

ARTICLE II. FOOD AND FOOD ESTABLISHMENTS*

***Cross references:** Fire extinguishers in establishments with vented hoods, § 12-13.

Sec. 13-20. Rules on food service sanitation--Adopted; compliance procedures.

The Texas Food Establishment Rules, 25 TAC §§ 229.161--229.171, 229.173--229.175 as adopted by the Texas Board of Health in September, 1998, and as they may be modified by the Texas Board of Health from time to time, are hereby adopted as the minimum standards for food establishments within the corporate city limits of the City of Grand Prairie, Texas; Provided, however, that in said rules the words "municipality of _____" shall be understood to refer to the City of Grand Prairie and the words "regulatory authority" shall be understood to refer to the city manager or his designated representative. A copy of the Texas Food Establishment Rules hereby adopted shall be on file in the office of the city secretary.

(a) *Permits, licenses or certificates generally.* No person shall operate a full service or limited use food service establishment, food manufacturing establishment, drinking establishment, food warehouse, or retail food store who does not have a valid permit issued to him by the regulatory authority. Only a person who complies with the requirements of these rules shall be entitled to receive and retain such a permit. Permits are not transferable. A valid permit shall be posted in conspicuous public view in every food establishment. Permits shall not be defaced or altered in any way. Permits shall be valid for a period of one (1) year from the date of issuance. Application and permit fees are nonrefundable and will not be prorated.

(1) The fee for initial issuance of a permit is one hundred fifty dollars (\$150.00) for application and two hundred twenty-five dollars (\$225.00) for each permit.

(2) The fee for each annual renewal of the permit shall be two hundred twenty-five dollars (\$225.00). Any failure to pay the annual fee shall cause the permit to be automatically revoked.

(3) The fee for change of ownership of a food establishment shall be two hundred seventy-five dollars (\$275.00), including the application fee.

(4) The fee for replacement of permits shall be twenty-five dollars (\$25.00).

(5) The fee for issuance of temporary food service permits shall be fifty dollars (\$50.00).

(6) The fee to operate a motorized mobile packaged food unit to vend commercially prepared, prepackaged foods or fresh produce in its natural state

shall be one hundred seventy-five dollars (\$175.00). No permit shall be issued for any food operation conducted from any pushcart, barrow, or wagon.

(7) Itinerant vendor. A vendor operating to sell non-potentially hazardous, state-approved, commercially prepared, prepackaged food or fresh whole produce in its natural state at a flea market or trade fair. The food establishment fee shall be one hundred twenty-five dollars (\$125.00).

(8) Any permit that lapses for nonpayment of the annual permit fee required in this article will be reinstated upon payment of an additional fee of fifty dollars (\$50.00) for each thirty-day period in which the permit has been allowed to lapse.

(b) *Issuance of permit.* The following provisions shall apply to the issuance of permits:

(1) Any person desiring to operate a food establishment shall make a 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 the proposed food establishment, and the signature of each applicant.

(2) Prior to approval of an application for a permit, the regulatory authority shall inspect the proposed food establishment to determine compliance with the requirements of these rules.

(3) The regulatory authority shall issue a permit to the applicant if its inspection reveals that the proposed food establishment complies with the requirements of these rules.

(c) *Suspension of permit.* The following shall apply to the suspension of permits for the operation of a food establishment:

(1) The regulatory authority may without warning, notice, or hearing suspend any permit to operate a food establishment if the holder of the permit does not comply with the requirements of these rules, or if the operation of the food establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by subsection (e) of this section. 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 twenty (20) days of receipt of a request for a hearing.

(2) 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, license or certificate 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.

(d) *Revocation of permit.* 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 (10) 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. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

(e) *Service of notices.* A notice provided for 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.

(f) *Hearings.* 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 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 by the regulatory authority.

(g) *Application after revocation.* Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit.

(h) *Inspections.* An inspection of a food establishment or retail food store shall be performed at least once each year. Additional inspections shall be performed as often as necessary based on food risk assessment criteria to assure compliance with these rules.

(i) *Correction of violations.* The following shall apply to the correction of violations:

(1) Failure to comply with any time limits for corrections may result in cessation of food operations. An opportunity for appeal from the inspection findings and time limitations will be provided

if a written request for a hearing is filed with the regulatory authority within ten (10) days following cessation of operations. If a request for a hearing is received, a hearing shall be held within twenty (20) days of receipt of that request.

(2) Whenever a food establishment is required under the provisions of this rule to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exists. Opportunity for reinspection shall be offered within a reasonable time.

