



ORDINANCE NO. 3821

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FARMERS BRANCH, TEXAS, BY AMENDING CHAPTER 26, “BUSINESSES” BY AMENDING IN ITS ENTIRETY ARTICLE V “FOOD ESTABLISHMENT RULES” ADOPTING THE CURRENT TEXAS FOOD ESTABLISHMENT RULES AND LOCAL AMENDMENTS; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Farmers Branch, Texas, finds it to be in the public interest to amend the City’s food establishment rules to conform to changes in state laws and regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, THAT:

SECTION 1. The Code of Ordinances of the City of Farmers Branch, Texas, be, and the same is hereby amended by amending Chapter 26, Businesses, Article V, Food Establishment Rules, to read as follows:

“CHAPTER 26 - BUSINESSES

ARTICLE V. FOOD ESTABLISHMENT RULES

Sec. 26-151. Adoption and Amendments of Texas Food Establishment Rules.

- (1) The City of Farmers Branch adopts by reference the provisions of the current rules in 25 Texas Administrative Code, Chapter 228, as they may be amended and replaced from time to time, except to the extent amended, modified, and deleted by this Article, as the minimum standards for food service operations, retail food stores, self-service food markets, mobile food units, seasonal and temporary food establishments operating within the corporate limits of the city, and shall constitute regulations governing the storage, preparation, service, and sale of food within the city.
- (2) For purposes of this article, the phrase “food establishment rules” means collectively (i) the Texas Food Establishment Rules (TFER) as adopted by this section, (ii) the U.S. Food and Drug Administration (FDA) Food Code 2022 and the Supplement to the 2022 Food Code, and (iii) the local amendments adopted pursuant to this Article.
- (3) The city manager or designee is hereby authorized and directed to enforce all provisions of the food establishment rules.

Sec. 26-152. Local rules adopted.

For purposes of enforcement of the provisions of the food establishment rules within the incorporated limits of the city, the following sections, paragraphs, and sentences of the Texas Food Establishment Rules are hereby amended as follows:

Section 228.2 “Definitions” is amended to add the following definitions, to read as follows:

Catering Operation - A food establishment that pursuant to a contract or agreement, prepares food in an approved facility and transports food in an approved manner to another location for final cooking or serving.

Certificate of Occupancy - A certificate of occupancy is a document issued by a local government agency indicating that a building complies with zoning and building laws.

Change of Ownership - A change of owner or operator of a food establishment business. The phrase does not refer to a change of the owner of the property or building in which the business is located or operated from unless the owner of the business and the owner of the property or building are the same.

Child Care Center - A child day care operation that is licensed to care for seven or more children for less than 24 hours per day, at a location other than the permit holder's home.

Concession Stand - A food establishment operated on a seasonal basis for the purpose of providing food at sporting and special events associated with an independent school district, university, community college, non-profit organization, privately owned school, or the city.

Continental Breakfast - Shall mean a limited supply of food items offered to guests with no involved preparation and or cooking by lodging operators whose facilities and equipment do not meet the required current Food Establishment Rules. Examples of acceptable food items that may be offered for a continental breakfast are fruits in their whole state, hard boiled eggs, pre-packaged food items such as cereals, pastries, yogurt, bagels, donuts, pre-packaged individual single use milk containers and pre-packaged single use condiments such as jams, jellies, or butter. Only single service tableware that does not need to be washed and sanitized can be offered to guests.

Fixed Commercial Location - A building that can obtain a certificate of occupancy that is not mobile in nature.

Food Service Operation – An operation involving purchase, storage, preparation, service, and sale of food from a kitchen where all aspects of operation are conducted. Each food service operation shall be operating in its own premises, have its own equipment, utensils, required storage and ware-wash service areas.

Grease Trap, or a Grease Interceptor - is a plumbing device required for food establishments in which excessive food pulp and/or grease is generated, and meets requirements as set by the regulatory authority. Grease traps shall be sized and installed according to the currently adopted Plumbing Code and serviced every ninety (90) days by a permitted waste hauler.

