

CITY CLERK DEPT.

018202

2014 JUN 26 PM 10:31 ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.12 (FOOD AND FOOD HANDLING ESTABLISHMENTS), SECTION 9.12.007 TO CLARIFY THE APPLICABILITY OF THE CHAPTER; SECTION 9.12.010 (DEFINITIONS) TO CLARIFY THE DEFINITIONS TO EXCLUDE CERTAIN ESTABLISHMENTS FROM REGULATION BY THIS CHAPTER AND TO ADD CERTAIN DEFINITIONS FROM THE TEXAS FOOD ESTABLISHMENT RULES; TO CORRECT SUBSECTION 9.12.070K SO THAT THE LICENSE FEE IS BASED ON THE SQUARE FOOTAGE OF THE ACTUAL FOOD ESTABLISHMENT AREA; AND CLARIFYING THE FOOD HANDLER IDENTIFICATION CARD REQUIREMENTS IN SECTION 9.12.130; THE PENALTY AS PROVIDED IN SECTION 9.12.890 OF THE EL PASO CITY CODE

WHEREAS, the City Council wishes to clarify the definition of food establishment; and

WHEREAS, the City Council seeks to clarify its food ordinance so that the food handler requirements apply to only those individuals who are actively engaged in the handling of food in establishments regulated by said ordinance; and

WHEREAS, City Code Section 9.12.070K currently requires a food establishment to pay a license fee based on the entire square footage of the building in which the food establishment is located; and

WHEREAS, it is not uncommon for a food establishment to occupy only a portion of the building in which the food establishment is located; and

WHEREAS, the City Council wishes to clarify that a food establishment license be based on the square footage of the actual food establishment area; and

WHEREAS, the City Council believes that said clarifications will protect the public health and welfare of its citizens.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS THAT:

Section 1. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.007 (Applicability) shall be added as follows:

Section 9.12.007 Applicability.

This Chapter shall not apply to the following, as they are not considered to be food establishments under 25 Texas Administrative Code Section 229.162 Definitions Subsection 40(C):

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- A. A food product or food service establishment that offers only prepackaged foods that are not potentially hazardous;
- B. A produce stand that only offers whole, uncut fresh fruits and vegetables; or
- C. A food processing plant.

Section 2. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.010 (Definitions) shall be amended to read as follows:

Section 9.12.010 Definitions.

"Establishment" means food product and food service establishments, including temporary, recurrent, seasonal, mobile, outdoor market, nonprofit and care facilities, and excluding a food product or food service establishment that offers only prepackaged foods that are not potentially hazardous, a produce stand that only offers whole, uncut fresh fruits and vegetables, and a food processing plant, as set forth in 25 Texas Administrative Code Section 229.162 Definitions, Subsection 40(C).

"Equipment" means an article that is used in the operation of an establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine; not including items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

"Food-contact surface" shall include 1) a surface of equipment or a utensil with which food normally comes into contact; or 2) a surface of equipment or a utensil from which food may drain, drip, or splash: a) into a food; or b) onto a surface normally in contact with food.

"Food handler" means an individual who works in any establishment including but not limited to hospitals, nursing homes, and schools, and directly works with unpackaged food, food equipment or utensils, or food-contact surfaces, and participates in serving, preparing or storing of food, or participates in handling or washing equipment and utensils in the normal course of business.

"Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant; and does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

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Section 3. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handler Establishment), Section 9.12.070 (License – Categories – Term), Subsection K shall be amended as follows:

9.12.070 (License – Categories – Term)

K. The fee for all other establishments is based on overall square footage of the establishment area according to the following schedule:

1. Under 3,000 square feet.
2. 3,001 to 6,000 square feet.
3. 6,001 to 9,000 square feet.
4. 9,001 or more square feet.

Original license fees will be based on the square footage of the establishment area at the time it commences operation. Fees will be adjusted if the area is remodeled, and fees shall be increased or decreased according to any change in square footage category of the establishment area.

Section 4. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.130 (Required), Subsection “A”, shall be amended to read as follows:

9.12.130 Food Handler Identification Card Required.

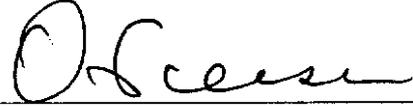
- A. An individual desiring to work in an establishment as a food handler, as defined in Section 9.12.010, must obtain a food handler certificate from the director within thirty days from the date of employment or successfully complete and provide proof of completion of a food handler course approved by the director.
1. The requirements of this section do not apply to:
 - a. an individual working in an establishment that sells or offers only prepackaged foods;
 - b. an individual working in a produce stand that only offers whole, uncut fresh fruits and vegetables; and
 - c. an individual working in a food processing plant, as provided in 25 TAC §229.162(40)(C).
 2. The requirements of this section do not apply to individuals who are not food handlers as defined in this chapter.

Section 5. That except as expressly amended herein Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments) shall remain in full force and effect.

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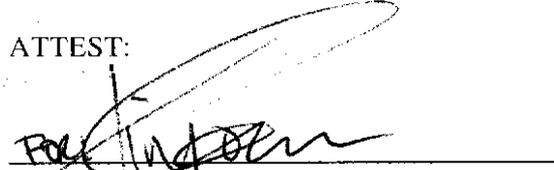
PASSED AND APPROVED this 1ST day of July, 2014.

CITY OF EL PASO



Oscar Leeser
Mayor

ATTEST:


Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:


Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:


Robert Resendes, MBA, MT(ASCP), CLS(RI)
Director, Department of Public Health

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