(j) *Examination and condemnation of food.* Food may be examined or sampled by the regulatory authority as often as necessary for enforcement of these rules. The regulatory authority may, upon written notice to the owner or person in charge specifying with particularity the reasons therefore, place a hold order on any food which it believes is in violation of Subsection (a) of Rule .003 of the *Rules of Food Service Sanitation* or any other provision of these rules. The regulatory authority 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 regulatory authority 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 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 these rules.

(k) *Review of plans.* The following shall apply when food establishments are remodeled or constructed:

(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 regulatory authority for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, 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 if they meet the requirements of the Rules of Food Service

Sanitation. No food establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the regulatory authority.

(2) Whenever plans and specifications are required to be submitted to the regulatory authority, the regulatory authority shall inspect the food establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirement of these rules.

(3) The food establishment guidelines are a reference for examples of approved materials for finishes in extensively remodeled or new food service facilities.

(4) Any vendor requesting to sell products requiring refrigeration, freezing, cooking or heating shall obtain a food establishment permit and install NSF approved commercial equipment as a part of our plan review process.

(1) Food handler's certificate and certified food protection manager required. Any person who does not possess a valid Grand Prairie food handler's certificate showing satisfactory completion of an approved course of study in sanitary food handling within forty-five (45) days after his or her employment in a food service, drinking or food manufacturing establishment shall not be allowed to continue his or her employment (exception: those individuals possessing a Grand Prairie Food Manager Certificate). Every food handler certificate issued hereunder shall remain effective for a period of two (2) years, and may be renewed upon successful completion of additional approved refresher courses. The regulatory authority shall be responsible for conducting or arranging for the conducting an approved food handler course of study in sanitary food handling, as often as may be necessary for carrying out the purposes of this section.

(1) The fee for obtaining a food handling certificate shall be ten dollars (\$10.00). The fee for replacement of a lost certificate shall be five dollars (\$5.00).

(2) Current City of Grand Prairie food handler's certificates for each employee shall be available at such food service, drinking, or food manufacturing establishment for review by the regulatory authority. Certificates are the property of the person named thereon and must be returned by employers to such person upon cessation of employment.

(3) Food service establishment owners, managers, and persons in charge of any food service establishment shall, upon request by the regulatory authority, provide documentation of the dates of employment of any employee of such establishment.

(4) No owner, manager or person in charge shall permit any person to be employed therein whose work brings him into contact with the handling of food, utensils or food service equipment unless a valid food handler's training certificate has been received by the management as required in this section.

(5) Attendance of a Grand Prairie food handler class may be exempt due to meeting the following criteria: A valid certificate issued by a municipality approved food handler course; a valid certificate issued by an approved on-site food handler training course or an on-line training course; a valid certificate issued by the department of state health services (DSHS) accredited training program and/or a licensed test site.

(6) Individuals meeting the criteria noted in section 13-20(1)(1)--(6) shall obtain a Grand Prairie food handler card expiring two (2) years from the initial attendance date on the off-site food handler card.

(7) After October 1, 2005, at least one person in charge of a food establishment shall demonstrate knowledge and training of the Texas Food Establishment Rules (TFER), by being a certified food protection manager (CFPM). The CFPM shall show proficiency of required information through passing a department of state health services (DSHS) approved examination through an accredited training program or licensed test site. Additionally, the CFPM shall respond correctly to the inspector's questions as they relate to the specific food operation.

a. The permit holder of every food establishment shall ensure that at least one person in charge at each location has a valid food protection management training certificate issued or approved by the department of state and health services as proof of successful completion of a DSHS accredited training program exam or licensed test site exam.

b. The permit holder shall display the Grand Prairie Food Protection Manager Certificate available for immediate inspection upon request by the regulatory authority.

c. The fee for obtaining a Grand Prairie Food Manager Certificate (GPFMC) shall be twenty-five dollars (\$25.00). This fee shall not be prorated. The fee for replacement of a lost GPFMC certificate shall be ten dollars (\$10.00).

d. Individuals meeting the criteria noted in section 13-20(1)(7)a.--
e. shall obtain a Grand Prairie Food Manager Certification (GPFMC). The expiration date of the certified food manager certificate issued by DSHS or an approved accredited agency listed by DSHS, and shall not exceed a period of two (2) years.

e. The permit holder of a new food establishment and existing food establishment that has changed ownership, or a food establishment whose certified food protection manager has transferred or resigned shall have thirty (30) days to comply with the requirements of this section.

f. The following food establishments are exempt from the requirements of this section: Temporary food establishments and permanent food establishments that sell or distribute only prepackaged foods or uncut produce and do not prepare or package food; food establishments that serve only fountain drinks, coffee, and bottled alcoholic beverages. Other establishments may be determined on a case-by-case basis depending on the types of food handling operations to be used, and the overall risk to the public health with approval by the director or manager.

