

ORDINANCE NO. 3570

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 8, SECTION 8-546 OF THE CODE OF THE CITY OF MESQUITE THEREBY ESTABLISHING MINIMUM CRITERIA FOR FOOD MANAGER CREDENTIALING REQUIREMENTS AS SET FORTH BY THE TEXAS DEPARTMENT OF HEALTH; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, recent amendments to the Texas Food Establishment Rules have necessitated revisions to parallel food manager credentialing requirements as established by the Texas Department of Health.

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

SECTION 1. That Chapter 8, Section 8-546 of the Code of the City of Mesquite, Texas, containing amendments and deletions to the Texas Food Establishment Rules, 1998 Edition (TFER), is hereby amended as follows, in all other respects said Code, Chapter and Section to remain in full force and effect.

- (1) Amend Section 8-546(8), which created a new Section 229.163(a), as follows:
 - (a) Delete Section 229.163(a)(3) in its entirety and add a new Section 229.163(a)(3) to read as follows:
 3. Registration. The health official shall issue a food service manager registration to any person who submits the required application, pays the required fee and provides evidence of completion of a food service manager certification course. Food service manager certification courses shall meet minimum criteria as established by the Texas Department of Health.
 - (b) Delete Section 229.163(a)(6)(a) in its entirety and add a new Section 229.163(a)(6)(a) to read as follows:
 6. Evidence of registration.
 - a. Unless sooner revoked by the health official, a food service manager registration shall run concurrently with the State-issued food service manager certificate.

- (c) Delete Section 229.163(a)(7) in its entirety.
 - (d) Delete Section 229.163(a)(8)(a) in its entirety and add a new Section 229.163(a)(8)(a) to read as follows:
 - 8. Denial of registration; revocation of registration.
 - a. The health official may refuse to issue a food service manager registration or may revoke a food service manager registration if the applicant or holder:
 - (i) Has been convicted of interfering with the lawful inspection of a food establishment; or
 - (ii) Makes a false statement of material fact in the application for registration; or
 - (iii) Was employed as a food service manager of an establishment where the establishment's food service permit was suspended two or more times within a 24-month period or where the establishment's food service permit was revoked.
 - (e) Delete Section 229.163(a)(9) in its entirety and add a new Section 229.163(a)(9) to read as follows:
 - 9. The decision of the health official to deny issuance of a food service manager registration or to revoke a food service manager registration may be appealed to the health official within ten days of the denial or revocation. A hearing before the health committee will be provided at the earliest setting.
 - (f) Delete Section 229.163(a)(10) in its entirety and add a new Section 229.163(a)(10) to read as follows:
 - 10. The fee for obtaining a food service manager registration shall be \$40.00. The fee for replacing a lost, stolen or damaged certificate of registration shall be \$10.00.
- (2) Amend Section 8-546(12), which created a new Section 229.164(j)(3)(B), by deleting Section 229.164(j)(3)(B) in its entirety and adding a new Section 229.164(j)(3)(B) to read as follows:
- B. Ice for consumer use shall be dispensed only by employees with scoops, tongs or other ice dispensing utensils or through automatic service, ice

dispensing equipment. Ice dispensing utensils shall be stored on a clean surface out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.

Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one pint in capacity or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. When milk and milk products of less than one-half pint are required for mixed drinks, cereal or dessert service, milk and milk products may be poured from a commercially filled container. Other methods that preclude contamination, such as dispensing from a protected pour-type pitcher, may be approved by the health authority based on inspection performance and violation history of the permit holder.

Cream or half-and-half shall be provided in an individual service container or drawn from a refrigerated dispenser designed for such service.

Nondairy creaming or whitening agents shall be provided in an individual service container, a protected pour-type pitcher or drawn from a refrigerated dispenser designed for such service.

Nondairy Products. Nondairy creaming, whitening or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one gallon in capacity and cooled to 41° F (41 degrees Fahrenheit - 5 degrees Celsius) or below within four hours after preparation.

SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

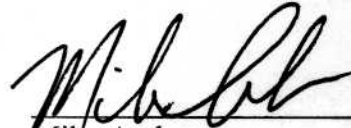
SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 4. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense.

SECTION 5. That the present ordinances of the City of Mesquite are in need of revision to parallel food manager credentialing requirements as established by the Texas

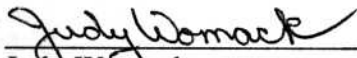
Department of Health, creates an urgency and an emergency for the preservation of the public health, safety and welfare, and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 21st day of April, 2003.



Mike Anderson
Mayor

ATTEST:



Judy Womack
City Secretary

APPROVED:



B. J. Smith
City Attorney