

FOR TEXAS MUNICIPALITIES
ADOPTING BY REFERENCE THE TEXAS FOOD ESTABLISHMENT RULES

ORDINANCE NO. 2016-06

AN ORDINANCE REGARDING THE REGULATION OF FOOD ESTABLISHMENTS INCLUDING
FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, TEMPORARY FOOD
ESTABLISHMENTS, MOBILE FOOD UNITS, AND ROADSIDE FOOD VENDORS

Section 1. Adoption of Texas Food Establishment Rules

- A. The City of Ingleside on the Bay adopts by reference the provisions of the current rules or rules 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.
- B. Definitions

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

The words "food establishment" means 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 Ingleside on the Bay" in this ordinance shall be understood to refer to the City of Ingleside on the Bay.

The words "state rules" mean the state rules found at 25 Texas Administrative Code, Chapter 228. These rules are also known as the Texas Food Establishment Rules.

The words "regulatory authority" means the **San Patricio County Department of Public Health** having jurisdiction over food establishments.

Section 2. 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 3. Application for Permit 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 shall 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. The retail food service establishment fee schedule will be adopted by the San Patricio County Commissioner's Court. These fees will be payable to San Patricio County. The fees collected will be expended to defray the cost of issuance of permits and inspections of facilities regulated under this ordinance. San Patricio County agrees to give a ninety (90) day notice of any changes in fees.

Section 4. 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 regulatory authority 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 regulatory authority if they meet the requirements of the rules adopted by this ordinance. The approved plans and specifications must be followed in construction, remodeling or conversion.
- B. Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

Section 5. Suspension of Permit

- A. The regulatory authority 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 Paragraph (5) (B) of this ordinance. 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 regulatory authority 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 regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

Section 6. 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 the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority 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 regulatory authority 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.

Section 7. 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 shall be filed in the records of the regulatory authority.
- B. The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, 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 by the regulatory authority.

Section 8. Education Requirements

- A. Employees of food establishments, mobile food units, roadside food vendors, temporary events, and employees of food services within a retail food store who handle open exposed foods shall attend a two (2) hour food service sanitation course offered under the supervision of the regulatory authority. Upon completion of the course the regulatory authority will issue food handlers permit valid for a period of two (2) years. A food handler 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.
- B. Any classroom or online Food Handler Training Programs accredited by the Texas Department of State Health Services (TXDSHS) or the American National Standards Institute (ANSI) certified will also be acceptable.
- C. The permit holder or designated person in charge is required to obtain food manager certification status. A Food Manager Certification is a document obtained by the permit holder or person in charge who demonstrates knowledge by being a food protection manager that is certified by a food protection manager certification program that is evaluated and listed by a conference for food recognized accrediting agency as conforming to the conference for food protection standards for accreditation of food manager certification programs. Suitable certificates issued for passing an approved examination must be presented to the regulatory authority. Furthermore, each

permitted establishment must have "during all hours of operation" a certified food manager on duty. The certified food manager on duty shall have supervisor/management responsibilities with the authority to direct and control food preparation and service. Food Manager Certificates may be revoked if inspection reveals inadequate sanitation practices.

Section 9. Remedies

- A. Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be fined not more than _____ dollars.

- B. The regulatory authority may seek to enjoin violations of these rules.

Section 10. Severability

If any section, subsection, 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. Effective Date

The provisions of this ordinance shall take effect on: (put in date or the number of days from adoption by the municipality).

INTRODUCED, READ AND PASSED BY AN AFFIRMATIVE VOTE BY THE (_____
CITY COUNCIL) ON THIS 20th DAY OF Sep, 2016

(SIGNATURES OF COUNCIL MEMBERS/MAYOR)




Jo Ann Ehmann
Jo Ann Ehmann
Mayor

ATTEST:

Diane Hosea
Diane Hosea
City Secretary

Affidavit of Publication

STATE OF TEXAS

COUNTY OF SAN PATRICIO

Before me, the undersigned authority, on this day personally appeared

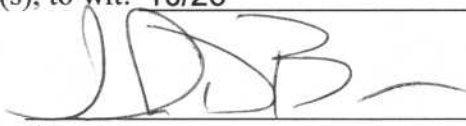
JOHN D. BOWERS, the PUBLISHER of the
(Name) (Title)

ARANSAS PASS PROGRESS, a newspaper having general circulation in
(Name of Newspaper)

SAN PATRICIO County, Texas, who being by me duly sworn, deposes and

says that the foregoing attached notice was published in said newspaper on the following


date(s), to wit: 10/26.



Signature

Subscribed and sworn to before me this the 26th day of

October, 20 16, to certify which witness my hand and seal of office.


Notary Public in and for

SAN PATRICIO County, Texas.