Heavy Food Preparation - Food establishments in which foods are prepared utilizing a grill, griddle, deep-fat fryer, commercial type oven; and/or any similar food preparation equipment. Examples include, but are not limited to, BBQ facilities with smokers, cafeterias, fast food restaurants, full-service restaurants, grocery store bakery's/cafés, pizza shops, and donut shops which prepare and serve kolaches, breakfast sandwiches, and or burritos.

Light Food Service Preparation - Food establishments with a limited menu and limited food preparation or beverage service establishments. Food is often delivered precooked with limited additional preparation. Examples include, but are not limited to, sandwich shops, coffee service, ice cream shops, smoothie shops, grocery store meat/seafood/produce/deli departments with no cooking, limited concession stands, or other similar foods. This also includes convenience stores with a separate owner for a kitchen.

No Food Preparation - Food establishments in which foods are provided pre-wrapped from an approved source and do not handle any open or exposed food. Examples include, but are not limited to, convenience stores, grocery stores, self-service food markets or micro markets, and may use only a microwave type heating device to heat food items.

Mobile Food Trailer - A Mobile Food Unit that serves food or beverages from an enclosed, self-contained, non-motorized vehicle that is normally pulled behind a motorized vehicle.

Mobile Food Truck - A Mobile Food Unit that serves food and/or beverages from an enclosed, self-contained, motorized vehicle.

Mobile Food Unit—A vehicle mounted, self or otherwise propelled or tow-behind trailer, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks, trailers, push carts, bicycle mounted carts, and roadside vendors) and used to store, prepare, display, serve or sell Food. Mobile units must completely retain their mobility at all times. A Mobile Food Unit does not mean a stand or a booth. A roadside food vendor is classified as a Mobile Food Unit. Mobile food unit includes mobile food truck and mobile food trailer.

Premises – means:

1. A physical facility where the food is stored, prepared, manufactured, processed, cooked, or served or otherwise dealt with for subsequent sale to the customers, either directly or indirectly.
2. The Physical Facility, its contents, and the contiguous land or property under the control of one permit holder.
3. The Physical Facility, its content, the land or property not described in 1 or 2 of this definition if its facilities and contents are under the control of one permit holder and may impact food establishment personnel, facilities, operations, and a food establishment is only one component of a larger operation such as health care facility, hotel, motel, school, day care centers, recreational camps, clubs, or prison.

Regulatory or Health Authority - The City of Farmers Branch, the person or department to whom the City manager may delegate the enforcement responsibility of the food code.

Re-inspection - A required additional inspection as a result of non-compliance observed during inspection.

Seasonal Food Establishment - A food establishment that operates at a fixed location for a period greater than fourteen (14) consecutive days and no more than six (6) months.

Seasonal Food Establishment Permit - A permit which is issued to a seasonal food establishment authorizing operation of the establishment.

Smoker - Any unit, whether mobile or fixed in nature, which uses wood or wood products to provide smoke for the purpose of slow cooking meats intended for human consumption. Smokers must meet local zoning, building, and fire codes.

Snow Cones and Snow Cone Products - Any crushed or shaved ice product served in a single service container and topped with non-dairy flavored syrups.

Temporary Event - an event not to exceed a period of fourteen (14) consecutive days. Temporary event may include, but is not limited to, carnivals, multicultural celebrations, fundraisers, restaurant food shows, grand openings, Christmas tree sales, athletic competition and others as approved by the regulatory authority.

Temporary Food Establishment - A food establishment that operates for a single event, or an event over a period of no more than fourteen (14) consecutive days (or for such other time as is authorized by the City Council). Written consent to operate must be obtained from the private or public property owner on which said temporary food establishment will operate. A temporary food permit must be filled out for each event with all the foods listed for sale or to be sampled and submitted to the regulatory authority for review and approval. Temporary food establishments may include food vendor pushcarts, concession stands, mobile food units and temporary food vendors.

