifications.
2. Deviation from the approved plans and specifications shall result in a food establishment permit denial, suspension, or revocation.

E. INSPECTIONS

1. The City of Lavon Authority shall inspect the food establishment prior to the issuance of the food establishment permit to determine compliance with any approved plans and specifications, compliance with other requirements of this Article and shall determine that a

Certificate of Occupancy has been issued for the building in which the establishment is to be located. Upon making such findings the food establishment permit may be issued subject to annual renewal, continued compliance with the provisions of this Article, and the existence of a valid Certificate of Occupancy for the building in which the establishment is located.

2. The City of Lavon shall conduct periodic routine inspections to determine if a food establishment is in compliance with the Rules. If during a routine inspection, immediate correction of a critical item is not achieved, the City of Lavon shall verify correction of the violation within 24 hours.
3. When the total cumulative demerit value of an establishment exceeds 30 demerits, the establishment shall immediately cease operations. The establishment shall remain closed until corrective action on all identified critical violations is complete. Corrective action on all other violations must be initiated within forty-eight (48) hours. The establishment shall remain closed until reopened by the Health Authority of the City of Lavon.

F. SUSPENSION OF A HEALTH PERMIT

1. The City of Lavon may, without warning, notice, or hearing suspend any permit to operator a food establishment if the holder of such permit does not comply with the requirements of this Article, or the operation of its establishment does not comply with the requirements set forth herein, or, if the operation of the food establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice. When a permit is suspended, food service operations shall immediately cease. Whenever a permit is suspended the holder thereof shall be afforded an opportunity for a hearing within five (5) days after receipt of a written request for hearing.
2. Whenever a permit is suspended, the holder thereof or the person in charge shall be notified in writing that an opportunity for a hearing shall be provided if a written request for hearing is filed with the City of Lavon within five (5) days after receipt of notice. If no written request for hearing is filed within a five (5) day period, the suspension is sustained. The City of Lavon may terminate the suspension at any time if reasons for suspension no longer exist.

G. REVOCATION OF A FOOD PERMIT

1. The City of Lavon may, after providing opportunity for hearing, revoke a permit for serious or repeated violations of any of the requirements of this Article or for interference with the regulatory authority in the performance of its duties.
2. Prior to revocation, the City of Lavon shall notify, in writing, the holder of the permit or the person in charge, of the specific reason(s) for which the permit is to be revoked and that the permit shall be revoked at the end of the five (5) days after service of such notice unless a written request for hearing is filed within the five (5) day period. If no request for hearing is filed within the five (5) days period, the revocation of the permit becomes final.
3. The holder of the revoked permit may make written application for a new permit.

H. EXAMINATION AND CONDEMNATION OF FOOD

1. A representative of the City of Lavon shall tag, label, or otherwise identify any food subject to a hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The City of Lavon's hold order shall permit storage of the food under the 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.
2. A hold order shall state that a request for a hearing may be filed within five (5) days after issuance thereof and that if no hearing is requested the food shall be destroyed. On the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this Article.

I. HEARING / NOTICE FOR HEARINGS

1. The regulatory committee shall conduct the hearing provided for in these rules at the time and the place designated by the regulatory authority. Based upon the recorded evidence of such hearing, the regulatory authority 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 holder of the permit, license or certificate by the regulatory authority.

2. A notice provided for in this Article 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.

SECTION III

Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

SECTION IV

All provisions of ordinances of the City of Lavon, Texas, in conflict with the provisions of this ordinance are, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION V

An offense committed before the prior law governs the effective date of this ordinance in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION VI

Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Lavon, Texas, shall be subject to a fine not to exceed the sum of \$1000.00 for each offense; and each and every day said violation is continued shall constitute a separate offense.

SECTION VII

This ordinance shall take effect immediately from and after its passage and the publication of the caption as the law and charter in such cases provide.

PASSED AND APPROVED on this the 3rd day of April, 2003, by the City Council of the City of Lavon, Collin County, Texas.

Approved



Stephen Parker, Mayor Pro Tem

ATTEST


Rosa Stovall, City Secretary

