

ORDINANCE NO.162

AN ORDINANCE OF THE TOWN OF ST. PAUL COLLIN COUNTY, TEXAS, ADOPTING THE RULES AND REGULATIONS PROMULGATED BY THE TEXAS DEPARTMENT OF HEALTH RELATING TO FOOD SERVICE ESTABLISHMENTS AS PUBLISHED IN TITLE 25 OF THE TEXAS ADMINISTRATIVE CODE, PROVIDING FOR THE REPEAL, OF ORDINANCE NO. 92; PROVIDING FOR ISSUANCE OF PERMITS AND THE COLLECTION OF FEES THEREFORE; PROVIDING FOR CONFLICTS, SEVERABILITY, PENALTY AND EFFECTIVE DATE.

WHEREAS, the St. Paul Town Council finds that food service establishments operating within the Town of St. Paul should operate in accordance with applicable state law; and

WHEREAS, The St. Paul Town Council finds adoption of state rules relating to food service establishments will promote the health, safety and general welfare of the citizens of the Town of St. Paul.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ST. PAUL, COLLIN COUNTY, TEXAS:

**SECTION I. RULES AND REGULATIONS RELATING TO FOOD AND FOOD SERVICE ESTABLISHMENTS.**

The Town of St. Paul hereby adopts the Texas Food Establishment Rules ("RULES") adopted by the Texas Department of Health at 25 TEX. ADMIN. CODE 229.161-229.171 and 229.173-229.175 as amended herein, a copy of which is attached as Exhibit A to the adoptive ordinance that amends this Article, and which shall be maintained together with adoptive ordinance in a file in the Office of the Town Secretary

**SECTION-2 FOOD SERVICE REGULATIONS**

**A. GENERALLY**

- 1 25 TEX. ADMIN. CODE 229.162 (75) of Rules, "Regulatory Authority" is amended to read: "The Town of St. Paul Town Council.
2. 25 TEX. ADMIN. CODE 229.166 (j)(3) of the Rules, "Grease trap" is amended to read . "Grease traps; garbage grinders"

(( a)) Grease traps

If a food establishment is required to install a grease trap or grease interceptor, the trap or interceptor shall be located and sized according to the specifications of the Regulatory Authority. Grease traps should be located out of doors in a location easily accessible for cleaning.

((b)) Garbage grinders

Garbage grinders are not allowed in new, extensively remodeled or reoccupied food service facilities. If used and allowed by law, garbage grinders shall be maintained according to law.

3. 25 TEXAS ADMIN CODE 229.171 (q) of the rules, Food Establishment inspector qualifications, is amended to delete: " An individual conducting inspections of retail food establishments should be a Registered Professional Sanitarian in Texas, as defined in 25 TAC chapter 337, 337.181, or meet the equivalent educational requirements in order to:" and substitute therefore: " An individual SHALL be a Registered Professional Sanitarian in the State of Texas, as defined in 25 TAC chapter 337,337.181 and meet the educational requirements in order to:"
  
4. 25 TEX. ADMIN. CODE 229. 165(£)(24) of the Rules, Food equipment certification, classification, acceptability, is amended to delete: "Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program will be deemed to comply with subsections (a)-(£) of this section," and substitute therefore: "Food equipment installed in an establishment after the adoption of these rules, and food equipment in new or extensively remodeled establishments shall be of National Sanitation Foundation or equivalent approval. Any other equipment is subject to approval by the Town of St. Paul.

#### **B. PERMIT REQUIRED / ISSUANCE / EXCEPTIONS**

1. It shall be unlawful for any person to operate a food establishment within the City limits of the Town of St. Paul without having been issued a valid Food Service Permit. Only a person who complies with the requirements in this Article shall be entitled to receive or retain a permit, and not withstanding the fact that all inspections necessary for obtaining a Food Service Permit have been completed, such permit shall not be issued until after the building in which the establishment is to be located has been issued a Certificate of Occupancy by the Town of St. Paul. Permits are not transferable from one person to another person or place. A valid permit shall be posted in or on a conspicuous place of every food establishment regulated by this ordinance. Permits shall remain in effect for twelve (12) months from the date of issuance unless sooner revoked for cause. If the permit is granted to a temporary food establishment, the permit shall be in effect for a period of time not exceeding three (3) consecutive days in conjunction with a single event or celebration. All permits are to be displayed in public view.
  
