

AN ORDINANCE OF THE CITY OF COPPELL, TEXAS

ORDINANCE NO. 2016-1450

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COPPELL, TEXAS, BY AMENDING THE CODE OF ORDINANCES, AS HERETOFORE AMENDING CHAPTER 6, BUSINESS REGULATIONS, ARTICLE 6-8, FOOD SERVICE REGULATIONS, SECTIONS 6-8-1 THROUGH 6-8-12, REPEALING IT IN ITS ENTIRETY AND REPLACED BY A NEW ARTICLE 6-8, RETAIL FOOD; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The State of Texas has amended, updated, revised and reorganized its regulations concerning the management, personnel storage and keeping of food and equipment, utensils and linens; and

WHEREAS, such state of Texas have further revised and updated the maintenance and operation of physical facilities and the components of water, plumbing and waste management and private water systems; and

WHEREAS, The City Council of the City of Coppel has determined should be adopted as local regulations to replace the current food service sanitation regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPELL, TEXAS

SECTION 1. That the *Code of Ordinance* of the City of Coppel, Texas, is hereby amending Chapter 6, Business Regulations, Article 6-8, Food Service Regulations, Sections 6-8-1 through 6-8-12 should be repealed in its entirety and replaced by a new Article 6-8, Retail Food, to hereinafter read as follows:

“CHAPTER 6 – Business Regulations

Article 6-8 Food Service Regulation

Sec. 6-8-1. Adoption of state rules on food service sanitation

A. The Texas Food Establishment Rules adopted by the Texas Department of State Health Services 25 TAC, Chapter 228 in its entirety, except as amended herein are hereby adopted as the City of Coppell Rules for Food Service 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. All references contained herein to sections within this article are in the Texas Administrative Code. The City of Coppell amends the Texas Food Establishment Rules as follows:

Sec. 6-8-2. Amendments.

A. Definitions Section 228.2 is amended to include the following:

Concession stand means a food establishment operated on a seasonal basis for the purpose of providing food at sporting and special events.

Food establishment Section 228.2 (57) shall be added to read: "Provided that the operations do not expose the public to a substantial and imminent health hazard as determined by the regulatory authority, a food establishment does not include the sale, distribution or service of food at an event, party or other special event that is not open to persons other than the members or invited guests of the sponsor, provided that there is no public advertisement of the event, public solicitation of funds at or for the event, or participation by the general public in the event."

Seasonal food establishment means a food service establishment that operates at a fixed location for a period greater than 14 consecutive days, but less than 365 days, and is restricted to limited food preparation, unless approved by the regulatory authority.

B. Equipment, utensils and linens. Section 228.2 (46) is amended to read, as follows:

"Equipment in new or extensively remodeled establishments shall meet National Sanitation Foundation or equivalent approval. Any other equipment is subject to approval by the regulatory authority."

C. Grease trap is added to read, as follows:

"A grease trap or grease interceptor is required unless approved by the regulatory authority. If used, a grease trap or grease interceptor shall be located outside the facility. It shall be sized according to the plumbing code as currently adopted by the City of Coppell."

D. Floors, walls, and ceilings. Section 228.173 is amended as follows:

1. Wall and ceiling coverings and coatings. Section 228.173 (f) is amended to read:

"The walls and ceilings of walk-in refrigerating units, food preparation areas, dry storage areas, food storage areas, equipment-washing and utensil washing-areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent, and easily cleanable."

2. Wall and ceiling coverings and coatings. 228.173 (f) is amended to read:

"Concession stands may use concrete, porous blocks, or bricks for indoor wall construction if finished and sealed to provide a smooth, easily cleanable, non-absorbent surface."

3. Floor construction. Section 228.173 shall be added to read:

"Floors and floor coverings of all food preparation, food service, food storage, and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules, shall be constructed of smooth durable material such as terrazzo, ceramic tile, quarry tile or the equivalent as approved by the regulatory authority and shall be maintained in good repair. Sealed concrete is not acceptable as a floor surface for areas mentioned above."

Sec. 6-8-3. - Seasonal food establishments.

A. General. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the seasonal food establishments, may prohibit the sale of some or all Time / Temperature controlled for safety food (TCS)— (Formerly Potentially Hazardous Food), and when no health hazards will result, may waive or modify requirements of this chapter. Seasonal food establishments shall comply with the requirements of this article.

B. Concession stands. Concession facilities are seasonal food service establishments generally associated with athletic and recreational facilities. The degree of regulation of a concession facility shall depend upon the type and volume of foods conveyed, and the status of the facility.

C. Farmers market. The following does not apply to non- Time / Temperature controlled for safety food (TCS) uncut produce.

1. All foods must be commercially produced prepackaged items from a licensed facility or commissary. Product sampling is prohibited. This prohibition does not apply to food that has been prepared or packaged under conditions

meeting the requirements of this ordinance and served within facilities meeting the requirements of this article.

2. A manufacturing permit from the department of state health services and copies of product labels shall be provided to the regulatory authority.

Sec. 6-8-4. - Temporary food establishments.

Section 228.75 is amended as follows:

A. Food temperatures 228.222 b is amended to read:

"All food temperature requirements shall be met as contained in Section 228.75 of this title (relating to food). Ice shall not be used as a coolant for Time / Temperature controlled for safety food (TCS) at a temporary food establishment operating for more than four hours."

B. Limited food prep 228.222 a-1 shall be added to read:

"Those Time / Temperature controlled for safety food (TCS) requiring limited preparation, such as preformed hamburgers and hot dogs shall be prepared and served unless otherwise approved by the regulatory authority. No slicing, dicing, or cutting of food products onsite. This prohibition does not apply to Time / Temperature controlled for safety food (TCS) that has been prepared or packaged under conditions meeting the requirements of this Ordinance, is obtained in individual servings, in facilities that meet the requirements of this Ordinance, and is served directly in the unopened container in which it was packaged. The preparation or service of meat sandwiches, smoked or barbecued meats and eggs are prohibited unless the facility is a fully equipped enclosed building with sinks, refrigeration, and hot and cold running water. The sale or conveyance of fish, raw poultry, or shellfish products (except certain prepackaged frozen products) is prohibited."

Sec. 6-8-5. - Mobile units.

228.221 (a) (3) is amended as follows:

A. Permits. Section 228.221 (a) (4) shall be added to read:

"A schedule of all stops in Coppell including locations and exact times shall be submitted at the time of the application. Any changes in the schedule shall be reported to the regulatory authority within three days of such change. Failure to maintain a current schedule of these stops may result in suspension of the permit to operate."

Sec. 6-8-6. - Food service regulations, permits, and pre-operational inspections.

A. General.

1. Any reference to "regulatory authority" in the rules shall mean the City of Coppell Environmental Health Department.

2. In cases where a person or firm conducts, in a single building or at the same address, more than one food operation, whether such operations constitute a food establishment or temporary food establishment, then a separate permit shall be required for each separate operation.

3. Mechanical refrigeration or effectively insulated facilities are required for the storage of Time / Temperature controlled for safety food (TCS). Using ice as the sole coolant for Time / Temperature controlled for safety food (TCS) is not acceptable, however, ice can be used as a coolant for Time / Temperature controlled for safety food (TCS) at a temporary food establishment operating for less than four hours.

B. Permit required. It shall be unlawful for any person to operate a food establishment within the limits of the City of Coppell without having been issued a valid food 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 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 Coppell. 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 article. Permits shall remain in effect for 12 months from the date of issuance unless sooner revoked for cause. Mobile food establishment permits are valid for twelve months. If the permit is granted to a temporary food establishment, the permit shall be in effect for a period of time not exceeding 14 consecutive days in conjunction with a single event or celebration.

