

ORDINANCE NO. 207

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 "Rules on Food Service Sanitation 229.161-229.171," "Rules on Retail Food Store Sanitation 229.231-229.239;" and providing for the enforcement of this ordinance, and fixing of penalties.

Be it ordained by the Council of the municipality of Bells as follows:

Section 1. The definitions; the inspection of food service establishments and retail food stores; the issuance, suspension and revocation of permits to operate food service establishments or retail food store; the prohibiting of the sale of unsound or mislabeled food or drink; and the enforcement of this ordinance shall be regulated in accordance with the Texas Department of Health, Division of Food and Drugs "Rules on Food Service Sanitation 229.161-229.171," and "Rules on Retail Food Store Sanitation 229.231-229.239," three certified copies of which shall be on file in the office of the municipal clerk: Provided, that the words, "municipality of Bells" in said ordinance shall be understood to refer to City of Bells and the words "regulatory authority" shall be understood to refer to Grayson County Health Department.

Section 2. Violations of the Rules on Food Service Sanitation or Rules on Retail Food Store Sanitation are subject to the penalties and remedies listed in the Compliance Procedures [Attachment A].

COMPLIANCE PROCEDURES(a) Permits

(1) General. No person shall operate a food service establishment or retail food store who does not have a valid health permit issued to him by the regulatory authority. Only a person who complies with the requirements of these rules shall be entitled to receive or retain such a permit. Permits are not transferrable. A valid permit shall be posted in every food service establishment.

(2) Issuance of Permit.

(A) Any person desiring to operate a food service establishment or retail food store shall make written application for a health 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 service establishment, and the signature of each applicant.

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

(C) The regulatory authority shall issue a health permit to the applicant if its inspection reveals that the proposed food service establishment or retail food store complies with the requirements of these rules.

(3) Suspension of Permit.

(A) The regulatory authority may, without warning, notice, or hearing suspend any health permit to operate a food service establishment or retail food store if the holder of the permit does not comply with the requirements of these rules, or if the operation of the establishment does not comply with the requirements, or if the operation of the food service establishment or retail food store otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by Paragraph (3)(B) of Subsection (a) of this rule. When a permit is suspended, food service or all retail food stores operations shall immediately cease. Whenever a health 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 with the board of health of Grayson County.

(B) Whenever a health 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.

- (4) Revocation of Health Permit. The regulatory authority may, after 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 health permit the person in charge, in writing of the reason for which the permit is subject to revocation and that the health 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. If no request for hearing is filed within the ten day period, the revocation of the permit becomes final.
- (5) 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.
- (6) 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 health permit by the regulatory authority.
- (7) Application after Revocation. When a revocation of a permit has become final, the holder of the revoked health permit may make written application for a new health permit.

(b) Inspections

- (1) Inspection Frequency. An inspection of a food service establishment shall be performed at least once every six months. Additional inspections of the food service establishment or retail food store shall be performed as often as are necessary for the enforcement of these rules.
- (2) Access. Agents of the regulatory authority, city, government, or official, after proper identification, shall be permitted to enter any food service establishment at any reasonable time, for the purpose of making inspections to determine compliance with these rules. The agents shall be permitted to examine the records of the establishments to obtain information pertaining to food

and supplies purchased, received, or used, or to persons employed when and who pumped the grease trap and where the contents were taken.

(3) Report of Inspections. Whenever an inspection of a food service establishment or commissary is made, the findings shall be recorded on the inspection report form set out in Paragraph (5) of Subsection (b) of this rule. The inspection report form shall summarize the requirements of these rules and shall set forth a weighted point value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. One copy may be provided to the mayor for the council. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(4) Correction of Violations.

(A) The inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

(i) If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the regulatory authority.

(ii) All violations of 4- or 5-point weighted items shall be corrected as soon as possible, but in any event, within ten days following inspection. Within 15 days after the inspection, the holder of the permit shall submit a written report to the regulatory authority stating that the 4- or 5-point violations have been corrected. A follow-up inspection shall be conducted to confirm correction.

(iii) All 1- or 2-point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

(iv) When rating score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more reinspections will be conducted at reasonable time intervals to assure correction.

(v) In the case of temporary food service establishments, all violations shall be corrected within 24 hours. If

violations are not corrected within 24 hours, the establishment shall immediately cease food service operations until authorized to resume by the regulatory authority.

- (B) The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food service or retail food store 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 days following cessation of operations. If a request for a hearing is received, a hearing shall be held 20 days of receipt of that request.
- (C) Whenever a food service 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.

(5) Inspection Report Form.

An inspection report form based on the requirements of these rules is appended.

(c) Examination and Condemnation of Food

- (1) General. 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 therefor, place a hold order on any food which it believes is in violation of the rules or any other provision of the 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 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.

