

CITY OF GREENSBURG

BILL NO. 4

INTRODUCED: February 14, 2011

by: Karl E. Eisaman, Mayor

ADOPTED: March 14, 2011

as: Ordinance No. 2006

AN ORDINANCE

AMENDING CHAPTER 127 OF ORDINANCE NO. 1646, THE CODE OF THE CITY OF GREENSBURG CHANGING THE TITLE FROM, 'CERTIFICATES, LICENSES AND PERMITS' TO 'LICENSURE, INSPECTION AND REGULATION OF RETAIL FOOD FACILITIES (RFF)' INCORPORATING FOOD SAFETY LAWS RELATIVE TO PENNSYLVANIA ACT 106 OF 2010.

BE IT ORDAINED, by the Council of the City of Greensburg to amend Chapter 127 of Ordinance No. 1646 as follows:

Section 1.

DELETE: The Chapter Title: "~~Certificates, Licenses and Permits~~"

ADD: The revised title: "Licensure, Inspection and Regulation of Retail Food Facilities (RFF)".

DELETE: References to ~~ARTICLE I~~ and ~~ARTICLE II~~ from Table of Contents and Chapter 127.

AMEND: §127-1. "Title." as follows:

DELETE: This Article shall be known as the "~~License Fee Ordinance for Eating and Drinking Establishments of the City of Greensburg.~~"

ADD: This Chapter shall be known as the "Licensure, Inspection and Regulation of Retail Food Facilities (RFF) of the City of Greensburg".

ADD the following new section, §127-1.1, and title, 'Definitions', words and definitions:

§127-1.1. Definitions.

As used in this chapter, the following terms and/or acronyms shall have the following meanings:

ANSI-CFP – American National Standards Institute – Conference for Food Protection

Farmers Market – shall not be defined as a single food establishment; farmers market stand shall be defined as a single food establishment for the purposes of this chapter

FDA – the U. S. Food and Drug Administration

FEC – Food Employee Certification provides for the training and certification of food handlers and requirement for a certified food employee in retail food facilities

Follow-up Inspection – shall be uniform terminology and is the same as re-inspection

Food establishments – is limited to ‘wholesale’ operations to include food processors, home food processors, warehouses and distributors

LHD – Local Health Department

PDA – Pennsylvania Department of Agriculture

PHF – ‘Potentially Hazardous Food’ is defined as the most current definition in the FDA Model Food Code and thus updated to conform to current scientific knowledge and national standards.

RFF– ‘Retail Food Facility’ includes eating and drinking places and retail food establishments that relinquish possession of food directly or indirectly/packaged or unpackaged to a consumer.

TFF-‘Temporary Food Facility’ is defined as a RFF that operates no more than 14 calendar days OR a RFF operating in conjunction with a specific fair, carnival or similar event.

AMEND: §127-2. as follows:

DELETE from the title and contents of this section: Purpose; increased fee.
~~For the purpose of the protection of the health, safety and welfare of the citizens of the City of Greensburg, the City of Greensburg does hereby increase the license fee for the inspection and licensing of eating and drinking establishments in the City of Greensburg.~~

ADD the revised title and contents under this section: Purpose.
For the purpose of protecting the health, safety and welfare of citizens utilizing retail food facilities in the City of Greensburg, the City of Greensburg does hereby set forth license requirements, inspection schedule and standards, food employee certification requirements, associated fees and exemptions from the same for said establishments in the City of Greensburg in compliance with Pennsylvania Act 106 of 2010. Act 106 strengthens oversight of food safety inspections for all retail food facilities, or restaurants and retail food stores, by amending the 1945 Public Eating and Drinking Place Act and the 1994 Food Act. Implementation of the Act updates food safety laws to reflect modern food science, eliminates duplication of inspections, provides more uniform inspections, amends Food Employee Certification (FEC) requirements and addresses deficiencies more thoroughly.

AMEND: §127-3., entitled ‘**Applicability**’ as follows:

DELETE: ~~This increased license fee shall apply to all eating and drinking establishments in the city that sell food products for consumption on the premises or that convert a raw food product to another edible product on the premises~~

ADD:
This Chapter shall apply to every RFF in the City of Greensburg to include all eating and drinking places and retail food establishments in the City of Greensburg.

AMEND: §127-4. is amended as follows:

CHANGE the title and removed contents: ~~‘State requirements.’
All licensees must meet state health requirements.~~

CHANGE title to: ‘Incorporation of statutory provisions.’