Temporary Food Vendor - means any person who obtains permit to set up and operate a temporary food establishment, selling, or taking orders for Food, and shall comply with the temporary food establishment requirements. A temporary food vendor shall not store any food products at home or sell any home cooked products.

Wholesome - In a sound condition, clean, free of adulteration, and suitable for human consumption. Pre-packaged food items shall be deemed wholesome if it meets the foregoing requirements and is used or sold prior to the "sell by" or expiration date on the package.

Section 228.2 "Definitions" is amended to amend the following definition to read as follows:

Event - A unique public gathering of persons at which food products will be served directly to consumers, such as a festival, bazaar, carnival, circus, fund-raiser, public exhibition, celebration, sporting event, or other public gathering which can be civic, political, public or educational for which an appropriate regulatory authority is required to grant permission for the operation of the event, whether by permit,

license, or other official written document. An event may be public or private in nature and are defined as:

- (a) Private Event - means a private gathering held at a private property, where the attendance is limited to the invited guests or members of family or employees of organization, where there is no cost for the invitation or attendance and the event is not open to the general public, and where the food is provided without any cost to the invited guests or members. Examples of private events are wedding ceremonies, birthday parties, or at home gatherings.
- (b) Public Event- means any public activity or gathering or assemblage of people, that is open to the general public, and where the food is provided with cost and requires the issuance of health permit for participating food vendors. Public events include, by way of example and not by way of limitation, concerts, sporting events, carnivals, festivals, or special events.

Section 228.171 “Walls and Ceiling Coverings and Coatings” is amended to read as follows:

§228.171 Walls and Ceiling Coverings and Coatings

- (1) *Ceilings* in the food preparation, food storage, food service, dry storage, ware-wash, mop sink areas and toilet rooms shall be light in color, smooth, nonabsorbent, durable, and easily cleanable. Ceiling materials may be washable drop-in panels, vinyl-coated panels, or an equivalent material as approved by the regulatory authority.
- (2) The *walls* in the food preparation, food storage, food service, dry storage, ware-wash, mop sink areas and toilet rooms shall be smooth, non-absorbent, and easily cleanable, such as FRP, stainless steel, ceramic, quarry or terrazzo tile or equivalent material as approved by the regulatory authority, and it shall be light in color. The walls in these areas shall be up to nine (9) feet. The walls of the mop sink located in rooms such as laundry room and utility closet shall be constructed of a smooth, durable, and easily cleanable surface such as FRP, or tile and shall be installed to a height of at least four (4) feet above the floor. Any painted surfaces above the 4 feet, shall be epoxy paint. Walls located adjacent to cooking equipment that utilizes high heat shall be stainless steel sheeting.
- (3) *Floors and floor coverings* of the food preparation, food storage, food service, dry storage, ware-wash, mop sink areas and toilet rooms shall be light in color and constructed of smooth, easily cleanable, and durable material such as terrazzo, ceramic or quarry tile, or as approved by the regulatory authority. Any concrete floors must have an epoxy sealant at least 1/17” in thickness and a non-slip surface. No paint-based sealant will be permitted. Floors shall be coved at the juncture of the floor and wall, with a 3/8-inch minimum radius coving which shall extend up the wall at least four inches in

all areas. Use of cardboard, sawdust, wood shavings, peanut hulls, or similar materials as a floor covering is prohibited.

- (4) Floors shall be smooth, durable, and nonabsorbent, and shall be maintained in a condition that facilitates thorough and rapid cleaning. Floors shall be free of cracks, chips, holes, and deterioration. The regulatory authority shall require repair or replacement of any floor which fails to meet the requirements of this section.
- (5) Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines or pipes on the floor is prohibited.
- (6) The regulatory authority shall require durable and easily cleanable FRP, tiles or stainless steel in areas exposed to excessive splash in food establishments not involved in food preparation.
- (7) Fibrous acoustical drop-in panels shall be prohibited in all food preparation, tableware and utensil ware-washing areas, service areas, dry storage, toilet rooms, mop sink area, and any other area subject to moisture.
- (8) *Exposed construction.* Studs, joists, and rafters shall not be exposed in those areas listed in food preparation areas. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.
- (9) Hand sinks shall be located within the food preparation, ware-washing, or food dispensing area, and shall not be obstructed by any material or equipment. A door or doorway is considered an obstruction and hand sinks must be installed on both sides of a door or doorway of these areas.

