

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 10-3 OF THE CITY CODE  
RELATING TO FOOD AND FOOD HANDLERS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** City Code Section 10-3-1 (*Definitions*) is amended to amend the definitions of “Food Enterprise” and “Food Handler” to read:

(4) FOOD ENTERPRISE includes:

- (a) a food establishment; and
- (b) a food processing plant [~~;~~ and
- (c) ~~a vending machine~~].

(5) FOOD HANDLER means a food enterprise employee who works at any time with unpackaged food, food equipment or utensils, or food contact surfaces.

**PART 2.** Subsections (B) and (C) of City Code Section 10-3-31 (*Food Manager Certificate Required*) are amended to read:

(B) A food manager certificate is not required for a person who operates:

- (1) a food enterprise that provides only beverages or prepackaged food that is not a potentially hazardous food;
- (2) a nonprofit organization that serves food only to members of the organization;
- (3) a food processing plant that is inspected at least once each week by a state or federal food sanitation inspector or that only stores prepackaged food that is not potentially hazardous;
- (4) [~~a vending machine or~~] a mobile food establishment that offers only prepackaged food, if a certified food manager is in charge at the central preparation facility that supplies the products for the [~~vending machine or~~] mobile food establishment; or
- (5) a temporary event.

(C) If a food manager certificate expires or the certificate holder is no longer employed by the food enterprise or bed and breakfast limited, the person in charge shall comply with Subsection (A) [~~not later than the 30th day after the date the certificate expires or the holder's employment with the food enterprise or bed and breakfast limited ends~~].

**PART 3.** Subsections (A), (B), and (I) of City Code Section 10-3-34 (*Food Handler Registration Required*) are amended to read:

(A) Except as provided in Subsections (B) and (I), a person employed or volunteering at a food enterprise [~~as a food handler~~] shall register as a food handler. [~~not later than the 30th day after employment or volunteering with a food enterprise. After a person's 30th day of employment or volunteering, i]~~ It is unlawful for the person to be employed or volunteer [as a food handler] at the food [establishment] enterprise without a valid food handler registration.

(B) The requirements of this section do not apply to:

~~[(1) a food enterprise that provides only beverages or prepackaged food that is not a potentially hazardous food;]~~

~~(1)~~ [(2)] a nonprofit organization that serves food only to members of the organization;

~~(2)~~ [(3)] a food processing plant that is inspected at least once each week by a state or federal food sanitation inspector or that only stores prepackaged food that is not potentially hazardous;

~~(3)~~ [(4)] [~~a vending machine or~~] a mobile food establishment that offers only prepackaged food, if a certified food manager is in charge at a central preparation facility that supplies the products for the [~~vending machine or~~] mobile food establishment; or

~~(4)~~ [(5)] a temporary event[-]; or

(5) a person who verifies by affidavit that he or she does not ever work with unpackaged food, food equipment or utensils, or food contact surfaces.

(I) A person operating a food enterprise shall ensure every employee or volunteer who is not exempt pursuant to Subsection (B) above [~~food handler~~] has a current food handler registration. Upon request by the health authority, a person operating a food enterprise shall provide a list of all food handlers at the [~~establishment~~] enterprise [~~that have been employed for more than 30 days~~] along

with a signed statement verifying the listed [~~employees~~] persons possess current food handler registrations.

**PART 4.** City Code Section 10-3-62 (*Permit to be Posted*) is repealed and replaced to read:

A City Code Section 10-3-62 permit holder or person in charge of a food enterprise shall post a permit required by this chapter in a prominent public location clearly visible to the general public and to patrons. A permit is clearly visible to the general public and to patrons if it is:

(A) posted in the front window of the enterprise within 5 feet of the front door; or

(B) posted in a display case mounted on the outside front wall of the enterprise within 5 feet of the front door; or

(C) posted on the drive-through menu board of a drive-through enterprise, in addition to posting in locations (A) and (B) of this section; or

(D) if the food enterprise is operated in a space that prevents posting the permit as required in Subsections (A) through (C), the permit shall be posted in the initial patron contact area, on the menu board or counter of the enterprise, or in a location determined by the health authority to ensure proper notice to the general public and patrons.

**PART 5.** Subsections (A) and (C) of City Code Section 10-3-67 (*Permit Denial or Revocation*) are amended to read:

(A) The health authority may deny or revoke a permit issued under this chapter or issue a conditional permit when a renewal is applied for by a food [~~establishment~~] enterprise if the permit holder or the permit holder's employee:

(1) commits critical or repeated violations of applicable law;

(2) knowingly provides false information on an application; or

(3) interferes with the health authority in the performance of the health authority's duties[-]; or

(4) if an operating food enterprise changes ownership and there are violations that must be corrected to meet applicable health and safety standards.

(C) A conditional [~~renewal~~] permit issued under Subsection (A) above for a food [~~establishment~~] enterprise shall be effective for up to 60 days, and shall be revoked if the permit holder or person in charge of the [~~establishment~~] enterprise does not comply with the terms of its issuance.

(1) This Subsection (C) does not apply to mobile food establishments or temporary events.