- (8) State-approved food protection management training, as required by Chapter 438, Subchapter D, Texas Health and Safety Code, shall substitute for the required food handler training. A food handling certificate will not be required upon presentation of a valid food protection management training certificate.

(Code 1964, § 15.7; Ord. No. 3457, § 1, 5-10-83; Ord. No. 3583, § 1, 2-21-84; Ord. No. 3879, § 1, 10-22-85; Ord. No. 4242, § 1, 9-8-87; Ord. No. 5140, § 1, 9-7-93; Ord. No. 5637, § 2, 8-20-96; Ord. No. 6415, § 2, 4-17-01; Ord. No. 6514, § 1, 9-18-01; Ord. No. 6879, § 1, 8-4-03; Ord. No. 7197, § 1, 5-3-05; Ord. No. 7263, § 1, 9-20-05)

State law references: Sanitation of food handlers, V.A.C.S. art. 4476--10; sterilization of dishes, art. 4476--9.

Sec. 13-21. Same--Penalty.

Any person who violates any of the provisions of the code adopted in section 13-20 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in section 1-8 of the Code of Ordinances. In addition thereto, such persons may

be enjoined from continuing such violations. Each day upon which such a violation occurs constitutes a separate violation.

(Code 1964, § 15.8)

Sec. 13-22. Meat and poultry--State law adopted.

The rules and regulations and methods for the inspection of meat and poultry, and meat and poultry food products, promulgated by the commissioner of health of the state under authority of Articles 4418d and 4466, Vernon's Annotated Civil Statutes, as approved by the state board of health, and as found in Article 4476--7, Vernon's Annotated Civil Statutes, are hereby in all things adopted and made a part of this section as if set forth in full herein, and the provisions, standards, rules and regulations contained therein are made mandatory requirements for the inspection and labeling of meat and poultry and meat and poultry food products produced, sold or offered for sale within the city. The state approved meat or poultry for human food label on such meat or poultry and meat or poultry food products shall appear thereon and such food and food products shall be governed by the specifications and regulations promulgated by the commissioner of health as approved by the state board of health adopted herein, and all requirements specified therein shall be complied with. A certified copy of such rules and regulations is filed in the office of the city secretary.

(Code 1964, §§ 15.1, 15.4)

State law references: Handling and sale of chicken eggs, V.A.C.S. art. 165--8.

Sec. 13-23. Same--Administered by environmental services department.

The city council finds that the necessary facilities for inspection and for enforcement of such rules exist in the environmental services department of the city.

(Code 1964, §§ 15.2, 15.5; Ord. No. 6415, § 2, 4-17-01)

Sec. 13-24. Same--Penalty.

Any person who shall violate any provision of the meat and poultry inspection laws, rules and regulations shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined as provided in section 1-8, and each day that such violation exists shall be deemed a separate offense.

(Code 1964, §§ 15.3, 15.6)

Sec. 13-25. United States Public Health Service Milk Ordinance adopted.

The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products sold for the ultimate consumption within the city or its police jurisdiction; the inspection of dairy herds, dairy farms, and milk plants; the issuing and revocation of permits to milk producers, haulers, and distributors shall be regulated in accordance with the provisions of Part II of the Grade A Pasteurized

Milk Ordinance--1965 Recommendations of the United States Public Health Service, a certified copy of which shall be filed in the office of the municipal clerk; provided, that Sections 9, 16 and 17 of said unabridged ordinance shall be replaced, respectively by subsections (1), (2) and (3) below:

(1) *Grade of milk products allowed to be sold:* Only grade A pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments; provided, that in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown may be authorized by the health authority; in which case, such milk and milk products shall be labeled "ungraded."

(2) *Penalty:* Any person who shall violate any of the provisions hereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in section 1-8 of the Code of Ordinances, and such persons may be enjoined from continuing such violations. Each day upon which such violation occurs shall constitute a separate violation.

(3) It is specifically provided that the term "health authority" as defined herein shall mean the health department of the city, and that said model ordinance shall be deemed to include the term City of Grand Prairie, Texas, and all appropriate places where the name of the city or agency adopting said model ordinance has been admitted.

(4)

(Code 1964, Amended, §§ 15.9, 15.10, 15.11, 15.11.2)

State law references: Milk grading and pasteurization, V.A.C.S. art. 165--3; Texas Equal Health Standard Milk Sanitation Act, art. 165--3a; unwholesome milk, art. 4474.

