



**CITY OF PLANO
COUNCIL AGENDA ITEM**

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		03/22/10		
Department:		HEALTH		
Department Head		BRIAN COLLINS		
Agenda Coordinator (include phone #): DORIS CALLAWAY, EXT. 7494				
CAPTION				
An Ordinance of the City of Plano, Texas, amending section 9-22(c) of Article II, Food Care and sections 9-31 and 9-32 of Article III, Personnel, of Chapter 9, Food Code, to incorporate new health and cleanliness standards for food establishment employees as allowed by State law and to correct a reference under the food care regulation; and providing a penalty clause; a severability clause; a repealer clause, a savings clause; a publication clause and an effective date.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S):				
COMMENTS: This item has no fiscal impact.				
SUMMARY OF ITEM				
Amending Ordinance to make changes and additions to Article II, Food Care and to employee health and employee cleanliness sections of Article III, of Chapter 9. These amendments are required to meet current state regulations and after careful consideration are in the best interest of the City and its citizens that will continue to promote the health, safety and welfare of the citizens and the general public.				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	

An Ordinance of the City of Plano, Texas, amending section 9-22(c) of Article II, Food Care and sections 9-31 and 9-32 of Article III, Personnel, of Chapter 9, Food Code, to incorporate new health and cleanliness standards for food establishment employees as allowed by State law and to correct a reference under the food care regulation; and providing a penalty clause; a severability clause; a repealer clause, a savings clause; a publication clause and an effective date.

WHEREAS, on November 10, 2008 the City Council of the City of Plano duly passed Ordinance No. 2008-11-16 codified as Chapter 9, Food Code, of the Code of Ordinances of the City of Plano; and

WHEREAS, upon review of existing ordinances as well as current state and federal laws and regulations governing food and food establishments, staff recommends to amend certain provisions in the existing ordinance to be consistent with current state and federal laws and regulations; and

WHEREAS, the City Council of the City of Plano, Texas determines it is necessary to provide regulations for food and food establishments and to enact amendments to conform with current state laws and regulations within the City of Plano; and

WHEREAS, the City Council of the City of Plano, 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 Plano and the general public.

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

Section I. Section 9-22(c) of Article II, Food Care and Sections 9-31 and 9-32 of Article III, Personnel, of Chapter 9, Food Code, of the Code of Ordinances of the City of Plano, are hereby amended to read as follows:

Sec. 9-22. Food Protection.

(c) Specialized processing methods. A food establishment shall obtain a variance as specified in TFER §229.171(a)(1) and (2) (relating to compliance and enforcement) before smoking or curing food; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food non-potentially hazardous; using a reduced oxygen method of packaging food, except as specified in paragraph (2) of this subsection where a barrier to *Clostridium botulinum* in addition to refrigeration exists; or preparing food by another method that is determined by the regulatory authority to require a variance. A food establishment that packages food using a reduced oxygen packaging method shall have a HACCP Plan that contains information in accordance with the Texas Food Establishment Rules.

Sec. 9-31. Employee Health.

(a) No person while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

(b) There shall be a certified food manager on duty at all times at each permitted food establishment. Certification must be obtained by passing an examination approved by the Texas Department of State Health Services and the regulatory authority.

(c) All food employees shall be required to successfully complete a food handler class taught by the City of Plano or from any approved city, municipality or accredited institution or other approved course within thirty (30) days of hire. If a food employee completes a course other than with the City of Plano, they are required to obtain a food handler card from the City of Plano Health Department. Food handler cards shall be good for a period of two (2) years from the date of issue. This applies without regard to whether the food service establishment is at a fixed location or is a mobile food unit. A food service establishment or mobile food unit that handles only pre-packaged food and does not prepare or package food is not required to obtain a Food Handler certification.

(d) A food service establishment shall comply with the following:

- (1) Post a sign in a place conspicuous to employees in a form adopted by the executive commissioner of the Health and Human Services Commission, describing a food service employee's responsibilities to report communicable and infectious health conditions to the permit holder; or
- (2) Require that each food service employee sign a written agreement in a form adopted by the executive commissioner to report those health conditions.

(e) Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

(f) The person-in-charge shall notify the regulatory authority that a food employee is diagnosed with an illness due to Norovirus, Salmonella typhi, Shigella spp., shiga toxin-producing Escherichia coli, or Hepatitis A Virus.

Sec. 9-32. Employee Cleanliness.

(a) Food employees shall clean their hands and exposed portions of their arms (or surrogate prosthetic devices for hand or arms) for at least twenty (20) seconds, using a cleaning compound in a lavatory that is properly equipped. Food employees shall use the following cleaning procedure:

- (1) Vigorous friction on the surface of the lathered fingers, finger tips, areas between the fingers and under the fingernail, hands and arms (or vigorous rubbing the surrogate prosthetic devices for hands or arms) for at least ten (10) to fifteen (15) seconds followed by;
- (2) Thorough rinsing under clean, running water, and;
- (3) Immediately follow the cleaning procedure with drying of cleaned hands and arms (or surrogate prosthetic devices);

(b) Food employees shall keep their fingernails clean, trimmed, unpainted, filed and maintained so the edges and surfaces are not rough.

(c) A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least one hundred (100) mg/L chlorine.

(d) A chemical hand sanitizing solution used as a hand dip shall have active antimicrobial ingredients that are listed as safe and effective for application to human skin in accordance to TFER §229.163(j).

(e) A person handling food or unsealed containers may not contact with bare hands exposed ready-to-eat food unless:

- (1) documentation is maintained at the food service establishment listing the foods and food handling activities that involve bare-hand contact; and
- (2) the food service establishment uses two (2) or more of the following contamination control measures:
 - (a) requiring employees to perform double handwashing;
 - (b) requiring employees to use fingernail brushes while handwashing;
 - (c) requiring employees to use a hand sanitizer after handwashing;
 - (d) implementing an incentive program that encourages employees not to come to work when ill; and
 - (e) other contamination control measure approved by the regulatory authority.

(f) A food service establishment shall maintain and present upon request documentation that acknowledges employees have received training in the following areas:

- (1) the risks of contacting ready-to-eat foods with bare hands;
- (2) proper hand washing;
- (3) proper fingernail maintenance;
- (4) the prohibition of wearing jewelry on the hands and arms during food preparation;
- (5) good hygienic practices; and
- (6) company policies governing employee illness and disease transmission in compliance with state and local laws."

Section II. Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section III. The repeal of any ordinance or part of ordinances affected by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinances at the time of passage of this ordinance.

Section IV. It is the intention of the City council that this Ordinance, and every provision hereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

Section V. All provisions of the ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the ordinances of the city of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

Section VI. This ordinance shall become effective immediately upon its passage and publication as required by law, except as to existing food establishments who shall have thirty (30) days from the effective date of this ordinance to comply with Section 9-31(d)(1) and (2) above.

DULY PASSED AND APPROVED this the 22nd day of March, 2010.

Phil Dyer, MAYOR

ATTEST:

Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

Diane C. Wetherbee, CITY ATTORNEY