2. Any person desiring to operate a food establishment shall make written application for a permit on a form provided by the Town of St. Paul. The application shall include: The applicants full name and post office box address or street address and whether such applicant is an individual, firm or corporation and, if a partnership, the names of the partners, together with their addresses, the location and type of the proposed establishment, the number of certified employees, square footage of the facility, if required; capacity of grease trap and name of service company, name of pest control and the signature of the applicant. An application for a temporary food Establishment shall include the inclusive dates of the proposed operation.
  
3. A food establishment operated solely by a nonprofit organization is not exempt from the permit requirements of this Article, or from compliance with the

Rules on Food Service Sanitation.

4. The application shall be accompanied by a nonrefundable permit fee in the following amounts:

Temporary Establishment:	\$ 50.00
Restaurant	\$200.00
Catering Truck	\$200.00
Day Care Facility	\$200.00
Grocery Store (per Outlet)	\$200.00
WISD ( Exempt from fees)	
Limited Service	\$200.00
(potentially hazardous prepackaged foods)	

**C. CERTIFIED FOOD PROTECTION MANAGER**

1. 25 TEX. ADMIN. CODE 229. 163(b) of the Rules, Knowledge, demonstration, is amended to replace "or" with "and".
2. Every food establishment that has employees whose work brings them in contact with the handling of food, utensils, or food service equipment shall have a Certified Food Protection Manager.
  - a. A Certified Food Protection Manager is a manager or person in charge, on duty during all times of operation, and who has completed a Food Protection Management Class from any accredited institution or firm of their choice as accredited by the Texas Department of Health.
  - b. Food establishments that serve, sell, or distribute only pre-packaged foods and non-potentially hazardous beverages, and temporary food establishments are exempt from this section.
  - c. A Certified Food Protection Manager is required for each food establishment. The Town of St. Paul may require additional certified operators in sufficient number to insure that all areas of food preparation and food service, during times of operation, are under the direction of certified supervisory personnel.
  - d . If a food establishment does not meet the requirements for a Certified Food Protection Manager because of the termination or transfer of certified personnel, the food establishment shall employ another Certified Food Protection Manager within forty-five (45) days after such termination or transfer.
  - e. All newly constructed facilities shall have a Certified Manager on staff at all times of operation at time of opening and all times after.
  - f. Food Protection Management Certification shall be valid for not less than five (5) years at which time an approved Food Protection Re-Certification class must be completed. Re-certification shall be completed prior to the expiration of the original certification, and every five (5) years thereafter .

g. Fee collected by the Town of St. Paul for registration with the Town as a Food Protection Manager will be in the sum of \$30.00 per person registered.

#### **D. SUBMISSION AND REVIEW OF PLANS**

1. Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Town of St. Paul for review and approval before construction, remodeling or conversion is commenced. The plans and specifications shall include a proposed kitchen floor plan, equipment schedule and arrangement, mechanical and plumbing plans, and room finish materials in all work areas. No food establishment shall be constructed, extensively remodeled, or converted except in accordance with said approved plans and specifications.
2. Deviation from the approved plans and specifications shall result in a food establishment permit denial, suspension, or revocation.

#### **E. INSPECTIONS**

1. The Town of St. Paul Authority shall inspect the food establishment prior to the issuance of the food establishment permit to determine compliance with any approved plans and specifications, compliance with other requirements of this Article and shall determine that a Certificate of Occupancy has been issued for the building in which the establishment is to be located. Upon making such findings the food establishment permit may be issued subject to annual renewal, continued compliance with the provisions of this Article, and the existence of a valid Certificate of Occupancy for the building in which the establishment is located.
2. The Town of St. Paul shall conduct periodic routine inspections to determine if a food establishment is in compliance with the Rules. If during a routine inspection, immediate correction of a critical item is not achieved, the Town of St. Paul shall verify correction of the violation within 24 hrs.
3. When the total cumulative demerit value of an establishment exceeds 30 demerits, the establishment shall immediately cease operations. The establishment shall remain closed until corrective action on all identified critical violations is complete. Corrective action on all other violations must be initiated within forty-eight (48) hours. The establishment shall remain closed until reopened by the Health Authority of St. Paul.

