

ORDINANCE NO. 42-2005

AN ORDINANCE AMENDING CHAPTER 11, FOOD AND FOOD HANDLERS, BY AMENDING ARTICLE 1, IN GENERAL, SECTION 11-4, OF THE ABILENE CITY CODE, AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, in order to adequately reflect departmental reorganization of the Environmental Health Division functions, the City Council of the City of Abilene recognizes the need to amend Chapter 11, Food and Food Handlers, Article 1, Sec. 11-4, to reflect that this section of the code is now administered by the Planning and Development Services Department, Community Enhancement Division and the Health Authority; Texas Department of Health; and

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 11, Food and Food Handlers, Article 1, Sec. 11-4, entitled Appeals; director of community services department and the health authority; Texas Department of Health; generally, of the City of Abilene Municipal Code, be amended as set forth in EXHIBIT A, attached hereto and made a part of this Ordinance for all purposes.

PART 2: That if any provision or section of this Ordinance is held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining Ordinance provisions or sections, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor as noted in Section 11-2 of the Abilene City Code, and upon conviction thereof, shall be punished as provided in Chapter 1, Section 1-9 of the Abilene City Code. Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 11th day of August, 2005.

After passage on first reading a notice of the time and place said ordinance was given a public hearing and consideration for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene. The same being more than 24 hours prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on its second and final hearing. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING this 25th day of August, 2005.

ATTEST:



Jo Moore
City Secretary



Norm Archibald
Mayor

APPROVED:



Sharon Hicks
City Attorney

EXHIBIT "A"

Delete: Chapter 11. Article I. Sec. 11-4. (a) and (b)--Appeals; director of community services department and the health authority; Texas Department of Health; generally. (a) & (b). and replace with:

"Sec. 11-4. Appeals; Director of Planning and Development Services Department and the Health Authority; Texas Department of State Health Services; generally.

(a) Director of Planning and Development Services and Health Authority. Any person dissatisfied with an order or ruling of the Health Authority in the enforcement of the provisions of this chapter may appeal for an administrative review by the Director of the Planning and Development Services Department and the Health Authority.

(b) Texas Department of State Health Services. Any person dissatisfied with an order or ruling of the Health Authority in the enforcement of TAC § 229.161 *et al* and CFR, Chapter 21, Part 110, and all amendments thereto, may appeal to the Texas Department of State Health Services, Bureau of Food and Drugs, Retail Food Division, 1100 West 49th Street, Austin, Texas 78756. Pending a decision of this appeal, the Director of the Planning and Development Services Department and the Health Authority may jointly issue a provisional permit to operate. The provisional permit to operate shall be good for a period of sixty(60) days from date of issuance and may be extended for an additional sixty(60) days from date of issuance and may be extended for an additional sixty(60) days."