(d) Review of Plans

- (1) Whenever a food service establishment or retail food store is constructed or extensively remodeled, whenever an existing

structure is converted to use of food service establishment or retail food store or when there is a change of operator/owner, properly prepared plans and specifications for such construction, remodeling, conversion shall be submitted to the regulatory authority for review and approval before construction, remodeling, conversion, or change 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 or Rules for Retail Food Stores. No food service 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 service establishment or prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirement of these rules and codes.
- (3) The following fees shall be charged for plan review as required in this section:

Fees by Square Footage:	Conversions/ Construction	Remodeling
150 and under	\$25	\$19.75
151 - 600	\$35	\$26.25
601 - 1,000	\$45	\$33.75
1,001 - 3,000	\$50	\$37.50
3,001 - 5,000	\$60	\$45.00
5,001 - 10,000	\$80	\$60.00
10,001 - above	\$100	\$75.00

(e) Permit Fees

- (1) Permit fees under this Article are as follows:

Each food service establishment or retail food store operating within the corporate limits of the City of Bells shall pay a fee based on the number of employees employed by the facility. The following table shall be used to determine the permit fee:

No. of Employees:	0-5	6-10	11-15	16-20	21-25	26-30	31-35	36-40	41 or more
Permit Fee:	\$50	\$70	\$90	\$100	\$130	\$150	\$170	\$190	\$210

All mobile food concessions, either food service or retail sales will pay permit fees according to the table unless classified as temporary. Each temporary food service establishment or temporary

retail food sales operation shall pay \$25 per period of operation. (said permit shall not exceed four (4) days from date of permit issuance).

- (2) All permit fees shall be paid to the regulatory authority.
- (3) Religious and/or non-profit charitable agencies and organizations shall be exempt from fees, but must have a permit.

(f) Remedies

- (1) 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 one thousand \$1,000 dollars. Each and every violation of the provisions of this law, each day that such offense continues, shall constitute a separate and punishable offense whether or not such act or omission was knowingly or willfully done or omitted.
- (2) The regulatory authority may seek to enjoin violation of these rules.

(g) Food Sanitation Training

- (1) No person shall operate a food service 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 attended the Food Sanitation Program for Managers approved by the regulatory authority within the past three (3) years. The fee for the Food Service Manager's Certificate shall be twenty five dollars (\$25.00) and such food service manager's permit shall be valid for a three (3) year period. Thereafter, a renewal permit, valid for a three (3) year period, at a charge of fifteen dollars (\$15.00).
- (2) It shall be unlawful for the owner, operator, or manager of any food service establishment to employ or permit any food handler to work therein unless such food handler has the permit required by this section. The fee for the food handler permit shall be nine dollars (\$9.00) for a permit valid for a three (3) year period.

(h) Procedure When Infection is Suspected. When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, it may secure morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

- (1) The immediate exclusion of the employee from all food service or retail food establishment;

- (2) The immediate closing of the food service establishment or retail food store concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;
- (3) Restriction of the employee's service to some area of the establishment where there would be no danger of transmission disease;
- (4) Adequate medical and laboratory examination of the employee, of other employees and of his and their body discharges.

(i) Grease Traps

- (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 commissionaries, food manufacturing, public and parochial schools, and other places that may discharge grease, fats, oils, blood, or other wastes to the sewer.
- (2) Floor drains in all the above establishments must be plumbed through the grease trap where feasible and for all new construction.
- (3) Wastes from garbage grinders in all the above establishments will not generally be allowed to enter the sewer system.
- (4) Traps (interceptors) will not be installed near the plumbing that discharges greasy wastewater and will be readily accessible for cleaning.
- (5) An dual chambered trap that separates, then 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.
- (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.
- (7) No grease trap (interceptors) with a liquid holding capacity of less than 100 gallon shall be approved for any food preparatory establishment.
- (8) Grease traps (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 sized to hold



ten (10) times the maximum gallons-per-minute flow rate in the primary compartment and seven (7) times this flow rate in the secondary compartment.

- (9) Texas Department of Health requirement states 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, 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 Texas Department of Health.
  - (D) The Health Department requires transporters to use waste 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 information:
    - (i) The name, Texas Department of Health, and county health 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 acknowledge 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, 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 Department of Health:
- (a) Have a five (5) digit registration that is preceded by "TDH" followed by a two (2) digit number assigned by the Grayson County Health Department for identification.

(Example: TDH 23099-12)

- (b) Transportors 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 Department of Health's and Grayson County Health Department assigned registration and identification numbers, without such marking, the transporter should be considered unregistered.

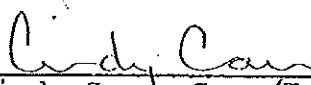
Section 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinances are hereby repealed.

Section 4. Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

PASSED AND APPROVED this 5th day of January, A.D. 1988.

  
A. L. ISOM, MAYOR

ATTEST:

  
Cindy Carr, Sec./Treas.