#### **F. SUSPENSION OF A HEALTH PERMIT**

1. The Town may, without warning, notice, or hearing suspend any permit to operate a food establishment if the holder of such permit does not comply with the requirements of this Article, or the operation of its establishment does not comply with the requirements set forth herein, or, if the operation of the food establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice. When a permit is suspended, food service operations shall immediately cease. Whenever a permit is suspended the holder thereof shall be afforded an opportunity for a hearing

within Five (5) days after receipt of a written request for hearing.

2. Whenever a permit is suspended, the holder thereof or the person in charge shall be notified in writing that an opportunity for a hearing shall be provided if a written request for hearing is filed with the Town of St. Paul within five (5) days after receipt of notice. If no written request for hearing is filed within a five (5) day period, the suspension is sustained. Town of St. Paul may terminate the suspension at any time if reasons for suspension no longer exist.

#### **G. REVOCATION OF A FOOD PERMIT**

1. The Town of St. Paul may, after providing opportunity for hearing, revoke a permit for serious or repeated violations of any of the requirements of this Article or for interference with the regulatory authority in the performance of its duties.
2. Prior to revocation, the Town of St. Paul shall notify in writing, the holder of the permit or the person in charge, of the specific reason(s) for which the permit is to be revoked and that the permit shall be revoked at the end of the five (5) days after service of such notice unless a written request for hearing is filed within the five (5) day period. If no request for hearing is filed within the five (5) day period, the revocation of the permit becomes final.
3. The holder of the revoked permit may make written application for a new permit:

#### **H. EXAMINATION AND CONDEMNATION OF FOOD**

1. A representative of the Town of St. Paul shall tag, label, or otherwise identify any food subject to a hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The Town of St. Paul's hold order shall permit storage of the food under the 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.
2. A hold order shall state that a request for a hearing may be filed within five (5) days after issuance thereof and that if no hearing is requested the food shall be destroyed. 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 this Article."

#### **I. HEARINGS/NOTICE FOR HEARINGS**

1. The hearing provided for in these rules shall be conducted by the regulatory committee at the time and the place designated by the regulatory authority. 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 permit, license or certificate by the regulatory authority.
2. A notice provided for 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.

**SECTION 2. CONFLICTS.**

All ordinances and provisions of the Town of St. Paul, Texas that are in conflict with this ordinance shall be and the same are hereby repealed, and all ordinances and provisions of ordinances of said Town not so repealed are hereby retained in full force and effect.

**SECTION 3. SEVERABILITY.**

It is the intent of the Town Council that each paragraph, sentence, subdivision, clause, phrase, or section of this Ordinance be deemed severable and, should any such paragraph, sentence, subdivision, clause, phrase, or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of this Ordinance left standing.

**SECTION 4. PENALTY.**

Any person, firm, company, partnership, corporation, association or political subdivision who violates any of this ordinance shall be guilty of misdemeanor and, upon conviction in the municipal court, shall be subject to a fine of not more than One Thousand Dollars \$2,000.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense and such violation is hereby declared to be a common nuisance which may be abated by the Town in any manner authorized by law, including injunction and an action for damages.

**SECTION 5. PUBLICATION AND EFFECTIVE DATE.**

In accordance with Section 52.011 of the Local Government Code, the caption of this Ordinance shall be published in every issue of the official newspaper of the Town for a period often (10) days but not more than twice during the said ten (10) day period. This ordinance shall be effective from and after its publication.

ADOPTED by the Town Council of the Town of St. Paul, Collin County, Texas, this  
9th day of February 2004

**APPROVED:**

By: signed \_\_\_\_\_

H. Steven Hufstetler, Mayor

**ATTEST:**

By: signed \_\_\_\_\_  
Sara Graf, Town Secretary