

# ORDINANCE #116

## HEALTH, SAFETY, AND NUISANCES

### Article 1. Food and Food Establishments

#### **Sec. 1-1. Adoption of Food Establishment Rules.**

The City of Coahoma adopts by reference the provisions of the current rules, or the rules as they may be amended in the future by the Texas Board of Health, that are found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and 173 through 175 regarding the regulation of food establishments in this jurisdiction, otherwise known as the Texas Food Establishment Rules.

#### **Sec. 1-2. Definitions**

The following definitions, plus the definitions set forth in the Texas Food Establishment Rules shall apply to this ordinance.

“Authorized Agent or Employee” shall mean an agent or employee of the City of Coahoma.

“Regulatory Authority” shall mean any certified Health Inspector employed of the City of Coahoma.

“School Food Establishment” shall mean a food service establishment where food is prepared and intended for services primarily to students in institutions of learning including, but not limited to, public and private schools, including kindergarten, preschool and elementary schools, junior high school, high schools, colleges, and universities.

“State Rules” or “Texas Food Establishment Rules” shall mean the State Rules found at 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and Sections 173 through 175. These rules are also known as the TFER.

#### **Sec. 1-3. Permits and Exemptions.**

(A) A person may not operate a food establishment without a permit issued by the City of Coahoma unless such person holds a valid Food Establishment Permit from the State Department of Health issued prior to the effective date of this ordinance. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this ordinance. A valid permit must be posted in or on every food establishment regulated by this ordinance.

(B) The following are exempt from the permitting requirements of this ordinance, but are not exempt from compliance with State Rules. The City of Coahoma may require any information necessary to determine whether an organization meets this exemption.

(1) School Food Establishments, including day care centers, that are inspected annually by the Texas Department of Health;

(2) Food establishments licensed under the Health and Safety Code, Chapter 431, as manufacturers of food;

(3) Food establishments subject to inspection by the Texas Department of State Health Services;

and

(4) Food and beverage vending machines.

(5) Nonprofit organizations are exempt from the permit fees but not from the permitting

requirements of this ordinance or from the State Rules.

**Sec. 1-4. Application for Permit.**

(A) Any person desiring to operate a food establishment and not otherwise exempt from these requirements must make a written application for a permit on forms provided by the City of Coahoma. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee.

(B) 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. Renewals of permits are issued for a two-year term and the same information is required for a renewal permit as for an initial permit.

(C) Prior to the approval of an initial permit or the renewal of an existing permit, the City of Coahoma 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.

**Sec. 1-5. Permit Fees.**

(A) Fees. A person who operates a food establishment shall obtain a permit from the City of Coahoma and pay a permit fee for each establishment unless specifically exempted under this ordinance. All permit fees are nonrefundable. Permits are issued for a two-year term. The fees are based on gross annual volume of sales as follows:

(1) For an establishment with gross annual volume of food sales of \$0 - \$49,999.99, the fee is \$250;

(2) For an establishment with gross annual volume of food sales of \$50,000 - \$149,999.99, the fee is \$500; or

(3) For an establishment with gross annual volume of food sales of \$150,000 or more, the fee is \$750.

(B) School Contractors. A person who contracts with a school to provide food services on a for-profit basis shall obtain a permit and pay a permit fee for each school where food services are provided. Permits are issued for a two-year term. The permit fee is \$250.

(C) Mobile Food Establishments. A person who operates a mobile food establishment shall obtain a permit from the City of Coahoma for each mobile food unit operated.

(1) Each mobile food establishment shall be inspected and be in compliance with §229.169 of the TFER (relating to Mobile Food Establishments), and pay a nonrefundable permit fee before a permit is issued. If a request for inspection is not received or if the mobile food unit does not meet the minimum standards contained in §229.169 of the TFER (relating to Mobile Food Establishments) within one year of paying the permit fee, a new fee shall be paid.

