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

**§ 10-3-1 DEFINITIONS.**

(B) In this chapter:

(16) PERSON IN CHARGE means an employee who must possess[es] a current, valid, original, certified food protection manager certificate at a food enterprise, bed and breakfast limited, or unrestricted mobile food establishment. If the person possessing a certified food protection manager certificate is not present, then if an employee appears to be a supervisor, that employee is the person in charge.

**PART 2.** City Code Chapter 10-3 (*Food and Food Handlers*) is amended to rename Article 2 to read as follows:

**ARTICLE 2. - CERTIFIED FOOD PROTECTION MANAGER CERTIFICATE AND FOOD HANDLER REGISTRATION.**

**PART 3.** City Code Section 10-3-31 (*Food Manager Certificate Required*) is amended to read:

**§ 10-3-31 - CERTIFIED FOOD PROTECTION MANAGER CERTIFICATE REQUIRED.**

(A) Except as provided in Subsection (B), a person may not operate a food enterprise or bed and breakfast limited unless each person in charge [~~at least one employee~~] has a current, valid, original certified food protection manager certificate issued by a certified food manager program accredited by the Texas Department of State Health Services [~~the health authority~~].

(B) A certified food protection 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 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) a mobile food establishment that offers only prepackaged food, if a certified food protection manager is in charge at the central preparation facility that supplies the products for the mobile food establishment;  
[øf]
- (4) a temporary food establishment[-]; or
- (5) a Category 1 or Category 2 charitable feeding organization.

(C) Except as noted in Subsection (B), a certified food protection manager shall be present at the food establishment during all hours of operation.

(~~D~~[E]) The person in charge shall post the certified food protection manager certificate(s) in a prominent location in the food enterprise, [øf] bed and breakfast limited or unrestricted mobile food establishment.

**PART 4.** City Code Section 10-3-32 (*Application for Food Manager Certificate*) is repealed.

**PART 5.** City Code Section 10-3-33 (*Issuance of Food Manager Certificate*) is repealed.

**PART 6.** City Code Section 10-3-34 (*Food Handler Training Certification Required*) is amended to add a new Subsection (C) to read:

**§ 10-3-34 FOOD HANDLER TRAINING CERTIFICATION REQUIRED.**

(C) A food handler training certification is not required for a person who is working at a Category 1 charitable feeding organization.

**PART 7.** Subsection (A)(9) of City Code Section 10-3-91 (*Permit Application*) is amended to read:

**§ 10-3-91 PERMIT APPLICATION.**

(A) A person who seeks to operate a mobile food establishment must submit to the health authority a written application for a permit on a form provided by the health authority. The application must include:

- (9) verification of a current, valid ~~[City of Austin]~~ Certified Food Protection Manager Certificate~~ion~~;

**PART 8.** Subsection (D)(4) of City Code Section 10-3-98 (*Sanitary Requirements*) is amended to read:

**§ 10-3-98 SANITARY REQUIREMENTS.**

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

- (4) At least one employee or volunteer of a farmers market vendor shall ~~hold~~be a ~~certified~~registered food protection manager certificate under City Code Chapter 10-3 Article 2 (*Food Manager Certificate and Food Handler Registration*) Sections 10-3-31 and ~~[through]~~ 10-3-34 if the farmers market vendor is operating under a Class B permit. The ~~[City of Austin]~~ certified food protection manager certificate shall be prominently posted on the vendor booth.

**PART 9.** Section 10-3-211 of City Code (*Offenses and Penalties*) is amended to delete Subsections (A) and (B) and to renumber the remaining subsections accordingly:

**§ 10-3-211 OFFENSES AND PENALTIES.**

~~[(A)] A person commits an offense if the person knowingly provides false information on an application for a food manager certificate or food handler registration.]~~

~~[(B)] A person commits an offense if the person uses a food manager certificate or food handler registration that has not been issued to the person by the health authority.]~~

(A)(C)] A person commits an offense if the person knowingly provides false information on an application for a permit required by this chapter.

(B)(D)] A person commits an offense if the person uses a permit that has not been issued to the person by the health authority.

(C[E]) A person commits an offense if the person performs an act prohibited by this chapter or fails to perform an act required by this chapter.

(D[F]) A person commits a separate offense each day that the person performs an act prohibited by this chapter or fails to perform an act required by this chapter.

(E[G]) Except as otherwise provided, proof of criminal negligence is required for conviction of an offense under this chapter. Proof of a higher degree of culpability than criminal negligence constitutes proof of criminal negligence.

(F[H]) An offense under this section is a fine only offense and is punishable by a fine not to exceed \$2,000.

**PART 10.** This ordinance takes effect on \_\_\_\_\_, 2023.

**PASSED AND APPROVED**

\_\_\_\_\_, 2023      § \_\_\_\_\_  
Kirk Watson  
Mayor

**APPROVED:** \_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:** \_\_\_\_\_  
Myrna Rios  
City Clerk