



City of Grand Island

Tuesday, March 25, 2008

Council Session

Item F2

#9160 - Consideration of Revisions to Chapter 29 of the Grand Island City Code Relative to Restaurants and Food Service

Staff Contact: Dale Shotkoski

Council Agenda Memo

From: Dale M. Shotkoski, City Attorney

Meeting: March 25, 2008

Subject: City Code Revisions to Chapter 29

Item #'s: F2

Presenter(s): Dale M. Shotkoski, City Attorney

Background

The Mayor, City Council and City Administration established a goal this year of revising the Grand Island City Code. The code revision committee has met and has drafted changes to Chapter 29 of the City Code for City Council consideration. The proposed revisions are so that the City Code will reflect current state law and to clarify ambiguous portions of Chapter 29.

Discussion

The primary changes that are being proposed to Chapter 29 are as follows:

- Section 29-2, Definitions, is being revised to include the definitions of “Cafeteria” and “Nonprofit Organization”.
- Section 29-5, Annual Permits; Types; When Issued; Term, shall include “Cafeteria Permit”.
- Section 29-9, Proration of Permit Fee, deletes language referring to Sections A or B, which have both been deleted.
- Section 29-11, Delinquent Permit Fee; also deletes language referring to Sections A or B, both of which have been deleted.
- Section 29-14, is a new section of the City Code, and adds “Temporary Food Sales by Nonprofit Organizations”, specifying what operations will not require permits from the Health Department.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve the revisions to the City Code as drafted by city staff.
2. Disapprove or deny the ordinance which would revise the City Code in which event the code would remain in effect.
3. Modify the recommendations of city staff for changing the City Code.
4. Take no action on the issue.

Recommendation

City Administration recommends that the Council approve the changes recommended by city staff to Chapter 29 of the City Code.

Sample Motion

Motion to approve the ordinance revising code sections in Chapter 29 of the Grand Island City Code.

ORDINANCE NO. 9160

An ordinance to amend Chapter 29 of the Grand Island City Code; to amend Sections 29-2 pertaining to definitions; and 29-5, 29-9, 29-11 and 29-14 pertaining to permits; to repeal Sections 29-2; 29-5, 29-9, 29-11 and 29-14 as now existing, and any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF
GRAND ISLAND, NEBRASKA:

SECTION 1. Section 29-2 of the Grand Island City Code is hereby amended to read as follows:

§29-2. Definitions

As used in this chapter, the following terms shall have the following meanings:

Bakery. An establishment whose primary operation is the manufacture and sale of baked goods, i.e. donuts, cakes, and breads.

Cafeteria. A self service establishment with little to no table service in an education institution.

Caterer. A person who transports ready to eat food from a permitted food service establishment to another location or building for service on a per event basis for hire, and does not include a temporary food service event.

Commissary. A food establishment where food, food containers, or food supplies are kept, handled, prepared, packaged, or stored for use in mobile food units, pushcarts, or vending machines.

Food Establishment. An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. The term does not include:

(1) An establishment or vending machine operation that offers only prepackaged soft drinks, carbonated or noncarbonated, that do not contain a primary dairy product or dairy ingredient base or that contain less than fifteen percent natural fruit or vegetable juice; candy; chewing gum; potato or corn chips; pretzels; cheese puffs and curls; crackers; popped popcorn; nuts and edible seeds; and cookies, cake, pies, and other pastries, that are not potentially hazardous.

(2) A produce stand that only offers whole, uncut fruits and vegetables.

(3) A food processing plant.

(4) A salvage operation.

(5) A private home where food is prepared or served for personal use, a small day care in the home, or a hunting lodge, guest ranch, or other operation where no more than ten paying guests eat meals in the home.

(6) A private home or other area where food that is not potentially hazardous is prepared: (a) for sale or service at a function as a religious, charitable, or fraternal organization's bake sale or similar function; or (b) for sale directly to the consumer at a farmers market if the consumer is informed by a clearly visible placard at the sale location that the food was prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority.

(7) The location where food prepared by a caterer is served so long as the caterer only minimally handles the food at the serving location.

(8) A pharmacy as defined in Neb. Rev. Stat. §71-425 if the pharmacy only sells prepackaged pharmaceutical, medicinal, or health supplement foods that are not potentially hazardous or foods described in subsection (1) of this section.

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Food Processing Plant. A commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to the consumer.

Licensed Beverage Establishment. An establishment that serves alcoholic beverages and may or may not provide limited food service, e.g. frozen prepackaged sandwiches, frozen pizza, hot dogs, popcorn. Any item not requiring preparation on site.