Sec. 13-26. U.S. Public Health Service Frozen Desserts Ordinance adopted.

(a) The production, manufacturing, mixing, preparing, processing, pasteurizing, freezing, packaging, transportation, handling, sampling, examination, labeling and sale of all mix and frozen desserts sold for ultimate consumption within the city or its police jurisdiction, the inspection of all establishments engaged in the production, processing and distribution of mix and frozen desserts, the issuing and revocation of permits to frozen dessert plants, the grading and regrading of frozen dessert plants, the displaying of grade placards, and the fixing of penalties in the city shall be regulated in accordance with the terms of the unabridged form of the 1940 edition of the U.S. Public Health Service Frozen Desserts Ordinance, a certified copy of which shall be on file in the office of the city secretary; provided, that the blank spaces following the words "municipality of" in said unabridged form shall be understood to refer to the city; provided, further, that in said ordinance all parentheses signs, which enclose words referring to grading, shall be understood to be deleted; provided further, that the provision for

production control of ingredients derived from milk, contained in the footnote to item 25p of said ordinance, shall apply; provided, further, that section 16 of said ordinance shall be replaced by subsection (b) below.

(b) Any person violating any provisions of said ordinance adopted herein shall upon conviction be punished by a fine as provided in section 1-8 of the Code of Ordinances. Each day that such violation exists shall be deemed a separate offense.

(Code 1964, §§ 15.12, 15.13)

Sec. 13-27. Alcoholic beverage license required; fees.

No person shall manufacture, sell, distribute or store any intoxicating liquor, malt liquor or other alcoholic beverage, including operation of a private club as that term is defined in the Texas Alcoholic Beverage Code, or engage in any other activity which is subject to a requirement for a permit by the state alcoholic beverage commission, within the city without having first obtained a health permit and alcoholic beverage license from the regulatory authority. The license fee for such permit shall be one-half (1/2) of the permit fee charged by the state under the Texas Alcoholic Beverage Code; provided, however, that the alcoholic beverage license fee shall be waived for fraternal and veterans' organizations, as those terms are defined in V.T.C.A., Alcoholic Beverage Code Section 32.01 et seq., that operate private clubs.

(a) No alcoholic beverage license required under the terms of this section shall be issued to any person until he shows that he holds a state permit for the particular phase of the liquor traffic in which he desires to engage in the city and until the fee required by the city for such license has been paid to the city.

(b) In the event that a person or entity has received the permit required by the state alcoholic beverage commission for manufacture, sale, distribution, or storage of any intoxicating liquor, malt liquor or other alcoholic beverage and has had such permit revoked under the applicable rules of the state alcoholic beverage commission, any license that the person or entity has from the city for the manufacture, sale, distribution, or storage of any intoxicating liquor, malt liquor or other alcoholic beverage shall be automatically revoked as soon as revocation of the person's or entity's permit from the state alcoholic beverage commission is final and unappealable under state law.

(c) All licenses issued under the terms of this section shall expire at the time shown in the state permit presented by the applicant. Licenses are nontransferable and fees are nonrefundable and will not be prorated.

(Ord. No. 5637, § 2, 8-20-96)

Sec. 13-28. Dance floor permit--Required; fee.

No person shall provide a dance floor for use by the establishment's patrons in any establishment within the city where alcoholic beverages are served under a permit issued by the state alcoholic beverage commission without having first obtained a dance floor permit from the regulatory authority.

(a) Applications must be submitted on forms provided by the regulatory authority. The fee for permits issued under this section shall be six hundred dollars (\$600.00).

(b) All permits issued under the terms of this section shall expire one (1) year from the date of issuance. Permits are nontransferable and fees are nonrefundable and will not be prorated.

(c) Any permit issued under this section may be suspended upon written notice by the regulatory authority for repeated violations of any local ordinance, state or federal laws.

(Ord. No. 5637, § 2, 8-20-96)

Sec. 13-29. Same--Appeal of revocation.

Any applicant aggrieved by the action of the regulatory authority with reference to the revocation of a permit as provided in section 13-28 of this article shall have the right to appeal to the city manager. Such appeal shall be taken by filing with the city manager, within fourteen (14) days after notice of the action complained of has been delivered in person or mailed to such person's address given in the application, a written statement setting forth fully the grounds for the appeal. The city manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in section 13-248 of this chapter for notice of hearing on revocation. The decision and order of the city manager on such appeal shall be final and conclusive.

(Ord. No. 5637, § 2, 8-20-96)