

ORDINANCE NO. 20231214-057

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

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

PART 1. Subsection (B)(16) of City Code Section 10-3-1 (*Definitions*) is amended to read:

§ 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;
[øø]
 - (4) a temporary food establishment[ø]; 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[ø]) The person in charge shall post the certified food protection manager certificate(s) in a prominent location in the food enterprise, [øø] 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.

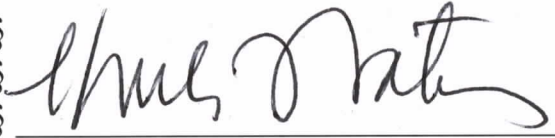
(B~~D~~) A person commits an offense if the person uses a permit that has not been issued to the person by the health authority.


- (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.

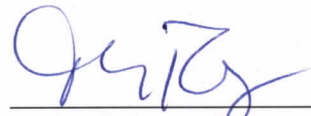
PART 10. This ordinance takes effect on December 25, 2023.

PASSED AND APPROVED

December 14, 2023

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Kirk Watson
Mayor

APPROVED: 
Anne L. Morgan
City Attorney

ATTEST: 
Myrna Rios
City Clerk