

ORDINANCE NO. 20210506-013

AN ORDINANCE AMENDING CHAPTERS 10-3 (*FOOD AND FOOD HANDLERS*), 15-10 (*WASTEWATER REGULATIONS*), AND 25-12 (*TECHNICAL CODES*) OF THE CITY CODE RELATING TO PERMIT, PERMIT FEE, AND OPERATIONAL REQUIREMENTS FOR CHARITABLE FEEDING ORGANIZATIONS, AND GREASE TRAPS FOR FOOD ESTABLISHMENTS.

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

PART 1. Findings

- (1) The City Council finds that amendments to certain sections of City Code Chapters 10, 15, and 25 relating to Public Health Services and Sanitation are necessary to reduce barriers to providing access to healthy foods for Austin's vulnerable and food insecure populations.
- (2) The City Council finds that exempting certain charitable feeding organizations from the permit and permit fee requirements is consistent with Section 229.372 of Title 25 of the Texas Administrative Code, which authorizes these exemptions for nonprofit organizations to expand the provision of food to vulnerable and food insecure populations.

PART 2. City Code Chapter 10-3 (*Food and Food Handlers*) Subsection (B) of Section 10-3-1 (*Definitions*) is amended to add a definition of Charitable Feeding Organization, amend the definition of Food Enterprise, to renumber the remaining definitions accordingly, and to read:

(5) CHARITABLE FEEDING ORGANIZATION means a food establishment that provides food without charge and that is operated by a civic or fraternal organization, charity, lodge, association, proprietorship or corporation possessing a 501(C) exemption under the Internal Revenue Code or religious organization meeting the definition of "church" under the Internal Revenue Code, §170(b)(1)(A)(I).

(~~9~~10) FOOD ENTERPRISE includes:

- (a) a food establishment;
- (b) a food processing plant;
- (c) a certified farmers' market vendor;
- (d) a temporary food establishment; ~~and~~
- (e) a mobile food establishment[-]; and
- (f) a charitable feeding organization.

PART 3. City Code Chapter 10-3 (*Food and Food Handlers*) Subsection (C) of Section 10-3-2 (*Compliance Required*) is amended to read:

§ 10-3-2 - COMPLIANCE REQUIRED.

- (C) A person operating a food establishment, vending machine, bed and breakfast limited, mobile food establishment, temporary event, charitable feeding organization, farmers market, or farmers market vendor booth shall comply with this chapter and, except as provided in Section 10-3-124 (*Dogs Permitted in Outdoor Dining Areas*) and Section 10-3-61(G) (*Permit Required*), the City adopts the Texas Administrative Code Title 25, Part 1, Chapter 228 (*Texas Food Establishment Rules*) and Chapter 229, Subchapter N (*Current Good Manufacturing Practice And Good Warehousing Practice In Manufacturing, Packing And Holding Human Food*).

PART 4. City Code Chapter 10-3 (*Food and Food Handlers*) Section 10-3-61 (*Permit Required*) is amended by amending Subsection (A) and adding a new Subsection (G) to read:

§ 10-3-61 PERMIT REQUIRED.

- (A) Except as provided in Subsections (C), ~~and~~ (F), and (G), a person must hold a permit issued by the health authority to operate a food enterprise.
- (G) A charitable feeding organization that is a Category 1 or Category 2 charitable feeding organization as defined in Section 10-3-100

(Charitable Feeding Organization) is not required to hold a permit to operate a food enterprise.

PART 5. City Code Chapter 10-3 (*Food and Food Handlers*) Subsection (A) of Section 10-3-64 (*Permit Fees*) is amended to read:

§ 10-3-64 - PERMIT FEES.

(A) An applicant shall pay the permit fee established by separate ordinance, except that a permit fee is not required for a food enterprise that is:

- (1) necessary to provide services under a contract for social services with the City;
- (2) operated by a public school system; ~~[or]~~
- (3) a qualified high quality child care center~~[-]~~; or
- (4) a charitable feeding organization.

PART 6. City Code Chapter 10-3 (*Food and Food Handlers*) is amended to include Sections 10-3-97 through 10-3-99 relating to Certified Farmers Market Vendors in Article 4, and to rename Article 4 to read as follows:

ARTICLE 4. - MOBILE FOOD ESTABLISHMENTS; CERTIFIED FARMERS MARKET VENDORS.

PART 7. Chapter 10-3 (*Food and Food Handlers*) Article 5 (*Certified Farmers Market Vendors*) of the City Code is renamed to read as follows:

ARTICLE 5. - CHARITABLE FEEDING ORGANIZATIONS.

PART 8. City Code Chapter 10-3 (*Food and Food Handlers*) Article 5 (*Charitable Feeding Organizations*) is amended by adding a new Section 10-3-100 (*Charitable Feeding Organizations*) to read:

§ 10-3-100 – CHARITABLE FEEDING ORGANIZATIONS.