Limited Food Service Establishment. An establishment that serves or otherwise provides only snack items or commercially prepared and wrapped foods that require little or no preparation.

Mobile Food Unit or Pushcart. A vehicle mounted food establishment designed to be readily movable that returns to a commissary daily for clean up and service, unless self-contained.

Nonprofit Organization. An organization holding a certificate of federal tax exemption under Section 501 of the Internal Revenue Code or an organization that conducts its major activities for charitable or community betterment purposes.

Retail Food Store. Any store, location or place of business occupied or used for the sale at retail to the public of groceries, fruits, vegetables, materials for human consumption or articles ordinarily and commonly sold from a grocery, fruit or vegetable store or stand not coming within the definition of the term “restaurant,” the term “milk,” the term “frozen dessert,” or the term “meat.”

Seasonal Food Service. The act of selling or offering for sale food items on a seasonal basis, for a period of six months or less, at a concession stand, hot dog stand, ice cream truck, etc.

Separate Facility: Additional facility types operating within the scope of a permitted establishment.

Temporary Food Establishment. A food establishment that operates for a period of no more than three (3) consecutive days in conjunction with a single event or celebration.

Amended by Ordinance No. 9046, effective 6-7-2006

Amended by Ordinance No. 9160, effective 4-15-2008

SECTION 2. Section 29-5 of the Grand Island City Code is hereby amended to read as follows:

§29-5. Annual Permits; Types; When Issued; Term

The following permits shall be issued on an annual basis on May 1 of each year and shall be valid until April 30, regardless of when issued:

- Bakery Permit
- Cafeteria Permit
- Catering Permit
- Food and Drink Service Permit
- Food Manufacturing/Warehouse/Storage Permit
- Licensed Beverage Establishment (Drink Only) Permit
- Limited Food Permit
- Mobile Food Unit/Pushcart Permit
- Retail Food Permit
- Separate Facility Permit

Application for all permits shall be made prior to the operation of any food establishment. Permits shall be non-transferable.

Amended by Ordinance No. 9046, effective 6-7-2006

Amended by Ordinance No. 9160, effective 4-15-2008

SECTION 3. Section 29-14 of the Grand Island City Code is hereby amended to read as follows:

§29-9. Proration of Permit Fee

Any applicant applying for an annual permit after November 1 of the license year under the provisions of

ORDINANCE NO. 9160 (Cont.)

Section 29-5(A) of this chapter, ~~or after April 1 of the license year under the provisions of Section 29-5(B) of this chapter~~ shall be required to pay only one-half of the applicable annual fee.

Amended by Ordinance No. 9160, effective 4-15-2008

SECTION 4. Section 29-14 of the Grand Island City Code is hereby amended to read as follows:

§29-11. Delinquent Permit Fee

Renewal of the annual permits identified in this chapter shall be made prior to the expiration of the current permit. Permit fees for annual renewals shall be delinquent if the payment has not been received by the Central District Health Department by May 15 for the permits identified in Section 29-5(A), ~~and by October 15 for those permits identified in Section 29-5(B).~~ Establishments shall be assessed a delinquent food permit fee established ~~and adopted~~ by the Board of Health if the permits are not paid by these dates.

Amended by Ordinance No. 8960, effective 3-9-2005

Amended by Ordinance No. 9160, effective 4-15-2008

SECTION 5. Section 29-14 of the Grand Island City Code is hereby amended to read as follows:

§29-14. ~~Reserved~~ Temporary Food Sales by Nonprofit Organizations

The following operations do not require a permit:

- (1) Bake sales not including potentially hazardous food.
- (2) Sales of manufactured, prepackaged food prepared in an approved food preparation facility except potentially hazardous food.
- (3) Food service limited to the members and guests of the organization.
- (4) Food service by an approved catering operation.
- (5) Food service on the organization's own premises or at a location where a permanent food service facility is located and used by said organization. Permanent food service shall mean a kitchen facility located at a church, school, meeting hall, or other place of public assembly that is specifically equipped for food service to large numbers of people.

Nonprofit organizations that sell food to the public at a location where there is no permanent food service facility shall obtain a temporary food service permit. Exempted operations shall not be relieved of any other obligation to provide, store, hold, and serve food under safe and sanitary conditions.

SECTION 6. Sections 29-2; 29-5 and 29-14 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 7. The validity of any section, subsection, sentence, clause, or phrase of this ordinance shall not affect the validity or enforceability of any other section, subsection, sentence, clause, or phrase thereof.

ORDINANCE NO. 9160 (Cont.)

SECTION 8. That this ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the Grand Island Independent as provided by law.

Enacted: March 25, 2008.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk