

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 10-3 (FOOD AND FOOD HANDLERS) REGARDING REGULATION OF INDIVIDUAL VENDORS AT CERTIFIED FARMERS MARKETS.

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

PART 1. Section 10-3-1 (*Definitions*) is amended to read as follows:

§ 10-3-1 DEFINITIONS.

(A) Except as provided in Subsection (B), a term defined by Texas Administrative Code Title 25, Part 1, Chapter 229, Subchapter K (*Texas Food Establishments*) has the same meaning in this chapter.

(B) In this chapter:

(1) **BAKED GOODS** means cookies, cakes, breads, Danishes, donuts, pastries, pies, and other items that are prepared by baking in an oven. A baked good does not include a potentially hazardous food item.

(2) **CERTIFIED FARMERS MARKET** means a farmers market that has been certified by the Texas Department of Agriculture pursuant to Subchapter D of Title 4 of the Texas Administrative Code.

(3) **FARM PRODUCE** means herbs and spices in their natural or dried state, vegetables, fruits, nuts, berries, grains, honey, watermelons and other melons, and cantaloupes in their natural state.

(4) **FARMERS MARKET VENDOR** means a vendor operating an individual booth at a certified farmers market with either a Class A, B, or C permit described in Section 10-3- 97 of this chapter.

(c) A farmers market vendor is not a temporary food establishment.
~~[A temporary food establishment at a certified farmer's market may operate one day a week for 14 consecutive weeks as a single special event if the temporary food establishment is permitted as a food establishment, or is preparing its food at a permitted food establishment, and is in compliance with its permit issued by the health authority. The permit shall be issued to the vendor. The vendor shall meet requirements of the Texas Food Establishment Rules (TFER) and all other applicable laws. A temporary food establishment at a certified farmer's market is not exempt from the food handler requirements of this chapter.]~~

PART 9. Section 10-3-97 (*Sampling of Food Products at Certified Farmers Markets*) of Article 4 is repealed.

PART 10. A new Article 5 is created, with the existing Articles 5 through 8 renumbered accordingly, that reads as follows:

Article 5. CERTIFIED FARMERS MARKET VENDORS.

§ 10-3-97 PERMIT REQUIRED.

- (A) It shall be unlawful for any person to operate as a farmers market vendor within the city limits at a certified farmers market without first having obtained a Class A, B, or C permit as required by this section.
- (B) A Class A permit allows a vendor to offer only prepackaged food in individual servings, beverages that are not potentially hazardous and that are dispensed from covered urns or other protected vessels available for customer self-service, and packaged frozen food. The preparation, assembly, reheating, or cooking of foods is not allowed under this permit.
- (C) A Class B permit allows a vendor to offer baked goods, bulk food items, beverages that are not potentially hazardous and that are dispensed from covered urns or other protected vessels available for employee service (including ice service), and sampling. All food operations under a Class A permit are allowed under a Class B permit.
- (D) A Class C permit allows the on-site preparation of foods and open foods and includes but is not limited to the sampling of foods. Vendors may cook, prepare, and assemble a full menu of food items. All food operations under Class A and B permits are allowed under a Class C permit.
- (E) Every person, before opening, maintaining, or operating as a farmers market vendor at a certified farmers market, shall file an application for and obtain one of the permits described in Subsection (A) of this section.
- (F) An applicant for a certified farmers market vendor's permit must file the application with the health authority. The application must include:
 - (1) the name and address of the applicant and the applicant's identification number as shown on a current and valid government-issued identification document that includes a photograph of the applicant;
 - (2) the class of permit the applicant will operate under;
 - (3) the signature of each applicant; and
 - (4) a notarized statement from the owner of a central preparation facility stating the farmer's market vendor uses the facility as its base of operation or proof that the applicant has its own central preparation facility;

1 (5) name and address of the certified farmers market where the vendor will
2 operate: and

3 (6) other information reasonably required by the health authority.

4 (G) Upon receiving the application for a farmers market vendor permit under
5 this section, the health authority may approve the application upon payment of the
6 farmers market vendor permit fee set out in separate ordinance. After approval of
7 the application, a farmers market vendor permit may be issued to the applicant
8 which shall be effective for one year from the date of issuance.

9 (H) An application for renewal of a farmers market vendor permit must be
10 received by the department, accompanied by the applicable fee, before the
11 expiration date of the previous permit. All information provided in a renewal
12 application must be current and valid.