Section 228.222 Temporary Food Establishments is amended by amending subsection (a) “General” to read as follows:

- (a) General. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food establishment, may prohibit the sale of some or all time/temperature controlled for safety (TCS) foods, and when no health hazard will result, such as children's neighborhood beverage stands, may waive or modify requirements of these rules.
 - (1) Foods that require extensive preparation or cooking must be prepared at a licensed food establishment and submit a copy of the current health permit and health inspection report. Foods may be prepared on site provided those foods require limited preparation as determined by the regulatory authority. All menu

items must be approved by the regulatory authority prior to the permit being issued.

- (2) Each temporary food establishment shall be required to have at least one person on-site who has an accredited certified food manager certification, or a food handler certification based on the type of foods being prepared. The proof of an accredited certified food manager or food handler certification shall be submitted to the regulatory authority prior to a permit being issued.
- (3) All TCS foods prepared on site must be obtained the day of the event. Receipts must be available to the regulatory authority upon request. If receipts for TCS foods are not provided, the regulatory authority may prohibit the use of those TCS foods at the event.

Section 228.241 “Facility and Operating Plans” is amended to read as follows:

Rule §228.241 Facility and Operating Plans

- (1) Whenever a food establishment is constructed or extensively remodeled or whenever an existing structure is converted for use as a food establishment, or the nature of the operation changes, or the menu is substantially changed, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the regulatory authority for review before work begins. Such plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical, and plumbing schematic, construction materials of work areas, and the type and model of proposed fixed equipment types including dimensions and installation specifications, or meet the requirements set forth by the regulatory authority. The plans and specifications shall be approved by the regulatory authority. The approved plans and specifications must be followed in the construction, remodeling, or conversion of a food establishment without any alteration unless approved by the regulatory authority. Failure to comply may result in the denial of the food establishment being able to open.
- (2) A Farmers Branch Food Establishment Plan Review document will be filled out and reviewed by the regulatory authority for each new food establishment facility or each extensively remodeled facility and shall include the following:
 - (a) Intended menu items.
 - (b) Anticipated volume of food to be stored, prepared, and sold or served.
 - (c) List of equipment and usage or submit an equipment layout plan.

- (3) Any food establishment that goes through ownership change or closes for business operations for a period of 30 days or more and was grandfathered under a previously existing food code requirement that has since been repealed must be brought into compliance under the current food establishment rules as adopted by the City. This includes structure, and equipment layout before reopening as a food establishment and shall be approved by the regulatory authority.
- (4) Failure to construct or remodel the food establishment in accordance with the approved plans and specifications shall result in a denial, suspension, or revocation of a food establishment permit.
- (5) Whenever plans and specifications are required by this section to be submitted to the regulatory authority, the regulatory authority shall inspect the food establishment prior to the start of operations to determine compliance with the approved plans and specifications and with the requirements of the current Food Establishment Rules as adopted by the City.
- (6) For purposes of this subsection, “extensive remodeling” means that 20% or greater of the area of the food establishment is to be remodeled.
- (7) Whenever a food establishment undergoes partial remodeling of a non-food preparation area such as a lobby or dining room while remaining open for business from the drive thru window only, a proper containment barrier such as sheetrock must be erected to protect the foodservice area from aerosolized particulate matter during the construction process.

Sec. 26-153. Penalties.

