

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Department of Public Health – Administration

AGENDA DATE: CCA Introduction 04/19/11; Public Hearing 04/26/11

CONTACT PERSON/PHONE: Michael Hill, 771-5702

DISTRICT(S) AFFECTED: All

SUBJECT:

THAT the Mayor be authorized to sign AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.12 (FOOD AND FOOD HANDLING ESTABLISHMENTS), SECTION 9.12.010 (DEFINITIONS) TO AMEND "MOBILE ESTABLISHMENT"; SECTION 9.12.040 (PERMIT – APPROVAL PROCESS) TO REMOVE REFERENCE TO THE 1000 FOOT SEPARATION REQUIREMENT; SECTION 9.12.180 (RENEWAL) TO REVISE THE TIMEFRAME; SECTION 9.12.800 (MOBILE ESTABLISHMENTS) IN ITS ENTIRETY TO REMOVE THE MOBILE ESTABLISHMENT STICKER AND THE 1000 FOOT SEPARATION REQUIREMENTS; AND SECTION 9.12.810 (TEMPORARY, RECURRENT AND SEASONAL ESTABLISHMENTS) TO CLARIFY INSPECTION OF CENTRAL PREPARATION FACILITIES AND TO EXEMPT PERMITTED MOBILE ESTABLISHMENTS FROM DUPLICATE PERMIT REQUIREMENTS; THE PENALTY AS PROVIDED IN 9.12.890.

BACKGROUND / DISCUSSION:

Proposed changes first introduced by Rep. O'Rourke.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

April 5, 2011

AMOUNT AND SOURCE OF FUNDING:

BOARD / COMMISSION ACTION:

N/A

*****AUTHORIZATION*****

DEPARTMENT HEAD:



ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.12 (FOOD AND FOOD HANDLING ESTABLISHMENTS), SECTION 9.12.010 (DEFINITIONS) TO AMEND “MOBILE ESTABLISHMENT”; SECTION 9.12.040 (PERMIT – APPROVAL PROCESS) TO REMOVE REFERENCE TO THE 1000 FOOT SEPARATION REQUIREMENT; SECTION 9.12.180 (RENEWAL) TO REVISE THE TIMEFRAME; SECTION 9.12.800 (MOBILE ESTABLISHMENTS) IN ITS ENTIRETY TO REMOVE THE MOBILE ESTABLISHMENT STICKER AND THE 1000 FOOT SEPARATION REQUIREMENTS; AND SECTION 9.12.810 (TEMPORARY, RECURRENT AND SEASONAL ESTABLISHMENTS) TO CLARIFY INSPECTION OF CENTRAL PREPARATION FACILITIES AND TO EXEMPT PERMITTED MOBILE ESTABLISHMENTS FROM DUPLICATE PERMIT REQUIREMENTS; THE PENALTY AS PROVIDED IN SECTION 9.12.890

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

Section 1. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.010 (Definitions.) of the El Paso City Code shall be amended as to “Mobile establishment” to read as follow:

9.12.010 Definitions.

“Mobile establishment” means a vehicle-mounted food handling establishment designed to be readily movable.

Section 2. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.040 (Permit – Approval Process.), Subsection C of the El Paso City Code shall be amended to read as follow:

9.12.040 Permit-- Approval Process.

C. During the site assessment of a mobile establishment regulated under Chapter 12.46 of the El Paso City Code, conducted on and after June 15, 2001, the director shall inspect the flashing or blinking signals required under that chapter, and no permit shall be issued unless such signals are present and operational.

Section 3. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.180 (Renewal.), Subsection B of the El Paso City Code shall be amended to read as follows:

9.12.180 Renewal.

B. Register for a food handler course no more than sixty and no less than thirty days prior to the expiration of the current food handler identification card.