13 (I) A person operating under a farmers market vendor permit shall
14 promptly display the permit where it is readily visible or as designated by the
15 health authority.

16 (J) In the event the health authority determines that the vendor booth of the applicant
17 does not comply with the provisions of this section or other City ordinances, the health
18 authority shall disapprove such application for issuance or renewal of a farmers market
19 vendor permit.

20 (K) An applicant who has been refused a farmers market vendor permit or renewal
21 of a farmers market vendor permit may, within ten days, appeal to the health authority by
22 filing a copy of such application, the application's denial and requesting the health
23 authority grant a hearing to overrule the action.

24 **§ 10-3-98 SANITARY REQUIREMENTS.**

25 (A) A person operating as a farmers market vendor shall comply with the Texas
26 Administrative Code, Title 25, Part 1, Chapter 229, Subchapter K (Texas Food
27 Establishment Rules) regarding equipment, floors, dust control, ceilings and outer
28 openings of food preparation areas at a temporary event.

29 (B) A farmers market vendor shall comply with the requirements of this
30 section. The health authority may impose additional requirements to protect
31 against health hazards related to the conduct of a farmers market booth, may
32 prohibit the sale of some or all potentially hazardous foods and, when no health
33 hazard will result, may waive or modify requirements of these rules.

34 (C) The health authority may impose requirements on cooking, freezing, reheating,
35 treating juice, cooked-food storage temperatures and time control.

1 (D) A person operating under a farmers market vendor permit shall comply with
2 the following requirements:

3 (1) All farmers' market vendors operating at a farmers market must operate out
4 of a central preparation facility as its base of operation;

5 (2) Only those potentially hazardous foods approved by the health authority shall
6 be prepared, displayed, served or sampled at a farmers market.

7 (3) An employee or volunteer of a farmers market vendor shall be a registered
8 food handler if operating under a Class B or Class C permit with the provisions of
9 Section 10-3-34. The registered food handler certificate shall, upon request, be provided
10 to the health authority.

11 (4) At least one employee or volunteer of a farmers market vendor shall be a
12 registered food manager if operating under a Class C permit with the provisions of
13 Sections 10-3-31 through 10-3-34. The City of Austin food manager certificate shall be
14 prominently posted.

15 (5) A farmers market vendor shall have sufficient hot and cold potable water for
16 cleaning foods and for cleaning and sanitizing equipment and utensils under a Class B or
17 Class C permit.

18 (6) A farmers market vendor operating under a Class B or C permit shall provide
19 an approved facility for employee hand-washing consisting of, at a minimum, warm, free
20 flowing clean running water, soap, and individual paper towels or other approved hand
21 drying device.

22 (7) A farmers market vendor operating under a Class B or C permit shall provide
23 an approved facility for washing, rinsing, and sanitizing of equipment and utensils used
24 in the preparation and serving of food products. The facility shall consist of at least three
25 containers or compartments, each of adequate size so as to permit the total immersion of
26 all utensils used in a booth at a farmers market.

27 (E) The health authority may inspect each farmers market vendor booth offering
28 food products as is necessary for the enforcement of this section.

29 (F) The market manager of a certified farmers market shall be responsible for
30 ensuring daily compliance with the provisions of this section and Sections 10-3-31
31 through 10-3-34. In the case of repeated violations of this section, the health authority
32 may impose restrictions on the preparation of food products at a farmers market vendor
33 booth under a Class B or Class C permit.

34 (G) Farmers market vendors shall correct all violations at the time of inspection
35 unless an extension is allowed by the health authority. No extension shall be granted
36 where the violation poses a significant risk of food borne illness to the public.

37 (H) If a farmers market vendor does not correct violations at the time of inspection,

1 or within the specified extension time limits, the health authority shall immediately order
2 the booth to suspend operations.

- 3 (I) Repeated violations by a farmer's market vendor operating at a certified farmers
4 market without a valid permit or with a suspended permit constitutes an offense
5 under this chapter.

6 **PART 11.** This ordinance takes effect on _____, 2013.

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8 **PASSED AND APPROVED**

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10 _____, 2013

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13 Lee Leffingwell
14 Mayor

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17 **APPROVED:** _____

18 Karen M. Kennard
19 City Attorney

ATTEST: _____

Shirley A. Gentry
City Clerk