Any person, or responsible officer of that person, who violates a provision of this article and any person, or responsible officer of that person, who is the holder of a permit, or who otherwise operates a food establishment that does not comply with the requirements of this article, shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court, shall be subject to a fine not to exceed \$2,000.00 for each offense; and each day and every day such violation continues, it shall constitute a separate offense.

Sec. 26-154. Fees.

Fees established by resolution or ordinance of the city council and set forth in Appendix A of this Code shall be paid for the following purposes:

- (1) A fee shall be paid for review of food service establishment plans as requested by an applicant.
- (2) A permit fee shall be paid by each applicant to operate a food establishment, including temporary, seasonal, and fixed food establishments. The permit fees to be paid shall be based on the food classification as set forth below:

- (a) Heavy Food Establishment
 - (b) Light Food Establishment
 - (c) No-food preparation
 - (d) Daycare centers
 - (e) Seasonal food establishment
 - (f) Temporary food establishment
- (3) A fee shall be paid by each applicant for issuance of any duplicate permit.
 - (4) A late fee shall be paid by each applicant if an application for a renewal permit is submitted to the City more than fifteen (15) days after the date the previous permit expired.
 - (5) A re-inspection fee shall be paid by each applicant if a follow – up or a re-inspection is required.
 - (6) A fee will be charged for inspections conducted outside of the City’s operational hours (minimum of two hours).

Sec. 26-155. Seasonal Snow Cone Food Establishments.

- (a) *Operation.* A temporary or a seasonal permit may be obtained for food establishments at which only snow cone related foods shall be prepared or offered for sale. The preparation or sale of any time/temperature control for safety (TCS) foods at such establishments is prohibited.
- (b) *Ice.* Ice to be used for snow cones shall be obtained in chipped, crushed, cubed or block form and in single-use safe plastic bags filled and sealed at the point of manufacture. Snow cone ice shall be held in its sealed bags until the ice is dispensed in a way that protects the ice from contamination.
- (c) *Equipment.* A three-compartment sink and hand washing sink shall be provided. Sink compartments shall be large enough to accommodate, fully submerged, of the equipment and utensils being washed, but shall not be less than 12 inches long, 12 inches wide, and ten inches deep. Drain boards shall be not less than 12 inches long by 12 inches wide.
- (d) *Service openings.* Service openings for a snow cone establishment shall be constructed with screen doors which shall remain closed except when serving customers through the opening. Screens of not less than 16 mesh per inch shall be used.
- (e) *Water supply, plumbing.* All equipment used for a potable water supply system shall be listed for such use by an organization acceptable to the regulatory authority and shall be installed and operated according to law. All potable water not provided directly by pipe to the establishment from an approved source shall:
 - (1) Be transported in a bulk water transport system or individual containers and delivered by direct connection to a closed-water system or be delivered to a closed-water system by direct hose attachment from an approved water source.
 - (2) All potable water containers or hoses shall be used only for water supply purposes.

- (3) A closed-water system of sufficient capacity to furnish an adequate quantity of potable water for cleaning and handwashing purposes, but in no case less than 15-gallon capacity tank, shall be provided and labeled "potable water." An instantaneous water heater system capable of producing water with a temperature of 120 degrees Fahrenheit interconnected with the potable water supply shall be provided.
 - (4) The water system shall be capable of delivering a water supply under pressure of at least 15 pounds per square inch (psi) at all times. If such water pressure cannot be provided by gravity flow, then a tank and a pump or other means, which will provide not less than 15 psi shall be installed.
 - (5) If the snow cone type establishment is not connected to a public sanitary sewer system, all liquid waste from the operation shall be held in an approved permanently installed liquid waste retention tank which shall be labeled "wastewater." The liquid waste tank shall have a capacity at least 50 percent greater than the potable water tank. All waste lines shall be properly installed and connected to the liquid waste tank with watertight seals. The liquid waste discharge pipe from the holding tank shall not be located inside the building. There shall be separate size fittings required between water supply and liquid waste connections. All liquid waste from the holding tank shall be transported and disposed of in an approved manner.
 - (6) Snow cone type establishments shall have adequate, conveniently located, and accessible toilet and lavatory facilities for use by its employees at all times. If such facilities are not located within the establishment, they must be located within a 400-foot radius of the establishment to be considered convenient use. If restrooms are located off-site, a notarized letter must be submitted with the permit application giving written permission for the food establishment's personnel to use such restroom facilities and acknowledging that the restrooms will be available for use at all times during the food establishment's business hours.
 - (7) An easily cleanable, covered trash container shall be provided on the outside of the building if outside seating is provided.
- (f) *Additional Requirements.* A seasonal mobile food unit shall comply with all requirements set forth for mobile food units in this article and requirements set by the regulatory authority.

