

ORDINANCE NO. 2016-41

AN ORDINANCE OF THE CITY OF COPPERAS COVE, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES; CHAPTER 8 (ENTITLED "HEALTH AND SANITATION") BY REVISING SECTION 8-50 AND SECTION 8-51; PROVIDING SEVERABILITY CLAUSES; PROVIDING CONFLICTS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Copperas Cove has previously adopted health and sanitation regulations in order to protect the public health, safety and welfare; and

WHEREAS, the City shall, through the adoption of this Ordinance, provide an accurate reference to the provisions of the current rules and rules as amended by the Texas Board of Health; and

WHEREAS, upon review of Chapter 8 existing Section 8-50 of the City's Code of Ordinances, City staff recommends updating this ordinance in order to conform with current state and federal laws and regulations; and

WHEREAS, the City Council, after consideration of the recommendations of staff and all matters attendant and related thereto, is of the opinion that the recommended changes are in the best interest of the City and its citizens and will promote the health, safety and welfare of the citizens of Copperas Cove and the general public; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS:

SECTION 1.

That the City's Code of Ordinances, Chapter 8 (entitled "*Health and Sanitation*"), Article II (entitled "*Food Sanitation*"), is hereby amended by replacing the existing language of Section 8-50, with the language that follows:

Sec. 8-50. - Texas Board of Health rule adopted.

The city adopts by reference the provisions of the current rules or rules as amended by the Texas Board of Health found in 25 Texas Administrative Code, Chapter 228, regarding the regulation of food establishment in this jurisdiction.

SECTION 2.

That the City's Code of Ordinances, Chapter 8 (entitled "*Health and Sanitation*"), Article II (entitled "*Food Sanitation*"), is hereby amended by replacing the existing language of Section 8-51, with the language that follows:

Sec. 8-51. - Definitions.

- (a) Terms defined in the Texas Food Establishment Rules issued by the Texas Department of Health and codified in Chapter 228 of 25 Texas Administrative Code have the same meaning in this chapter unless defined below.
- (b) The following definitions are applicable in the interpretation and enforcement of this chapter:

Authorized agent or *employee* means the designated employees of the regulatory authority.

Business day means Monday through Friday except for federal, state and local holidays or other posted closings.

City means the City of Copperas Cove.

City council means the Copperas Cove City Council.

Food establishment means an operation that stores, prepares, packages, serves or otherwise provides food for human consumption such as a food service establishment, retail food store, catering operation, institution, temporary food establishment, mobile food unit, and/or a roadside food vendor.

Food handler means any person in a food establishment who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in an area where food or drink is prepared, served, transferred, stored, packed, sold, or otherwise handled. Professionally trained personnel such as dietitians, nutritionists and certified managers or supervisors are excluded from this definition.

Health official means the authorized representative of the city.

Hearing official means the city manager or his/her designee. This individual is responsible for arranging the hearing date, time, and place and will also arrange for individual(s) who will hear the appeal.

Manager means any manager, assistant manager, shift supervisor and other food service personnel who are in a direct supervisory position in a food establishment, who handles food [and]/or drink during preparation or serving, and who are responsible to enforce current health codes and regulations to other food handlers.

Mobile food vendor means any food establishment that is designed to be readily moveable and has the ability to change locations of sale.

Regulatory authority means the code compliance division.

State laws and rules means the state laws and rules adopted under state law governing food service establishments, retail food stores, mobile food units, and roadside food vendors. Current state laws are found in Chapter 437 of the Texas Health and Sanitation Code and state rules are found at 25 Texas Administrative Code Chapter 228, Subchapters A through J.

Temporary food establishment means:

- (1) A food establishment that operates for more than four (4) hours in a single day, serves potentially hazardous foods, and is open to the general public; or
- (2) A food establishment that operates for a period of no less than two (2) consecutive days and no more than fourteen (14) consecutive days in conjunction with a special event or celebration.

SECTION 3.

That the City's Code of Ordinances, Chapter 8 (entitled "*Health and Sanitation*"), Article II (entitled "*Food Sanitation*"), is hereby amended, to accommodate the new sections 8-50 an 8-51, by renumbering the existing sections as follows

Section 8-51 (Permit required; application) to Section 8-52; Section 8-52 (Review of plans) to Section 8-53; Section 8-53 (Inspection; food establishments) to Section 8-54; Section 8-54 (Correction of the violations) to Section 8-55; Section 8-55 (Suspension of a permit) to Section 8-56; Section 8-56 (Revocation of a permit) to Section 8-57; Section 8-57 (Suppression of disease transmission) to Section 8-58; Section 8-58 (Registration of food handlers) to Section 8-59; Section 8-59 (Enforcement) to Section 8-60; Section 8-60 (Violation; penalty) to Section 8-61; and Section 8-61 (Reserved) to Section 8-62.

