

ORDINANCE NO. 100925-02
AN ORDINANCE OF THE CITY OF LA VERNIA, TEXAS
AMENDING LA VERNIA CODE OF ORDINANCES
CHAPTER 16 – HEALTH AND SANITATION, ARTICLE V.
- FOOD HANDLERS, SEC. 16 – 504 – COMPLIANCE
PROCEDURES; AMENDING THE CODE TO FOLLOW
THE NEW REGULATIONS FROM TEXAS HEALTH AND
HUMAN SERVICES REGARDING MOBILE FOOD
VENDORS.

WHEREAS, the City has previously deemed it necessary and desirable to adopt and sanitation regulations to provide for the orderly development of property within the city in order to promote the public health, safety, morals and general welfare of the residents of the city; and

WHEREAS, the City of La Vernia Code of Ordinances Chapter 16 which constitutes the City's health and sanitation ordinance requires a property to engage in health and sanitation procedures in accordance with proper designations as defined by the this ordinance; and

WHEREAS, the City Council of the City of La Vernia believes the amendments will comply with the standards and purpose of the health and sanitation ordinance and are in the best interests of the public safety and the general welfare of the residents of the City of La Vernia; and

WHEREAS, the City Council of the City of La Vernia believes the amendments will comply with the standards and purpose of Chapter 437B, Health and Safety Code;

NOW THEREFORE: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA VERNIA, TEXAS:

Section 1.

Business Regulations Amended.

Chapter 16 – HEALTH AND SANITATION, ARTICLE V. - FOOD HANDLERS, SEC. 16-504 – COMPLIANCE PROCEDURE, of the City of La Vernia's Code of Ordinances, is hereby amended as reflected in the document attached hereto as Exhibit "A".

Section 2.

Severability

If any section, subsection, paragraph, sentence, clause, phrase, or word in this Ordinance, or the application thereof, to any person or circumstance is held invalid such holding shall not affect the validity of the remaining portions of the same and the City Council hereby declares it would have passed such remaining portions despite such invalidity.

**Section 3
Cumulative**

This ordinance is cumulative of all other laws addressing land use regulations and any prohibitions and sanctions that may be imposed under other laws relating to the subjects covered hereunder.

**Section 4.
Effective Date**

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

PASSED, APPROVED, AND ADOPTED THIS THIS 9TH DAY OF OCTOBER 2025.

Martin Poore, Mayor
City of La Vernia

ATTEST:

Madison Farrow,
City of La Vernia, Texas

City

Secretary

Legal:

Exhibit “A”

Sec. 16-504. Compliance procedures.

(a) *Permits, licenses, or certificates.*

- (1) *Generally.* No person shall operate a retail food store who does not have a valid permit, license, or certificate issued to him by the regulatory authority. Only a person who complies with the requirements of these rules shall be entitled to receive or retain such a permit, license, or certificate.

Permits licenses, or certificates are not transferable. A valid permit, license, or certificate shall be posted in every retail food store.

(2) *Issuance of permit, license, or certificate.*

- a. Any person desiring to operate a retail food store shall make written application for a permit, license, or certificate, on forms provided by the regulatory authority. Such application shall include the name and address of each applicant, the location of the proposed retail food store, and the signature of each applicant.
- b. Prior to approval of an application for a permit, license, or certificate the regulatory authority shall inspect the proposed retail food store to determine compliance with the requirements of these rules.
- c. ~~Mobile food vendor permits shall be issued on an annual or event-by-event basis in accordance with the fee schedule. However, mobile vendors must arrive and leave daily unless otherwise specified by an approved event permit. Mobile food vendors may not stay in one spot for more than 24 hours unless otherwise specified under an approved event permit. A mobile food vendor operating within the city must present a valid mobile food vendor license issued by the Texas Department of State Health Services (DSHS) in order to operate within the city.~~

(1) Mobile food vendors must comply with all applicable zoning restrictions, parking regulations, fire code requirements, and event permit conditions.

- d. The regulatory authority shall issue a permit, license, or certificate to the applicant if its inspection reveals that the proposed retail food store complies with the requirements of these rules.

