ORDINANCE NO. 332

AN ORDINANCE REGARDING THE REGULATION OF FOOD ESTABLISHMENTS INCLUDING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, MOBILE FOOD UNITS, AND ROADSIDE FOOD VENDORS WITHIN THE CITY OF TIOGA, REPEALING ORDINANCE NUMBER 331; AND PROVIDING FOR FEES AND PENALTIES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TIOGA, TEXAS.

SECTION 1. ADOPTION OF TEXAS FOOD ESTABLISHMENT RULES.

A. The City of Tioga adopts by reference as though fully set forth in this article, to the extent applicable within the city, the provisions of the current rules of the state board of health in Texas Administrative Code, Chapter 228 regarding the regulation of food establishments in the city.
B. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, excerpt where the context clearly indicates a different meaning:

Authorized agent or employee means employees of the city or of the Grayson County Health Department authorized to enforce the provisions of this article.

County Health Department means the health department of Grayson County, Texas.

Extensive remodeling means that twenty percent or more of the area of a food establishment is to be remodeled.

Food Establishment means a food service establishment, a retail food store, a mobile food unit, or a roadside food vendor.

State rules mean the state administrative rules adopted by reference in this article.

SECTION 2. PERMITS AND EXEMPTIONS.

A. A person may not operate a food establishment without a permit issued by the county health department. Permits are not transferrable from one person to another or from one location to another location, except as otherwise permitted by the article. A valid permit must conspicuously be posted in or on every food establishment regulated by this article.
B. A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this article, but it is not exempt from compliance with state rules. The county health department may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption.
C. Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the county health department. The application shall be accompanied by a fee in the amount established by the county health department and 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.

D. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.
E. Prior to the approval of an initial permit or the renewal of an existing permit, the county health department 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.

SECTION 3. REVIEW OF PLANS

A. When a food establishment is constructed or extensively remodeled and when an existing structure is converted to use as a food establishment, properly prepared plans and specifications for construction, remodeling or conversion shall be submitted to the county health department for review before work is begun.
B. 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.
C. The plans and specifications will be approved by the county health department if plans meet the requirements of the rules adopted by this article. The approved plans and specifications must be followed in construction, remodeling or conversion. Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

SECTION 4. FOOD SANITATION TRAINING

A. No person shall operate a food service establishment, retail store with meat market or deli, or mobile food unit unless the manager of the establishment, or if multiple shifts are worked, the manager of each shift, has a valid current Food Service Manager's Certificate issued by the Regulatory Authority certifying that the bearer has attended the Food Sanitation Program for Managers approved by the Regulatory Authority.
B. It shall be unlawful for the owner, operator, or manager of any food service establishment, retail store with meat market or deli, or mobile food bending unites, to employ or permit any food handler to work therein unless such food handler has the permit required by this section.

SECTION 5. SUSPENSION OF PERMIT

A. The county health department 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 this section. When a permit is suspended, food operations shall immediately cease. When 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. When 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 county health department 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 county health department may end the suspension at any time if reasons for suspension no longer exist.

SECTION 6. REVOCATION OF PERMIT

A. The county health department may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of this article or for interference with the county health department in the performance of its duties.
B. Prior to revocation, the county health department shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocations and that the permit shall be revoked at the end of the ten day period. If no request for a hearing is filed within the ten day period, the revocation of the permit becomes final.

SECTION7. ADMINISTRATION PROCESS

A. A notice required in this article is properly served when it is deliver to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipts 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 county health department.
B. The hearings provided for in this article shall be conducted by the county health department at a time and place designated by it. Based upon the recorded evidence of such hearing, the county health department 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 county health department.

SECTION 8. PENALTIES AND OTHER REMEDIES

Any person who violates a provision of this article and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of this article and any responsible officer of that permit holder or those persons shall be fined not more than $2,000.00. In addition, the county health department may seek to enjoin violations of this article.

SECTION 9. 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 deem a spate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 10. EFFECTIVE DATE

The provisions of this ordinance shall be in full force and effect upon passage.

INTRODUCED, READ, AND PASSED BY AN AFFIRMATIVE VOTE BY THE CITY COUNCIL OF THE CITY OF TIOGA, TEXAS ON THIS 11TH DAY OF JANUARY, 2016.

Craig Jezek, Mayor

Attest:

Donna Carney

Donna Carney, City Secretary