C. Issuance of permits.

1. Any person desiring to operate a food establishment shall make written application for a permit on forms provided by the regulatory authority. The application shall include the name and address of each applicant, the location and type of food establishment and the signature of the applicant. An application for a temporary food establishment shall include the inclusive dates of the proposed operation. For temporary and seasonal events, applications and fees shall be submitted at least four working days prior to the start date.

2. The application shall be accompanied by a nonrefundable permit fee established by resolution of the city council from time to time. Failure to pay the annual fee shall cause the permit to be automatically revoked.

3. Establishments that provide only non- Time / Temperature controlled for safety food (TCS), sold or served in original packaging and/or in single use containers, may be exempt from permitting requirements upon approval of the regulatory authority. Full compliance with this ordinance, including permit requirements and associated fees and inspections may be required of establishments if judged to be capable of causing foodborne illness or increased public health risk.

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 regulatory authority for review and approval before construction, remodeling or conversion is commenced. The plans and specifications shall include a proposed menu, proposed layout, equipment arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. 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 regulatory 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.

2. The regulatory authority 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 regulatory authority shall verify correction of the violation within ten calendar days. If a critical item is not corrected during the initial inspection, a reinspection fee, established by resolution of the city council from time to time, shall be assessed at the follow up inspection.

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 48 hours. The establishment shall remain closed until reopened by the regulatory authority. In the case of temporary food establishments, all violations shall be corrected immediately.

4. Denial of access to regulatory authority shall be cause for suspension or revocation of the food service permit.

Sec. 6-8-7. - Suspension of a food permit.

A. The regulatory authority may, without warning, notice, or hearing, suspend any permit to operate 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 20 days after receipt of a written request for hearing.

B. 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 regulatory authority within ten days after receipt of notice. If no written request for hearing is filed within ten days, the suspension is sustained. The regulatory authority may terminate the suspension at any time if reasons for suspension no longer exist.

Sec. 6-8-8. - Revocation of a food permit.

A. The regulatory authority 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.

B. Prior to revocation, the regulatory authority 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 ten days after service of such notice unless a written request for hearing is filed within the ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final. A permit may be suspended pending its permanent revocation or a hearing relative thereto.

C. The holder of the revoked permit may make written application for a new permit.

Sec. 6-8-9. - Examination and condemnation of food.

A. The regulatory authority 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 regulatory authority'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.

B. A hold order shall state that a request for hearing may be filed within ten 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.

Sec. 6-8-10. - Hearings.

The hearings provided for in this article shall be conducted by the city manager at a time and place designated by it. Testimony given at a hearing shall be recorded verbatim. The city manager shall make a final finding based upon the complete record, and shall sustain, modify or rescind any notice or order considered in the hearing. The regulatory authority shall furnish a written report of the hearing decision to the holder of the permit.

Sec. 6-8-11. - Service of notices.

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 2. That all provisions of the Code of Ordinance of the City of Coppell, Texas, in conflict with the provisions of this ordinance be, 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 3. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, illegal, or invalid, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

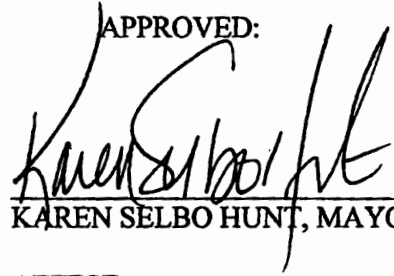
SECTION 4. That an offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance for the City of Coppell, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 6. That this ordinance shall take effect immediately from and after its passage and the publication of its caption, as the law and charter in such cases provide.

DULY PASSED by the City Council of the City of Coppell, Texas, this the 8th day of November, 2016

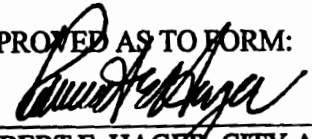
APPROVED:


KAREN SELBO HUNT, MAYOR

ATTEST:


CHRISTEL PETTINOS, CITY SECRETARY

APPROVED AS TO FORM:


ROBERT E. HAGER, CITY ATTORNEY