Section 4. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.800 (Mobile establishments.) of the El Paso City Code shall be amended in its entirety to read as follows:

9.12.800 Mobile establishments.

- A. Mobile establishments shall comply with the requirements of this chapter.
- B. Mobile establishments handling exposed food must submit potable water samples at the time of application for analysis to a Texas Department of State Health Services certified laboratory.
- C. Mobile establishments handling potentially hazardous foods must operate from a central preparation facility. The central preparation facility must have all necessary equipment to handle the approved activities. Central preparation facilities shall maintain a score of eighty-five percent or better on the annual food inspection report rating. A central preparation facility agreement form provided by the director is required and must be signed by the mobile establishment applicant and central preparation facility owner/operator. Central preparation facilities must notify the director to rescind this agreement if the mobile establishment does not conform to the provisions of said agreement.
- D. Mobile establishments shall comply with the requirements of Chapter 12.46 of the El Paso City Code.
- E. Mobile establishments shall comply with the industry standards for safe food storage and handling found in the Texas Food Establishment Rules, located in the Texas Administrative Code, Section 229.161 et seq.

Section 5. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.810 (Temporary, recurrent and seasonal establishment.) of the El Paso City Code shall be amended to clarify inspection of central preparation facilities in A.1 and in J, and to add A.3 as follows:

9.12.810 Temporary, recurrent and seasonal establishments.

- A. Compliance required.
 - 1. A temporary, seasonal or recurrent establishment shall comply with the requirements of this chapter. At a minimum, temporary establishments will meet the requirements as set forth in the Texas Food Establishment Rules. Temporary, recurrent and seasonal establishments handling potentially hazardous foods must operate from a central preparation facility. A fee for expedited services for temporary establishment applications submitted less than seventy-two hours prior to the start of an event shall be as identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the city council. The central preparation facility must have all necessary equipment to handle the approved activities. Central preparation

facilities shall maintain a score of eighty-five percent or better on the annual food inspection report rating. A central preparation facility agreement form provided by the director is required and must be signed by the temporary, seasonal or recurrent establishment applicant and central preparation facility owner/operator.

3. A mobile establishment that is operating under a valid mobile establishment permit is exempt from the requirement to obtain a separate permit to operate as a temporary, recurrent or seasonal establishment. However, if the temporary, recurrent or seasonal establishment vending opportunity falls on a date beyond the time covered for the mobile establishment's permit, the mobile establishment shall be required to obtain a separate permit to operate as a temporary, recurrent or seasonal establishment.

J. All temporary, seasonal and recurrent establishments handling potentially hazardous foods must operate from a central preparation facility. The central preparation facility must have all necessary equipment to handle the approved activities and maintain a score of eighty-five percent or better on the annual food inspection report rating. The central preparation facility must be constructed and operated in compliance with federal, state and city regulations.

Section 6. This ordinance shall take effect on April 26, 2011.

Section 7. Except as expressly herein amended, Title 9 (Health and safety) of the El Paso City Code shall remain in full force and effect.

(Signatures appear on following page)

ADOPTED THIS ____ DAY OF _____, 2011.

THE CITY OF EL PASO:

ATTEST:

John F. Cook, Mayor

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Josette Flores
Assistant City Attorney

Michael Hill, Director
Department of Public Health

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.12 (FOOD AND FOOD HANDLING ESTABLISHMENTS), SECTION 9.12.010 (DEFINITIONS) TO AMEND “MOBILE ESTABLISHMENT”; SECTION 9.12.040 (PERMIT – APPROVAL PROCESS) TO REMOVE REFERENCE TO THE 1000 FOOT SEPARATION REQUIREMENT; SECTION 9.12.180 (RENEWAL) TO REVISE THE TIMEFRAME; SECTION 9.12.800 (MOBILE ESTABLISHMENTS) IN ITS ENTIRETY TO REMOVE THE MOBILE ESTABLISHMENT STICKER AND THE 1000 FOOT SEPARATION REQUIREMENTS; AND SECTION 9.12.810 (TEMPORARY, RECURRENT AND SEASONAL ESTABLISHMENTS) TO CLARIFY INSPECTION OF CENTRAL PREPARATION FACILITIES AND TO EXEMPT PERMITTED MOBILE ESTABLISHMENTS FROM DUPLICATE PERMIT REQUIREMENTS; THE PENALTY AS PROVIDED IN SECTION 9.12.890

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9.12.010 Definitions.