(3) *Suspension of permit, license, or certificate.*

- a. The regulatory authority may, without warning, notice, or hearing suspend any permit, license, or certificate to operate a retail food store if the holder of the permit, license, or certificate does not comply with the requirements of these rules, or if the operation of the establishment does not comply with the requirements of these rules, or if the operation of the retail food store otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by subsection (a)(3)b of this section. When a permit, license, or certificate is suspended, food store operations shall immediately cease. Whenever a permit, license, or certificate is suspended, the holder of the permit, license, or certificate shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing.
- b. Whenever a permit, license, or certificate is suspended, the holder of the permit, license, or certificate, or the person in charge shall be notified in writing that the permit, license, or certificate is, upon service of the notice, immediately suspended and that an opportunity of a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit, license, or certificate within ten days. If no written request for hearing is filed within ten 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, license, or certificate.* The regulatory authority may, after providing opportunity for a hearing, revoke a permit, license, or certificate for serious or repeated violations of any of the requirements of these rules 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, license, or certificate, or the person in charge, in writing of the reason for which their permit, license, or certificate is subject to revocation and that the permit, license, or certificate shall be revoked at the end of the ten days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit, license, or certificate within such ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit, license, or certificate becomes final.

- (5) *Service of notices.* A notice provided for in these rules is properly served when it is delivered to the holder of the permit, license, or certificate, or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit, license; or certificate. A copy of the notice shall be filed in the records of the regulatory authority.
 - (6) *Hearings.* The hearings provided for in these rules 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, license, or certificate by the regulatory authority.
 - (7) *Application after revocation.* Whenever a revocation of a permit, license, or certificate has become final, the holder of the revoked permit, license, or certificate may make written application for a new permit, license, or certificate.
- (b) *Inspections.*
- (1) *Inspection frequency.* An inspection of a retail food store shall be performed at least once every three months. Additional inspections of the retail food store shall be performed as often as are necessary for the enforcement of these rules.
 - (2) *Access.* Agents of the regulatory authority, after proper identification, shall be permitted to enter any retail food store 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 establishments 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 retail food store is made, the findings shall be recorded on the inspection report form. The inspection report form shall summarize the requirements of these rules 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 demerit values for all violations. 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 the 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 correction 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, loss of water service, or sewage backup into the establishment, the establishment shall immediately cease food store operations. Operations shall not be resumed until authorized by the regulatory authority.
 - 2. All violations of four-demerit or five-demerit items shall be corrected as soon as possible, but in any event, within ten days following inspection. Within 15 days after the inspection, the holder of the permit, license, or certificate shall submit a written report to the regulatory authority stating the four-demerit or five-demerit violations have been corrected. A follow-up inspection shall be conducted to confirm correction.
 - 3. All one-demerit or two-demerit items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

4. When demerit score of the establishment is more than 30, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more reinspections will be conducted at reasonable time intervals to ensure correction.
 - b. The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food store 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 regulatory authority within ten days following cessation of operations. If a request for a hearing is received, a hearing shall be held within 20 days of receipt of that request.
 - c. Whenever a retail food store is required under the provisions of this rule 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.
- (c) *Examination and condemnation of food.* 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 therefor, place a hold order on any food which it believes is in violation of any section of this article. The administrator or his designee 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 removed from the establishment. The administrator or his designee shall permit storage of the food under conditions specified in the hold order, 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 within ten days and that if no hearing is requested the food shall be destroyed. A hearing shall be held if 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 directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this article.
- (d) *Review of plans.*
- (1) *Submission of plans.* Whenever a retail food store is constructed or extensively remodeled and whenever an existing structure is converted to use as a retail food store, 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 and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of these rules. No retail food store 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 subsection (d)(1) of this section to be submitted to the regulatory authority, the regulatory authority shall inspect the retail food store prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of these rules.
- (e) *Procedure when infection is suspected.* When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any retail food store employee, it may secure morbidity history of the suspected employee or make any other investigation as may be indicate and shall take appropriate action. The regulatory authority may require any or all of the following measures:
- (1) The immediate exclusion of the employee from all food store establishments;
 - (2) The immediate closing of the retail food store concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;
 - (3) Restriction 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 the employee, of other employees and of his and their body discharges.

(f) *Remedies.*

- (1) *Penalties.* Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a retail food store that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be in violation of this article.
- (2) *Injunctions.* The regulatory authority may seek to enjoin violations of these rules.