SECTION 4.

That any ordinances or resolutions or parts of an ordinance or resolution in conflict with the provisions of this Health and Sanitation Ordinance are hereby repealed to the extent of such conflict.

SECTION 5.

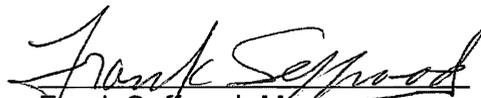
That should any section, clause, or provision of the Health and Sanitation Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the

validity of this ordinance or any other ordinance of the City as a whole or any part thereof, other than the part so declared to be invalid.

SECTION 6.

That this ordinance shall become effective upon passage, approval and publication of the notice attached hereto as **Exhibit "A"**, in the City's Official Newspaper, in accordance with Texas Local Government Code Sections 52.004(b) and 52.013.

PASSED, APPROVED, AND ADOPTED on this 7th day of July 2016, at a regular meeting of the City Council of the City of Copperas Cove, Texas which meeting was held in compliance with the Open Meetings Act, *Tex. Gov't Code*, §551.001, et.seq., at which meeting a quorum was present and voting.


Frank Seffrood, Mayor

ATTEST:


Mariela Altott, City Secretary

APPROVED AS TO FORM:


Denton, Navarro, Rocha, Bernal,
Hyde & Zech, City Attorney

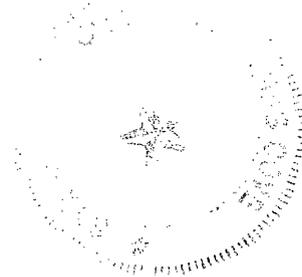


EXHIBIT "A"

NOTICE OF ADOPTION OF ORDINANCE

On July 7, 2016 the City Council of the City of Copperas Cove, Texas, approved ordinance No. 2016-XX. Said ordinance provides for an amendment of Chapter 8 (entitled "*Health and Sanitation*") Section 8-50 through Section 8-62, to accurately reference the provisions of the current rules and rules as amended by the Texas Board of Health. Copies of the ordinance are available for inspection in the City Secretary's Office during regular business hours.

CHAPTER 8 – HEALTH AND SANITATION
ARTICLE II. - FOOD SANITATION

- Sec. 8-50. – Texas Board of Health rule adopted.
- Sec. ~~8-50~~ 8-51. – Definitions.
- Sec. ~~8-51~~ 8-52. – Permit required—Application.
- Sec. ~~8-52~~ 8-53. – Review of plans.
- Sec. ~~8-53~~ 8-54. – Inspection—Food establishments.
- Sec. ~~8-54~~ 8-55. – Correction of the violations.
- Sec. ~~8-55~~ 8-56. – Suspension of a permit.
- Sec. ~~8-56~~ 8-57. – Revocation of a permit.
- Sec. ~~8-57~~ 8-58. – Suppression of disease transmission.
- Sec. ~~8-58~~ 8-59. – Registration of food handlers.
- Sec. ~~8-59~~ 8-60. – Enforcement.
- Sec. ~~8-60~~ 8-61. – Violation—Penalty.
- Secs. ~~8-61~~ 8-62 – 8-80. – Reserved.

Sec. 8-50. - Texas Board of Health rule adopted.

The city adopts by reference the provisions of the current rules or rules as amended by the Texas Board of Health found in 25 Texas Administrative Code, Chapter 228, regarding the regulation of food establishment in this jurisdiction.

Sec. ~~8-50~~ 8-51. - Definitions.

- (a) ~~The city adopts by reference the provisions of the current rules or rules as amended by the Texas Board of Health found in 25 Texas Administrative Code, Chapter 229, regarding the regulation of food establishment in this jurisdiction.~~ Terms defined in the Texas Food Establishment Rules issued by the Texas Department of Health and codified in Chapter ~~229~~ 228 of 25 Texas Administrative Code have the same meaning in this chapter unless defined below:
- (b) The following definitions are applicable in the interpretation and enforcement of this chapter:
 - State laws and rules* means the state laws and rules adopted under state law governing food service establishments, retail food stores, mobile food units, and roadside food vendors. Current state laws are found in Chapter 437 of the Texas Health and Sanitation Code and state rules are found at 25 Texas Administrative Code Chapter ~~229~~, Sections ~~161 through 171~~ and Sections ~~173 through 175~~ 228, Subchapters A-J.