- (A) A charitable feeding organization solicits, warehouses, and redistributes edible food to persons who feed needy individuals, and includes but is not limited to food pantries, central food banks, soup kitchens, community

kitchens, and nonprofit food delivery services. All of the food provided by a charitable feeding organization must be given to the individuals who will be consuming the food at no cost to those individuals.

(B) A charitable feeding organization is designated as one of four categories in accordance with this section:

- (1) Category 1: A charitable feeding organization that distributes only shelf stable food and uncut produce.
- (2) Category 2: A charitable feeding organization that distributes and may portion commercially prepared and packaged time-temperature-controlled-for-safety foods.
- (3) Category 3: A charitable feeding organization that heats and that may also portion commercially prepared foods that are time-temperature-controlled-for-safety for same-day service or delivery.
- (4) Category 4: A charitable feeding organization that cooks, cools, and warms foods that are time-temperature-controlled-for-safety for same-day or future service or delivery, including community kitchens and soup kitchens.

(C) Except as provided in Section 10-3-2(E) (*Compliance Required*), the health authority may waive or modify requirements of this chapter for Category 3 charitable feeding organizations, including but not limited to multiple sinks, self-closing doors, and smooth ceiling tile surfaces.

(D) Registration and Operational Requirements. A person who operates a Category 1 or 2 charitable feeding organization shall annually register with the health authority by submitting a form provided by the health authority. The form must include:

- (1) name and address of the applicant;
- (2) documentation establishing the charitable feeding organization is a civic or fraternal organization, charity, lodge, association, proprietorship or corporation possessing a 501(C) exemption under

the Internal Revenue Code or a religious organization meeting the definition of “church” under the Internal Revenue Code, §170(b)(1)(A)(I);

- (3) description of the charitable feeding organization’s food services, food processes, and the subject facility’s primary kitchen equipment (including a fire vent hood or wastewater grease trap);
- (4) the number of food employees and volunteers that will be utilizing the facility; and
- (5) any other documentation required by the health authority.

(E) Nothing in this section exempts a charitable feeding organization from the provisions of Article 7 (*Inspections*).

PART 9. City Code Chapter 15-10 (*Wastewater Regulations*) Section 15-10-71 (*Commercial or Institutional Food Preparation*) is amended to read:

§ 15-10-71 - COMMERCIAL OR INSTITUTIONAL FOOD PREPARATION.

A person operating a commercial or institutional food preparation business, including a food processor, bakery, restaurant, school, hospital, retirement home, assisted living center, grocery store or other commercial or institutional food preparation operation must construct, operate, and maintain a pretreatment facility approved by the director, except as provided in Section 25-12-32 (*Grease Traps*).

PART 10. Section 25-12-32 (*Grease Traps*) of the City Code is amended to read:

§ 25-12-32 - GREASE TRAPS.

- (A) Except as provided in Subsection B, [G]grease traps shall be installed and properly operated in all food establishments where preparation of food occurs on the premises[~~, except for establishments which serve only beverages~~]. The design and construction of any grease trap shall be approved by the building official or [his or her] the official’s designee. The director of the Water and Wastewater Utility [~~or his or her designee~~] shall determine the minimum acceptable capacity and

size of any grease trap, shall issue permits for the operation of grease traps and shall be responsible for enforcement of the proper operation of grease traps

(B) A grease trap is not required for a food establishment that:

- (1) serves only beverages; or
- (2) is a Category 1 or Category 2 charitable feeding organization as established under City Code Subsection (B) of Section 10-3-100 (Charitable Feeding Organizations).

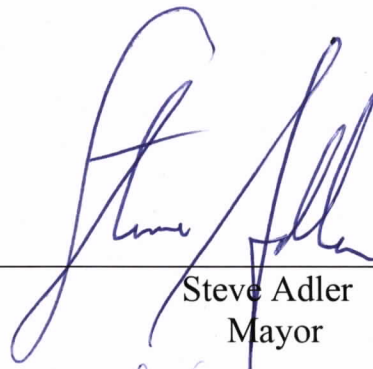
PART 11. For the changes in Part 9, City Council waives the requirements regarding initiating Land Development Code amendments in City Code Section 25-1-501 (*Initiation of Amendment*) and Section 25-1-502 (*Amendment; Review*).

PART 12. This ordinance takes effect on May 17, 2021.

PASSED AND APPROVED


May 6 _____, 2021

§
§
§

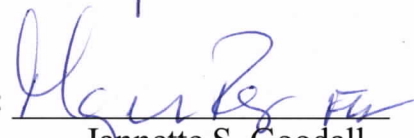


Steve Adler
Mayor

APPROVED:


Anne L. Morgan
City Attorney
by 157

ATTEST:


Jannette S. Goodall
City Clerk