(2) Revocation for noncompliance shall be the equivalent of a permit [~~renewal~~] denial.

**PART 6.** Subsection (L) of City Code Section 10-3-97 (*Sampling of Food Products at Certified Farmers Markets*) is amended to read:

(L) All violations shall be corrected at the time of inspection unless an extension is allowed by the health authority. No extension shall be granted where the violation poses a significant risk of food borne illness [~~is posed~~] to the public.

**PART 7.** Subsection (A) of City Code Section 10-3-121 (*Employee Restroom Requirements*) is amended to read:

(A) The owner or person in charge of a food [~~establishment~~] enterprise or food processing plant shall provide:

(1) if 10 or fewer employees are on duty at one time, not less than one restroom; or

(2) if more than 10 employees are on duty at one time, not less than two restrooms, one for each sex.

**PART 8.** Subsections (A), (B), and (C) of City Code Section 10-3-122 (*Food Service Establishment Restroom Requirements*) are amended to read:

**§ 10-3-122 FOOD SERVICE [~~ESTABLISHMENT~~] ENTERPRISE RESTROOM REQUIREMENTS.**

(A) The owner or person in charge of a food service [~~establishment~~] enterprise that serves alcoholic beverages or seats 20 or more persons shall provide not less than two restrooms for public use in the [~~establishment~~] enterprise, one for each sex. The restrooms shall be conveniently accessible from the seating or dining area during hours of operation.

(B) Public restrooms are not required to be located in an individual food service [~~establishment~~] enterprise if:

(1) the food service [~~establishment~~] enterprise shares a common seating area, including a food court, with another food [~~establishment~~] enterprise; and

(2) at least two restrooms for public use, one for each sex, are provided in a location that is conveniently accessible from the seating or dining area during hours of operation.

(C) Restrooms required under this section may be used as employee restrooms if the restrooms are located:

(1) in the food service [~~establishment~~]enterprise;

(2) within 150 feet of the main food preparation area of the food service [~~establishment~~] enterprise; or

(3) in a location determined by the health authority to be convenient and accessible to employees.

**PART 9.** City Code Section 10-3-123 (*Child Care Facility Food Enterprises*) is amended to read:

**§ 10-3-123 CHILD CARE FACILITY FOOD [~~ESTABLISHMENTS~~]  
ENTERPRISES.**

A food [~~establishment~~] enterprise located in a child care facility may not serve as a central preparation facility for a catering or mobile food establishment.

**PART 10.** City Code Section 10-3-124 (*Dogs Permitted in Outdoor Dining Areas*) is amended to read:

**§ 10-3-124 DOGS PERMITTED IN OUTDOOR DINING AREAS.**

A food service [~~establishment~~] enterprise may permit a customer to be accompanied by a dog in an outdoor dining area if:

(1) the food service [~~establishment~~] enterprise posts a sign in a conspicuous location stating that dogs are allowed in the outdoor dining area;

(2) the customer and the dog access the outdoor dining area directly from the exterior of the food service [~~establishment~~]enterprise;

(3) the dog does not enter the interior of the food service [~~establishment~~]enterprise;

- (4) the customer keeps the dog on a leash and controls the dog;
- (5) the customer does not allow the dog on a seat, table, countertop, or similar surface; and
- (6) in the outdoor dining area, the food service [~~establishment~~] enterprise does not:
  - (a) prepare food; or
  - (b) permit open food, except for food that is being served to a customer.

**PART 11.** City Code Section 10-3-153 (*Food Service Establishment or Retail Food Store Inspections and Violations*) is amended to read:

**§ 10-3-153 FOOD SERVICE [~~ESTABLISHMENT~~] ENTERPRISE OR RETAIL FOOD STORE INSPECTIONS AND VIOLATIONS.**

(A) After inspecting a food service [~~establishment~~] enterprise or a retail food store, the health authority shall state on the inspection report:

- (1) a weighted point value for each violation of a critical requirement;
- (2) the rating score of the [~~establishment~~] enterprise, determined by subtracting from 100 the total of the weighted point values for all violations; and
- (3) that failure to correct the violations within the prescribed time period may result in the suspension of the permit.

(B) The person in charge of a food service [~~establishment~~] enterprise or a retail food store shall correct a violation of a critical requirement:

- (1) as soon as possible; or
- (2) if the health authority approves, not later than the 10th day after date of the inspection.

(C) The person in charge of a food service [~~establishment~~] enterprise or a retail food store shall correct non-critical violations:

- (1) within the time period prescribed by the inspection report; or

(2) if a time period is not prescribed, as soon as possible before the next routine inspection.

(D) If the rating score of a food service [~~establishment~~] enterprise or a retail food [~~establishment~~] enterprise is less than 70 points, the person in charge shall begin correcting identified violations not later than 48 hours after the inspection.

**PART 12.** This ordinance takes effect on \_\_\_\_\_, 2012.

**PASSED AND APPROVED**

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\_\_\_\_\_  
Lee Leffingwell  
Mayor

**APPROVED:** \_\_\_\_\_

Karen M. Kennard  
City Attorney

**ATTEST:** \_\_\_\_\_

Shirley A. Gentry  
City Clerk