

ORDINANCE NO. 227-87

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILLOW PARK, TEXAS, ADDING SECTION III TO CHAPTER 6 OF THE WILLOW PARK CODE OF ORDINANCES DEALING WITH FOOD SERVICE SANITATION AND RETAIL FOOD STORE SANITATION; PROVIDING FOR THE INCORPORATION BY REFERENCE OF THE TEXAS DEPARTMENT OF HEALTH, DIVISION OF FOOD AND DRUGS "RULES ON FOOD SERVICE SANITATION" 301.73.11.001 THROUGH 301.73.11.011; PROVIDING FOR THE INCORPORATION BY REFERENCE OF THE CURRENT RETAIL FOOD STORE SANITATION CODE, 229.231 THROUGH 229.239, U. S. DEPARTMENT OF HEALTH, FOOD AND DRUG ADMINISTRATION; PROVIDING COMPLIANCE PROCEDURES FOR THE ENFORCEMENT OF SAID RULES AND CODES; PROVIDING A PENALTY; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

WHEREAS, The City Council of the City of Willow Park finds that rules on food service and retail food store sanitation are necessary to safeguard the life and health of the citizens and inhabitants of the City of Willow Park; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILLOW PARK, TEXAS;

Sec. 1. THAT Chapter 6 of the Willow Park Code of Ordinances be amended by adding thereto a new Section 3, which said Section shall read as follows:

"SECTION 3. FOOD SANITATION."

Sec. 3-100. Rules on Food Sanitation and Retail Food Store Sanitation Code Adopted.

The 'Rules on Food Service Sanitation' 301.73.11.001 - through 301.73.11.011 of the Division of Food and Drugs of the Texas Department of Health, and the current "Retail Food Store Sanitation Code", 229.231 through 229.239, recommended and published by the U. S. Department of Health and Human Services, Public Health Services Food and Drug Administration, are hereby adopted as the minimum standards for Retail and Food Service Operations within the corporate limits of the City of Willow Park, Texas; provided, however that In said rules and codes the words "municipality of Willow Park" shall be understood to refer to the City of Willow Park and the words "Regulatory Authority" shall be understood to refer to the City of Willow Park, and its designated employees, agents and servants and/or any members, employees

or agents of the Tarrant County Health Department. It is intended that the Tarrant County Health Department have the same authority under this Ordinance within the City of Willow Park as does the City of Willow Park. Three certified copies of the "Rules on Food Service" and three certified copies of the current "Retail Food Store Code" hereby adopted shall be on file in the office of the City Secretary.

See. 3-110. Permits, Licenses or Certificates.

(1) General. No person shall operate a full- service, temporary, or limited use, food service establishment or retail food store who does not have a valid permit issued to him by the City of Willow Park. Only a person who complies with the requirements of these rules and codes shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in every food service establishment or Retail Food Store.

(2) Issuance of permit, license or certificate.

(a) Any person desiring to operate a food service establishment or Retail Food Store shall make written application for a permit on forms provided by the City. Such application shall include the name and address of each applicant, location and type of proposed establishment, and the signature of each applicant.

(b) Prior to approval of an application for a permit the regulatory authority shall inspect the proposed food service establishment or retail food store to determine compliance with the requirements of these rules and codes.

(c) If a building contains and operates multiple Food Service Establishments or Retail Food Stores, a separate permit application and payment of a separate fee shall be required for each separate Food Service Establishment or Retail Food Store, as determined by the City Administrator or his designee.

(d) A permit fee shall accompany each application. Permits shall be valid until December 31 of each year. It shall be the responsibility of the operator to renew the permit on a yearly basis by filing a permit renewal application and paying the renewal fee at city hall. The permit fee and renewal fee shall be in accordance with Table A. Applicants shall not, under any circumstances, be entitled to a refund of permit fees after an application has been filed. Upon receipt of such an application, the regulatory authority shall make an inspection of the establishment to determine compliance with the provisions of these rules and codes.

(e) The City Administrator or his designee shall issue a permit to the applicant if the regulatory authority's inspection reveals that the proposed

food service establishment complies with the requirements of these rules and codes.

(3) Suspension of permit, license or certificate.

(a) The regulatory authority may, without warning, notice or hearing, suspend any permit to operate a food service establishment or retail food store if the holder of the permit does not comply with the requirements of these rules and codes, or if the operation of the establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of notice required by 3-110 (3)b. When a permit is suspended, operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within twenty (20) days of receipt of a request for a hearing.

(b) Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the City Secretary by the holder of the permit within fifteen (15) days. If no written request for hearing is filed within fifteen (15) days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

(4) Revocation of permit.

The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules and codes or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit, or the person in charge, in writing of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the fifteen (15) days following service of such notice unless a written request for a hearing is filed with the City Secretary by the holder of the permit within such fifteen (15) day period. If no request for hearing is filed within the fifteen (15) day period, the revocation of the permit, license or certificate becomes final.

(5) Service of notices.

All written notices of revocation provided for in these rules and codes are properly served when delivered to the holder of the permit, or the person in charge, or when deposited with the U. S. Mail, with postage paid, and sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the City of Willow Park.

(6) Hearings.

The hearings provided for in these rules and codes shall be conducted by the regulatory authority at a time and place designated by it. 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 by the regulatory authority.

(7) Application after revocation.

Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit.

See. 3-120 Inspections.

(1) Inspection frequency.

An inspection of a food service or retail food establishment shall be performed at least once every six (6) months. Additional inspections of the food service establishment shall be performed as often as are necessary for the enforcement of these rules and codes.

(a) The regulatory authority may at any reasonable hour enter any building or premises for the purposes of making any inspection, or investigation which, under the provisions of these rules and codes he may deem necessary to be made in order to assure the health, safety, and well-being of the citizens of the City of Willow Park.

