



ORDINANCE 2016-05

AN ORDINANCE DEFINING FOOD, POTENTIALLY HAZARDOUS FOOD, FOOD SERVICE ESTABLISHMENT, RETAIL FOOD STORE, TEMPORARY FOOD SERVICE ESTABLISHMENT, REGULATORY AUTHORITY, UTENSILS, EQUIPMENT, ETC.; PROVIDING FOR THE SALE OF ONLY SOUND, PROPERLY LABELED FOOD; REGULATING THE SOURCES OF FOOD; ESTABLISHING SANITATION STANDARDS FOR FOOD, FOOD PROTECTION, FOOD SERVICE PERSONNEL, FOOD SERVICE OPERATIONS, FOOD EQUIPMENT; AND UTENSILS, SANITARY FACILITIES AND CONTROLS, AND OTHER FACILITIES; REQUIRING PERMITS FOR THE OPERATION OF FOOD SERVICE ESTABLISHMENTS; REGULATING THE INSPECTION OF SUCH ESTABLISHMENTS; PROVIDING FOR THE EXAMINATION AND CONDEMNATION OF FOOD; PROVIDING FOR INCORPORATION BY REFERENCE OF THE TEXAS DEPARTMENT OF HEALTH, DIVISION OF FOOD AND DRUGS, 25 TEXAS ADMINISTRATIVE CODE, CHAPTER 228 AND, PROVIDING FOR THE ENFORCEMENT OF THIS ORDINANCE, AND FIXING OF PENALTIES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE MUNICIPALITY OF TOM BEAN AS FOLLOWS:

Section 1 - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized agent or employee means employees of the city or of 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 20 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 means the state administrative rules adopted by reference in this article.

Section 2 - State rules adopted.

The city 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 25 Texas Administrative Code, Chapter 228 regarding the regulation of food establishments in the city.

Section 3 - Business permits.

- (a) *Required; transfer not permitted; display.* 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 this article. A valid permit must conspicuously be posted in or on every food establishment regulated by this article.
- (b) *Certain nonprofit organization exempt.* A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this article, but 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) *Application; fees.* 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) *Renewal.* 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) *Inspection prior to issuance.* 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 4 - Construction plan approval required.

- (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 they 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 5 - Permit suspension.

- (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 - Permit revocation.

- (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 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 county health department 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.

Section 7 - Method of serving notices.

A notice required 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. A copy of the notice shall be filed in the records of the county health department.

Section 8 - Hearing procedure.

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 9 - 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 \$500.00. In addition, the county health department may seek to enjoin violations of this article.

Section 10 - Food Sanitation Training

- A. No person shall operate a food establishment 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 completed 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 establishment to employ or allow any food handler to work therein unless such food handler has the permit required by this section, or an approved food handler permit.

Section 11 – Grease Traps

- 11.1 Installation. Grease traps (interceptors) for removal of oil, grease, fats, blood, and other wastes shall be used in cafes, restaurants, bars, private clubs, cafeterias, grocery markets, taverns, lunchrooms, cocktail lounges, saloons, soda fountains, bakeries, food commissaries, food manufacturing, public and parochial schools, and other places that may discharge grease, fats, oils, blood, or other wastes to the sewer.
- 11.2 Floor drains in all the above establishments must be plumbed through the grease trap where feasible and for all new construction.

- 11.3 Wastes from garbage grinders in all the above establishments will not generally be allowed to enter the sewer system.
- 11.4 Traps (interceptors) will not be installed near the plumbing that discharges greasy wastewater and will be readily accessible for cleaning.
- 11.5 A dual-chambered trap that separates, than stores grease shall be utilized for maximum efficiency. When a dual chamber is installed, the hot grease is conveyed to the secondary chamber where it accumulates, cools, and solidifies.
- 11.6 Sizing. Grease trap sizing will depend on the particulars of the application. City officials, health department, and/or trap manufactures will be consulted prior to sizing the unit.
- 11.7 No grease trap (interceptors) with a liquid holding capacity of less than 100-gallons shall be approved for any food preparatory establishment.
- 11.8 Grease trap (interceptors) shall be sized using the Uniform Plumbing Code to determine maximum flow rate and are required to have at least two compartments.
- (A) The primary compartment shall hold seven (7) times the maximum gallons-per-minute flow rate.
 - (B) The secondary compartment shall hold five (5) times this flow rate.
 - (C) Where variances are granted for garbage disposals, they shall be plumbed into the unit and the unit size to hold ten (10) times the maximum gallons per-minute flow rate in the secondary compartment.
- 11.9 Texas Water Commission requirements state that businesses that generate grease trap waste are responsible to assure proper handling.
- (A) If the business has someone to collect and/or transport the waste to a processing or disposal facility (sewer treatment plants), that person's business must be registered.
 - (B) If the business collects or transports their own waste for processing or disposal, they must comply with the same requirements as any other handler or transporter.
 - (C) Generators (persons whose process produces grease trap wastes), whose waste is collected by a transporter, are responsible to ensure that the transporter disposed of the waste at a site approved by the Texas Water Commission.

- (D) The Health Department requires transporters to use water control records and to provide a copy of the record (trip ticket) to the generator showing final disposition of the waste.
- (E) The waste control record (trip ticket) must include the following information:
- (i) The name, Texas Water Commission, and Grayson County Health Department registration number of the transporter.
 - (ii) The name and address of the person who generates the waste.
 - (iii) The date the waste was collected.
 - (iv) The type and amount of waste collected or transported.
 - (v) The name of the responsible driver collecting, transporting, and-depositing the waste.
 - (vi) The date and place where the wastes were deposited.
 - (vii) Name of the facility representative who acknowledged receipt of the waste and amount of waste received.
 - (viii) The generator is required to obtain a signed copy of the record and retain it for twelve (12) months from the date the waste is received by the transporter for review by city officials, the Grayson County Health Department, and annual reports required from the transporters to the Texas Department of Health, Bureau of Solid Waste Management.
 - (ix) Transporters of grease trap waste must be registered with the Texas Water Commission:
 - (a) Have a five (5) digit registration that is preceded by "TWC" followed by a two (2) digit number assigned by the Grayson County Health Department for identification.

Example: TWC 23099-12.

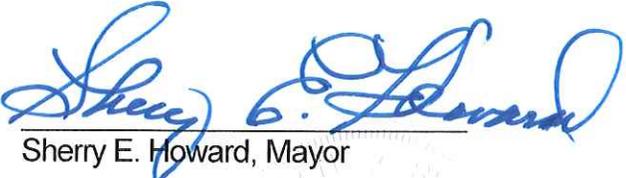
- (b) Transporters are required to prominently mark all vehicles (tanks) used for the collection or transportation of these wastes (grease traps) to show their company name and Texas Water Commission's and Grayson County Health Department assigned registration and identification numbers,

and without such marking, the transporter should be considered unregistered.

Section 12: Repeal of Conflicting Ordinances.

All existing ordinances of the City of Tom Bean, Grayson County, Texas are hereby repealed insofar as they may be inconsistent with the provisions of this ordinance.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF TOM BEAN, TEXAS THIS
18th DAY OF APRIL, 2016.**


Sherry E. Howard, Mayor

Attest:


Cathy Pugh, City Secretary