“Mobile establishment” means a vehicle-mounted food handling establishment designed to be readily movable. ~~This establishment must move from location to location and cannot become stationary to await customers. The term includes distribution of food.~~

Section 2. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.040 (Permit – Approval Process.), Subsection C of the El Paso City Code shall be amended to read as follow:

9.12.040 Permit-- Approval Process.

C. During the site assessment of a mobile establishment regulated under Chapter 12.46 of this code, conducted on and after June 15, 2001, the director shall inspect the flashing or blinking signals required under that chapter, and no permit shall be issued unless such signals are present and operational. ~~If a mobile establishment is seeking an exemption from the 1000 foot separation requirement referenced in 9.12.800 at the time of site assessment, the director shall request a copy of the contract referenced in 9.12.800 and shall not complete the site assessment until said contract is provided by applicant.~~

Section 3. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.180 (Renewal.), Subsection B of the El Paso City Code shall be amended to read as follows:

B. Register for a food handler course no more than ~~forty-five~~ sixty and no less than thirty days prior to the expiration of the current food handler identification card.

Section 4. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.800 (Mobile establishments.) of the El Paso City Code shall be amended in its entirety to read as follows:

9.12.800 Mobile establishments.

A. Mobile establishments shall comply with the requirements of this chapter.
B. Mobile establishments handling exposed food must submit potable water samples at the time of application for analysis to a Texas Department of State Health Services certified laboratory.

C. Mobile establishments handling potentially hazardous foods must operate from a central preparation facility. The central preparation facility must have all necessary equipment to handle the approved activities. Central preparation facilities shall maintain a score of eighty-five percent or better on the annual food inspection report rating. A central preparation facility agreement form provided by the director is required and must be signed by the mobile establishment applicant and central preparation facility owner/operator. Central preparation facilities must notify the director to rescind this agreement if the mobile establishment does not conform to the provisions of said agreement.

~~D. Mobile establishments shall comply with the requirements of Chapter 12.46 of the El Paso City Code. not park and await customers. Mobile establishments may only park to serve customers who are already present and seeking the service of the mobile establishment.~~

~~E. Mobile establishments shall comply with the industry standards for safe food storage and handling found in the Texas Food Establishment Rules, located in the Texas Administrative Code, Section 229.161 et seq. Mobile establishments shall obtain and affix a mobile establishment sticker from the director at the time of site assessment and prior to permit issuance. Stickers shall be made available by the director for the fee identified in the adopted budget resolution for the current fiscal year or other appropriately adopted resolution by the City Council.~~

~~F. Mobile establishments shall maintain a 1000 foot separation from permitted or authorized food service establishment's and food product establishment's property lines.~~

~~G. Mobile establishments are exempt from 1000 foot separation if they have a contract with an approved commercially zoned business to provide food operations. Said contract must be provided to the director. If said contract is not provided to the director within three days of written notification by director to do so, the director may suspend the mobile establishment's operation. The contracting business must provide restroom facilities with hot and cold running water for use by mobile establishment's employees and provide solid waste disposal. All food operations must be done on contracting business's property and during contracting business's regular operating hours.~~

~~1. Potentially hazardous food operations are limited to a continuous three-hour pre-selected block of time daily.~~

~~2. Frozen prepackaged potentially hazardous food operations are limited to a continuous eight-hour pre-selected block of time daily and all food products must be maintained at zero degrees Fahrenheit or colder.~~

~~3. Prepackaged non-potentially hazardous food operations are limited to a continuous eight-hour pre-selected block of time daily.~~

Section 5. That Title 9 (Health and Safety), Chapter 9.12 (Food and Food Handling Establishments), Section 9.12.810 (Temporary, recurrent and seasonal establishment.) of the El Paso City Code shall be amended to clarify inspection of central preparation facilities in A.1 and in J, and to add A.3 as follows:

9.12.810 Temporary, recurrent and seasonal establishments.

A. Compliance required.

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J. All temporary, seasonal and recurrent establishments handling potentially hazardous foods must operate from a central preparation facility. The central preparation facility must have all necessary equipment to handle the approved activities and maintain a score of eighty-five percent or better on the annual food inspection report rating. The central preparation facility must be constructed and operated in compliance with federal, state and city regulations.

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