- A. Incorporated herein by reference thereto as set forth at length therein is Act 106 of 2010 amending Title 3 (Agriculture) of the Pennsylvania Consolidated Statutes (C.S.), codifying and modifying the Public Eating and Drinking Places Act (Act 369) and the Food Act (Act 70) known as C.S. Chapter 57 Food Protection with Subchapter A- Retail Food Safety Act and Subchapter B- Food Safety Act, and C.S. Chapter 65, Food Employee Certification.
- B. Regulatory standards for Retail Food Facilities will be uniform throughout the Commonwealth of Pennsylvania and modeled after the U.S. Food and Drug Administration (FDA). The Pennsylvania Department of Agriculture (PDA) is the standard to be followed and applied. The current PDA Food Code, Chapter 46, will be utilized until new Food Code regulations are written and the City is notified by PDA.
- C. All mandates, revisions and amendments to state and federal laws shall supersede this chapter or parts of this chapter in conflict with any of the state or federal provisions.

DELETE §127-5., ‘Fee’ in its entirety.

DELETE §127-6., ‘No-lien certification fees.’ in its entirety.

ADD the new Section and title:

§127-7. Inspections.

- A. The City’s LHD is responsible for inspecting all RFFs in the City of Greensburg. The PDA will no longer license or inspect RFFs in the City of Greensburg.
 - 1) The LHD must provide a copy of each RFF inspection report within 30 days of the inspection date to the PDA for posting on the state’s food safety website at www.EatSafePA.com .
 - 2) The PDA may, require by regulation, that inspections be submitted in on specific forms or in a specific electronic format.
- B. Inspection Standards.
 - 1) The PDA Food Code will be the state minimum and maximum standard for all inspections and can be found at www.EatSafePA.com . Inspection frequency at all RFFs is set at a minimum annually.
 - 2) The Food and Drug and Cosmetic Act and federal regulations relating to food will be the City of Greensburg’s regulation.

- 3) Water standards are established to conform with PA Safe Drinking Act and regulations instead of the Federal Drinking Water Standards.
- 4) The LHD shall contact the PDA when a RFF with a frozen dessert machine is operating without a frozen dessert license posted.

C. Inspection fees.

- 1) Inspection fees. The fee for inspection of a licensed RFF or TFF is included in the licensing fee(s) that shall be established by City Council as set forth under §151-10 of Chapter 151 entitled 'Fees' of this Code.
- 2) Re-inspection fees. The City of Greensburg shall charge re-inspection fees for second and third re-inspections at a RFF or TFF during the licensing period. Fees for re-inspections shall be established by City Council and set forth under §151-10 of Chapter 151 entitled 'Fees' of this Code.

ADD the new Section and title:

§127-8. Licensing.

- A. Every RFF in the City of Greensburg will be inspected and licensed by the LHD. The PDA will no longer inspect a RFF located in the City.
- B. Licensing Standards.
 - 1) The PDA Food Code is the standard to be followed and applied by the City's LHD.
 - 2) No license shall be issued until an inspection of the RFF has been made by the licensor and the facility meets the requirements of the PDA Food Code.
- C. Licensing Fees. Licensing Fees shall be established by City Council and set forth under §151-10 of Chapter 151 entitled 'Fees' of this Code. Licensing fees shall be paid into the City.
- D. Farmers market. All farmers market stands that sell food to the public are considered individual food retail facilities and must pay the annual renewal fee unless considered exempt and included under Paragraph G. of this section, entitled 'Exemptions'. A farmers market will no longer be considered the license holder. Each stand is subject to a licensing fee unless only raw agricultural commodities, as defined in the PDA Food Code are sold.
- E. The City's LHD will inspect and license schools and organized camps in the City of Greensburg using the same inspection criteria as a RFF. The PDA will assist the LHD and provide training upon request.
- F. Churches or other religious entities if exempt as an IRS section 501 (c) (3) and not subject to business income taxation under sections 511, 512 or 513 if activities are open to the public more than three (3) days per year.

G. Temporary licenses. Licensing for a TFF-‘Temporary Food Facility’ as defined shall be issued to an RFF operating no more than 14 calendar days in one calendar year, OR in conjunction with a specific fair, carnival or similar event.

H. The City’s LHD will inspect and license only the retail food areas of PDA registered food establishments. Refer to §127-9 in this chapter.

I. Exemptions.

1) The following shall be exempt from licensing, but NOT inspection:

- a) A RFF with only pre-packaged, non-PHF food or drink.
- b) A RFF that sells only raw agricultural commodities, as defined in the PDA Food Code.

2) By order of City Council, the following food facilities and non-profit entities are exempt from licensing in the City of Greensburg.