(b) The regulatory authority has the power and authority to issue a citation to anyone in violation of any provision of these rules and codes.

(2) Access.

Agents of the regulatory authority, after proper identification, shall be permitted to enter any food service or retail food establishment at any reasonable time, for the purpose of making inspections to determine compliance with these rules. The agents shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased,-received or used, or to persons employed.

(3) Report of inspections.

Whenever an inspection of a food service or retail food establishment is made, the findings shall be recorded on an inspection report form as set

forth in 360(5) of this Article. The inspection report form shall summarize the requirements of these rules and codes and shall set forth a weighted point value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(4) Correction of violations.

(a) The inspection report form shall specify a reasonable period of time for the correction of the violations found; and corrections of the violations shall be accomplished within the period specified in accordance with the following provisions.

1. If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the regulatory authority.
2. All violations of 4 or 5 point weighted items shall be corrected as soon as possible. But, in any event, within ten (10) days following inspection. Within fifteen (15) days after the inspection, the holder of the permit shall submit a written report to the City stating that the 4 or 5 point violations have been corrected. A follow-up inspection shall be conducted to confirm correction.
3. All 1 or 2 point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.
4. When rating score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within forty-eight (48) hours. One (1) or more reinspections will be conducted at reasonable time intervals to assure correction.
5. In the case of temporary food service establishments, all violations shall be corrected within twenty-four (24) hours. If violations are not corrected within twenty-four (24) hours, the establishment shall immediately cease food service operations until authorized to resume by regulatory authority.

(b) The inspection report shall state that failure to comply with any time

limits for corrections may result in cessation of food service operations. An opportunity for appeal from the inspection findings and time limitations will be provided if a written request for a hearing is filed with the City Secretary within ten (10) days following cessation of operations. If a request for a hearing is received, a hearing shall be held within twenty (20) days of receipt of that request.

(c) Whenever a food service establishment is required under the provisions of this Article to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exists. Opportunity for reinspection shall be offered within a reasonable time.

(2) Inspection Report Form.

An inspection report form based on the requirements of this Article is attached as Appendix A.

Sec. 3-130. Examination and Condemnation of Food.

(1) General.

Food may be examined or sampled by the regulatory authority as often as necessary for enforcement of this Article. The regulatory authority may, upon written notice to the owner or person in charge specifying with particularity the reasons therefore, place a hold order on any food which he believes is in violation of the rules of food Service Sanitation, or the Retail Food Store Codes or any other provision of these rules and codes. The regulatory authority shall tag, label or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served or moved from the establishment. Storage of the food under conditions specified in the hold order shall be permitted unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed with ten (10) days and that if no hearing is so requested, and 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 directly by written order to denature or destroy such food or to bring it into compliance with the provisions of these rules and codes.

Sec. 3-140. Review of Plans.

(1) Submission of plans.

Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such

construction, remodeling, or conversion shall be submitted to the regulatory authority for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type of model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of the Rules of Food Service Sanitation or Retail Food Store Codes. No food service establishment shall be constructed, extensively remodeled or converted except in accordance with plans and specifications approved by the regulatory authority.

(2) Preoperational inspection.

Whenever plans and specifications are required by this or any other Ordinance or Statute, the regulatory authority shall inspect the food service establishment prior to its beginning operations to determine compliance with the approved plans and specifications and with the requirements of these rules and codes.

3-140. Food Sanitation Training.

(1) No person shall operate a food service establishment unless the manager of the establishment or, if multiple shifts are worked, the manager on each shift has a valid current Food Service Manager's Certificate certifying that the bearer has attended a Food Sanitation Program for Managers approved by the regulatory authority within the past three (3) years. See. 8-375 (1) is to become effective and enforceable when a Food Sanitation program is available in Tarrant County, Texas.

(2) Said Certificate shall be made available to the regulatory authority personnel when inspections are conducted.

(3) Temporary, Mobile Food Vendors and Retail Food Vendors &re exempt from the Food Service Manager Certification.

See. 3-150. Procedure When Infection is Suspected.

When there is reasonable cause to suspect the possibility of disease transmission from any food service or retail food store establishment employee, morbidity history of the suspected employee may be secured or any other investigation as may be indicated and appropriate action taken. The regulating authority may require any or all of the following measures:

(1) The immediate exclusion of the employee from all food service establishments;

(2) The immediate closing of the food service or retail food establishment concerned until, in the opinion of the regulating authority, no further danger of disease outbreak exists;

(3) Restrictions of the employee's services to some area of the establishment where there would be no danger of transmitting disease;

(4) Adequate medical and laboratory examination of other employees, and of his and their body discharges.

See. 3-160. Penalty.

(1) Any person, firm or corporation violating any provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall upon final conviction thereof be fined in an amount not to exceed One Thousand Dollars (\$1,000.00). Each and every day any such violation shall continue shall constitute a separate violation hereunder.

(2) The regulatory authority may also seek to enjoin violation of these rules.

Sec. 2. Repealer.

This Ordinance shall be in full force and effect after its adoption and publication as provided by law; and, at that time, all Ordinances, and parts of Ordinances in conflict with these rules are hereby repealed.

Sec. 3. Severability.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and If any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Sec. 4. The City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause of this Ordinance as an alternative method of publication provided by law.

AND IT IS SO ORDERED.

Passed on this the 12th day of May, 1987, by a vote of 4 to 0.

CITY OF WILLOW PARK

By: J. Mark Bumpas
MARK BUMPAS, Mayor

ATTEST:

Aref Hassan

Aref Hassan
City Secretary

APPROVED AS TO FORM AND LEGALITY;

Carter L. Hampton

Carter L. Hampton
City Attorney