

ORDINANCE NO.

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

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

PART 1. Chapter 10-3 (*Food and Food Handlers*) of the City Code is amended to amend §10-3-1 to read:

§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) FOOD ENTERPRISE includes:

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

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

(3) ~~[(2)]~~ MOBILE FOOD ESTABLISHMENT includes an establishment that offers only prepackaged foods that are not potentially hazardous.

(4) ~~[(3)]~~ PERSON IN CHARGE means an employee who is present at a food enterprise or bed and breakfast limited. If an employee appears to be a supervisor, that employee is the person in charge.

PART 2. Chapter 10-3, Article 2 of the City Code is amended to amend the article name to read:

**ARTICLE 2. FOOD MANAGER CERTIFICATE AND FOOD
HANDLER REGISTRATION.**

PART 3. Chapter 10-3 (*Food and Food Handlers*) of the City Code is amended to amend Section 10-3-31 to read:

§10-3-31 FOOD MANAGER CERTIFICATE REQUIRED.

- (A) Except as provided in Subsections (B) and (C), a person may not operate a food enterprise or bed and breakfast limited unless at least one employee has a food manager certificate issued by the health authority.
- (B) A food manager certificate is not required for a person who operates:
- (1) a food enterprise [~~service establishment~~] 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;[-~~or~~]
 - (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.
- (D) The person in charge shall post the food manager certificate in a prominent location in the food enterprise or bed and breakfast limited.

PART 4. Chapter 10-3 (*Food and Food Handlers*) of the City Code is amended to amend Section 10-3-32 to read:

§10-3-32 APPLICATION FOR FOOD MANAGER CERTIFICATE.

- (A) A person who seeks a food manager certificate must submit an application to the health authority. The application must include:

- (1) the applicant's full name;
- (2) the applicant's mailing address;
- (3) the applicant's date of birth;
- (4) a copy of a government-issued identification document that includes a photograph of the applicant; and
- ~~[(5) the name and address of the applicant's employer;]~~
- ~~[(6) the applicant's job title and a description of the applicant's duties; and]~~
- (5) ~~[(7)]~~ the applicant's signature.

(B) An applicant shall pay the certificate issuance fee established by separate ordinance, except that an employee of a public school located in the City is not required to pay the fee.

(C) A food manager certificate is void if the applicant obtains the certificate by knowingly providing false information on the application

PART 5. Chapter 10-3 (*Food and Food Handlers*) of the City Code is amended to add Section 10-3-34 to read:

§ 10-3-34 FOOD HANDLER REGISTRATION REQUIRED.

(A) Except as provided in Subsections (B) and (I), a person employed as a food handler shall register as a food handler not later than the 30th day after employment with a food enterprise. After a person's 30th day of employment, it is unlawful for the person to be employed as a food handler at the food establishment 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;
- (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;

(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

(5) a temporary event.

(C) A person required by this section to have a food handler registration shall first successfully complete a food handler training class approved by the State of Texas or the City. The person shall pay the food handler training course fee as required by the training course provider.

(D) A person may submit an application to the health authority for a food handler registration after the person successfully completes a food handler training course. The application must include:

(1) the applicant's full name;

(2) the applicant's mailing address;

(3) the applicant's date of birth;

(4) a copy of a government-issued identification document that includes a photograph of the applicant; and

(5) the applicant's signature.

(E) An applicant shall pay a nonrefundable registration fee established by separate ordinance except that an employee of a public school located in the City is not required to pay the registration fee.

(F) The health authority may issue a food handler registration on receipt of a proper application and the required registration fee.

(G) A person must successfully complete a food handler training course every two years and maintain a current food handler registration with the City.

(H) A food handler registration is not transferable from one person to another. The food handler registration remains in effect if a person changes employment during the food handler registration's effective period.

(I) The health authority shall implement a phased-in compliance schedule to ensure all food handlers in the City obtain registrations no later than December 31, 2009.

- (J) Except as provided in Subsection (I), a person operating a food enterprise shall ensure every 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 that have been employed for more than 30 days along with a signed statement verifying the listed employees possess current food handler registrations.
- (K) The health authority may suspend or revoke a food handler registration if the health authority determines that:
- (1) an applicant obtained the food handler registration by knowingly providing false information on the application;
 - (2) a person is infected with or is a carrier of any foodborne communicable disease; or
 - (3) the continuation of the person's food handler registration presents a significant public health threat.
- (L) A person whose food handler registration has been suspended or revoked may re-apply for a new food handler registration after successfully completing a food handling training course, paying both the food handler training course fee and registration fee established by separate ordinance or by approval of the health authority.

PART 6. Chapter 10-3 (*Food and Food Handlers*) of the City Code is amended to amend Section 10-3-61 to read:

§10-3-61 PERMIT REQUIRED

- (A) Except as ~~[required]~~ provided in Subsection (~~[B]~~C), a person must hold a permit issued by the health authority to operate a food enterprise.
- (B) A person must hold a permit issued by the health authority to operate a group residence ~~[is not required for]~~:
- (1) ~~[(a) a group residence:]~~ with ~~[not more than]~~ six or more residents when food is provided to the residents; or
 - (2) ~~[(b)]~~ with ~~[not more than]~~ 25 or more residents, ~~[if]~~ when all food is not bought and prepared by the residents. ~~[; or]~~
- (C) ~~[(2)]~~ A~~[a]~~ vending machine that ~~[does not]~~only dispenses non-potentially hazardous food does not require a permit.

1 (D) ~~[(C)]~~ A person must comply with the requirements of this chapter to receive
2 or retain a permit.

3 (E) ~~[(D)]~~ A permit issued under this chapter is not transferable.

4 **PART 7.** Chapter 10-3 (*Food and Food Handlers*) of the City Code is amended to
5 amend Section 10-3-211 to read:

6 **§10-3-211 OFFENSES AND PENALTIES**

- 7 (A) A person commits an offense if the person knowingly provides false
8 information on an application for a food manager certificate or food handler
9 registration.
- 10 (B) A person commits an offense if the person uses a food manager certificate or
11 food handler registration that has not been issued to the person by the health
12 authority.
- 13 (C) A person commits an offense if the person knowingly provides false
14 information on an application for a permit required by this chapter.
- 15 (D) A person commits an offense if the person uses a permit that has not been
16 issued to the person by the health authority.
- 17 (E) A person commits an offense if the person performs an act prohibited by this
18 chapter or fails to perform an act required by this chapter.
- 19 (F) A person commits a separate offense each day that the person performs an
20 act prohibited by this chapter or fails to perform an act required by this
21 chapter.
- 22 (G) Except as otherwise provided, proof of criminal negligence is required for
23 conviction of an offense under this chapter. Proof of a higher degree of
24 culpability than criminal negligence constitutes proof of criminal negligence.
- 25 (H) An offense under this section is a Class C misdemeanor and is punishable by
26 a fine not to exceed \$2,000.

27 **PART 8.** This ordinance takes effect on October 6, 2008.

PASSED AND APPROVED

_____, 2008

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Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk

DRAFT