Any commercial childcare facility shall conform to all applicable food regulations, construction and permitting requirements, inspection and other provisions as specified under this article. Food served at a childcare facility that is not prepared onsite shall be from a source approved by the regulatory authority. Licensed childcare homes, and other in-home childcare facilities, are not regulated by this article.

Sec. 26-156. - Summer food service programs.

- (a) *Applicability.* Any qualified charitable or governmental organization wishing to conduct a summer food service program in the city shall prepare and serve food from a commercial permanent kitchen in a non-residential facility authorized by a food establishment permit. The regulatory authority may authorize a permit for a kitchen in the city that provides, at a

minimum, mechanical refrigeration, hot and cold running water under pressure for hand sinks, a three-compartment sink equipped with dual drain boards, a mop sink onsite, restroom facilities, and approved finish materials in food preparation and service areas.

- (b) *Notification.* The Farmers Branch Regulatory Authority must be notified in writing prior to operations as is required by the Texas Department of Agriculture and United States Department of Agriculture (TDA/USDA). This notice shall include the name and address of the food establishment preparing the food, the name of the person in charge, the site and address where the food is to be distributed, the dates and times of the operation, and a list of the food and beverages to be served. A current food protection manager must be in place during the time the food items are being prepared. If the food establishment preparing the food is not located in Farmers Branch, then a copy of that facility's current health permit as well as a copy of the most current health inspection report conducted by the city, or county the facility is located in must be furnished to the regulatory authority upon giving notice they will be participating in the summer feeding program.
- (c) *Food.* All food items used in the summer food service program must come from an approved source. All foods must be packaged in individual containers at the permitted food preparation facility. Bare-handed food contact is not allowed. All foods requiring time/temperature control for safety must be maintained at the proper temperatures of 41 degrees F. or below or 135 degrees F. or above. The use of warmers, mechanical refrigeration, or cold packs are permitted to keep foods at the required temperatures. A stem thermometer shall be used and kept onsite to ensure received food items meet the required temperatures. Additionally, a temperature log must be maintained onsite for recording these temperatures.
- (d) *Facilities.* All food must be served in an acceptable eat-in facility such as a club house, lunchroom, or cafeteria with access to handwashing rest room facilities unless otherwise approved by the regulatory authority.

Sec. 26-157. - Childcare facilities.

Any commercial childcare facility shall conform to all applicable food regulations, construction and permitting requirements, inspection and other provisions as specified under this article. Food served at a childcare facility that is not prepared onsite shall be from a source approved by the regulatory authority. Licensed childcare homes, and other in-home childcare facilities, are not regulated by this article.

Sec. 26-158.-Permit Requirement, Prerequisite for Operation; Exceptions

- (a) *Authority.* The provisions of this article shall be enforced by the regulatory authority. It shall be unlawful for any person to interfere with, obstruct or give false information to the regulatory authority, or their representatives or designees in the lawful performance of their duties under this article.
- (b) *Additional Requirements.* The regulatory authority may enforce additional requirements in addition to the requirements contained in this article to protect public health hazards or nuisances.
- (c) *Permit Required.* It shall be unlawful for any person to operate a food establishment, food processing establishment, mobile food unit, temporary food establishment, seasonal food establishment, bed and breakfast food establishment, self-service food market or micro-

markets, or childcare facilities within the city without a valid permit issued by the regulatory authority. Each food service operation shall be operating in its own premises, have its own equipment, utensils, required storage and ware-wash service areas. Permits shall not be transferable from one (1) person or entity to another person, location, or entity. A valid permit shall be posted in every establishment.