(2) Permits are issued for a two-year term. The permit fee is \$250.

(D) Temporary Food Establishments. An organizer of an event at which a temporary food establishment is operated shall obtain a permit for each temporary food establishment.

In the absence of an event organizer, each temporary event operator shall obtain a permit. The application and permit fee for a temporary food establishment must be submitted to the City of Coahoma at least 30 days prior to the event. The permit fees are as follows:

(1) Single-event permit. The permit fee is \$50 and is valid for the duration of a single event not to

exceed 14 consecutive days from the initial effective date specified in the permit application.

(2) **Multiple-event permit.** Multiple-event permits are issued for a two-year term and the permit fee is \$200.

(E) **Roadside Food Vendors.** Each roadside vendor shall obtain a permit and pay a fee. All fees are nonrefundable. A permit will be issued for a two-year term. The permit fee is \$250.

(F) If the license or permit category changes during the license or permit period, the license or permit shall be renewed in the proper category at the time of the renewal.

(G) Gross annual volume of food sales may be verified by data from the Texas

Comptroller of Public Accounts.

#### **Sec. 1-6. Pre-Permit Inspection.**

The City of Coahoma may conduct a pre-permit inspection for the purpose of determining compliance with these rules.

#### **Sec. 1-7. Issuance of Permit.**

The City of Coahoma may issue a permit or a renewal permit for an establishment based on compliance specified in §§229.161 – 229.171 and §§229-173 – 229.175 of the Texas Food Establishment Rules, and payment of all fees.

(A) The permit shall be posted in a location in the food establishment that is conspicuous to consumers.

(B) Permits for mobile food units, including pushcarts and roadside food vendors, shall be displayed on the units at all times.

(C) A permit shall only be issued when all past due and delinquency fees have been paid. This applies to any delinquent penalties due under an order issued by the City of Coahoma.

#### **Sec. 1-8. Renewal of Permit.**

The permit holder shall submit a renewal application and permit fees prior to the expiration date of the permit. A person who files a renewal application after the expiration date shall pay an additional \$100 as a delinquency fee.

#### **Sec. 1-9. Amendment of Permit.**

A permit must be amended if there is a change of name or ownership of the establishment. A permit is not transferable upon change of location with the exception of a permit issued to an operator of a mobile food unit or roadside food vendor.

#### **Sec. 1-10. Suspension of Permit.**

(A) **Imminent Hazard.** The City of Coahoma 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 ordinance. Whenever a permit is suspended under this section, 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) **Suspension Upon Notice.** Whenever a permit is suspended the City of Coahoma shall notify, the holder of the permit or the person in charge in writing that the permit is, upon service of

notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the City of Coahoma by the holder of the permit within 10 days. If no written request for hearing is filed within 10 days of receipt of such notice, the suspension is sustained.

(C) The City of Coahoma may end a suspension at any time if reasons for suspension no longer exist.

#### **Sec. 1-11. Revocation of Permit.**

(A) The City of Coahoma may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of this ordinance or the State Rules or for interference with the City of Coahoma in the performance of its duties. Prior to revocation, the City of Coahoma 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 10 days following service of such notice unless a written request for a hearing is filed with the City of Coahoma by the holder of the permit within such 10 day period.

(B) If no request for hearing is filed within the 10 day period, the revocation of the permit becomes final.

#### **Sec. 1-12. Administrative Process.**

(A) A notice as required in this ordinance 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 City of Coahoma.

(B) Any hearing provided for in these rules shall be conducted by the City Manager at a time and place set forth in a written notice to the permit holder or person in charge at least 3 days prior to such hearing. Based upon the recorded evidence of such hearing, the City Manager 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 City Manager.

#### **Sec. 1-13. Penalty.**

(A) Any person who violates a provision of this ordinance or the State Rules, any person who is the permit holder or otherwise operates a food service establishment that does not comply with the requirements herein, or any responsible officer of such permit holder shall be guilty of a misdemeanor upon conviction and subject to a fine of not more than \$2,000.00 dollars. Each day such violation continues shall constitute a separate offense.