- a) A RFF that operates no more than three (3) calendar days within a calendar year.
- b) Charitable non-profits managed by an organization that supports extra-curricular activities for school-aged youth (i.e., boosters, boy/girl scouts, little league, softball, other recreational sports clubs).
- c) A RFF in which food and drinks are sold only through vending machines.
- d) Food banks owned by charitable non-profits.
- e) Soup kitchens owned by charitable non-profits.
- f) Churches or other religious entities if exempt as an IRS section 501 (c) (3) and not subject to business income taxation under sections 511, 512 or 513 if activities are not open to the public.
- g) Donated foods.

[1] Licensed non-profits and those listed as exempted from licensing in this paragraph are allowed to accept donated, home-prepared, non-PHF to serve with their meals/events.

[2] Organizations that use or offer the food for human consumption must inform consumers that they use or offer food that has been prepared in a private home that is not licensed or inspected.

ADD the new Section and title:

§127-9. Food establishments. In compliance with the Food Safety Act, Chapter 57, Subchapter B of the PDA Food Code, registration, inspection and regulation of food establishments conducting manufacturing, packaging, storage, and distribution of food within the City of Greensburg shall be as follows.

- A. The PDA has primary authority over registration and inspection of food establishments as defined in §127-1.1 of this chapter.
- B. The City's LHD shall inspect and license only the retail food area of PDA registered food establishments.
- C. Inspection standards for registered food establishments are listed under paragraphs B (3) and (4) of §127-7 of this chapter.
- D. Interagency coordination and communication approach is mandated for the City's LHD regarding sampling, food-borne illness and reported findings to protect public health and food supply.

ADD the new Section and title:

§127-10. Food Employee Certification (FEC). After January 22, 2011, the PDA will no longer issue PDA FEC certificates or collect a fee for the same. The City's LHD will continue to accept current PDA FEC certificates, as meeting the requirements of this section, until their expiration date. Once expired, a nationally accredited certificate as further described in paragraph A (3) of this section, must be displayed in the facility for the Certified Food Handler. The LHD will monitor and enforce RFF FEC in the City of Greensburg in compliance with Chapter 65, Food Employee Certification:

A. Every licensed RFF in the City of Greensburg must:

- 1) Have one (1) certified person per facility with the exception of those listed in Paragraph B of this section as exempted from this requirement. The certified person shall:
 - a) Be the 'person in charge' when present at the facility.
 - b) Be accessible at all times a facility is operating.
 - c) Be the certified employee at one (1) retail food facility, except in the case of multiple food stands owned by the same person, and located at a single event, fair, or festival.
- 2) After the date of expiration of a current PDA- issued FEC certificate, hold a FEC and post a valid "Nationally Accredited Food Protection Certificate" obtained through the training and instruction of the certified person using one of three nationally ANSI-CFP accredited programs including ServSafe, Thomson Prometrics and/or the National Registry of Food Safety Professionals. Information and a listing of trainers and instructors are on the PDA website at www.EatSafePA.com . Recertification requirements are set forth by each of the nationally accredited provider programs.

- 3) Within 90 days of becoming a newly licensed RFF certify an employee under the requirements of this chapter. A RFF that loses their certified employee have 90 days with which to certify another employee.
- 4) Keep records to verify certified employee's employment and certification, and such records must be made available to the LHD inspection official.

B. Food Employee Certification exemption. The only exemptions from the FEC requirement shall be:

- 1) RFF selling only commercially prepackaged foods.
- 2) RFF handling and selling all non-PHF's.
- 3) RFF who is 501 (c) (3) non-profit.
- 4) RFF who is not-for-profit; such as, churches, fire halls, civic groups, fraternal organizations.

ADD the new Section and title:

§127-11. Violations and penalties. Any person, firm or corporation who shall violate any provision of this chapter shall, upon conviction thereof, be subject to a fine of not less than \$100 nor more than \$1,000 or imprisonment for a term not to exceed 90 days, or both, at the discretion of the court. Each day that a violation continues after due notice has been served in accordance with the terms and provisions hereof shall be deemed a separate offense.

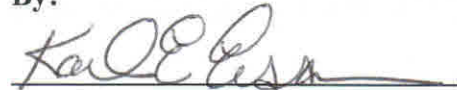
Section 2. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

Section 3. This ordinance shall become effective upon enactment.

ORDAINED AND ENACTED by the Council of the City of Greensburg, Pennsylvania, this 14th day of ~~February~~ ^{March} 2011.

CITY OF GREENSBURG

By:



Mayor and President of Council

Attest:



City Administrator