(B) The City of Coahoma may seek to enjoin violations of these rules.

### **Article 2. Food Service Establishments**

#### **Sec. 2-1 Reserved.**

Article 2 is repealed in its entirety with such Article to be reserved for future expansion.

### Article 3. Vending Machines

#### Sec. 3-1. Adoption of FDS sanitation ordinance.

The definitions; the requiring of permits for the installation and operation of vending machines; the prohibiting of the sale of unsound or misbranded food or drink; the enforcement of this article; and the fixing of penalties shall be regulated in accordance with the terms of the unabridged form of The Vending of Food and Beverages -1976 Recommended Sanitation Ordinance of the Food and Drug Administration, a certified copy of which shall be on file in the office of the city secretary. Provided, that sections 2-1, 2-3 and 2-4 of said unabridged ordinance shall be replaced respectively be sections 4-1, 4-2, and 4-3.

#### Sec. 4-1. Issuance of permits modified.

(A) Any person desiring to operate one or more vending machines, other than controlled location vending machines, shall make written application for a permit on forms provided by the regulatory authority. Such application shall include the following information:

(1) The applicant's full name, residence, post office address, and whether such applicant is an individual, firm or corporation. If any partnership exists, the names of the partners together with their addresses shall be included;

(2) The location of the commissary or commissaries, and of other establishments where vending machines are repaired or renovated;

(3) The identity and form of the product to be dispensed through vending machines and the number of each such type vending machine in applicant's possession;

(4) The number of vending machines, other than controlled location vending machines, operated by applicant; and

(5) The signature of the applicant or applicants.

(B) Upon receipt of such application, the regulatory authority shall make an inspection of the commissary, supply storage, servicing, cleaning and sanitizing facilities, and transport facilities, and representative equipment and machine locations to determine compliance with the provisions of this article. A numbered operator's permit shall be issued to the applicant by the regulatory authority after compliance by the operator with the applicable provisions of this article and after receipt by the regulatory authority of a fee of two dollars (\$2.00) per year per vending machine, other than controlled location vending machines, operated by applicant. Such permit shall not be transferable. Except as otherwise provided by this article, all permits shall be issued on an annual basis and shall expire on August 31 of each year. The fees required for permits shall be adjusted

on a pro rata basis, the formula for such adjustments to be as follows:

Number of full calendar months remaining (through expiration date) X annual fee.


#### Sec. 5-1. Penalty.


Any person who violates any of the provisions of this article shall upon conviction thereof, be fined in any sum not less than one dollar (\$1.00) nor more than one thousand dollars (\$1,000.00). Notwithstanding the foregoing, the one thousand dollar (\$1,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be two hundred dollars (\$200.00) rather than one thousand dollars (\$1,000.00); provided, further, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

**Sec. 6-1. Severability.**

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

Date: 1/15/2015

  
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Warren Wallace, Mayor

  
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Tammy Griffith, Secretary

**AMENDMENT TO ORDINANCE #116**

**HEALTH, SAFETY, AND NUISANCES**

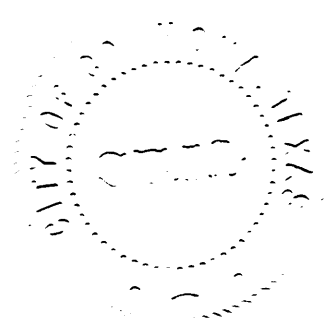
On September 17, 2015 the Coahoma City Council voted to amend the ordinance to read all Community Events are exempt from permit fees and permitting requirements of this ordinance or State Rules.



Warren Wallace, Mayor



Tammy Griffith, Secretary





Department of Public Safety, Austin, Texas, August 1, 1937

Very truly yours,  
[Signature]