(d) *Permit Term.*

(1) *Annual Permits.* Permits issued under this article shall be valid for a period of one (1) year from the date of issuance, unless otherwise suspended or revoked by the regulatory authority. Annual permits shall be issued for:

- (a) *Heavy food preparation.* Food establishments in which foods are prepared utilizing a grill, griddle, deep-fat fryer, commercial type oven; and/or any similar food preparation equipment. Examples include, but are not limited to, BBQ facilities with smokers, cafeterias, fast food restaurants, full-service restaurants, , grocery store bakery/café's, pizza shops, and donut shops which prepare and serve kolaches, breakfast sandwiches, and or burritos.
- (b) *Light Food preparation.* Food establishments with a limited menu and limited food preparation or beverage service establishments. Food is often delivered precooked with limited additional preparation. Examples include but are not limited to sandwich shops, coffee service, ice cream shops, smoothie shops, grocery store meat/seafood/produce/deli departments with no cooking, limited concession stands, or other similar foods. This also includes convenience stores with a separate owner for kitchen.
- (c) *No food preparation.* Food establishments serving or selling foods provided or sold pre-wrapped from an approved source and that do not handle any open or exposed food. Examples include, but are not limited to, convenience stores, grocery stores, self-service food markets or micro markets, and may use only a microwave type heating device to heat food items.
- (d) *Childcare facilities.* Home-based daycare facilities do not require a permit from the City.
- (e) Bed and breakfast facilities such as hotels, motels serving limited breakfast items only requiring heating.

(2) *Seasonal Permits.* Seasonal permits are issued to food establishments or food vendors operating for a period greater than fourteen (14) days but not more than 180 days or six (6) months.

- (a) A seasonal food permit application and fee must be submitted not later than four (4) working days prior to the date the vendor desires to commence the service of food that requires such permit.
- (b) A food establishment with a valid annual permit issued under subsection (d)(1) of this section must obtain a separate temporary food establishment permit when participating in an event.

- (3) *Temporary Permits.* Temporary permits are issued to the food establishments or food vendors whose operation may not exceed fourteen (14) consecutive days per event and may be in conjunction with a special event or festival as approved by the regulatory authority.
 - (a) A temporary food permit application and fee must be submitted at least four (4) working days prior to the event start date, or no later than ten (10) working days prior to the event if five (5) or more vendors are to be permitted.
 - (b) A vendor with more than one (1) booth will be required to obtain a separate permit for each booth.
 - (c) Food establishments that currently operate a permanent food establishment within the City and possess a valid food permit issued by the regulatory authority may, at the discretion of the regulatory authority, be exempted from the requirement to obtain a temporary food permit.
 - (d) Food applicants attending City Parks and Recreation sponsored events may be exempted from paying the temporary food permit fee.
 - (e) Temporary permits that are not operating in conjunction with a City-sponsored special event or community-based events shall be limited to six (6) permits per year.
 - (f) Temporary food events must be approved and permitted by the regulatory authority in accordance with the temporary food establishment guidelines or under the conditions set by the regulatory authority.
- (d) *Permit Application.* Any person operating a permanent, temporary, seasonal, vehicle mounted food establishment, or self-service food markets within the City shall make written application for a permit on forms provided by the regulatory authority. The application shall include such information as the regulatory authority determines deem necessary for the enforcement of the current adopted food establishment rules.
- (e) *Permit Fees.* The various requirements for permits and such administrative functions of this division shall require the payment of fees to the City in an amount adopted and set forth in Appendix A of this Code. Fees are not refundable.
- (f) *Multiple Locations.* If an applicant operates at multiple locations, a separate permit application and the payment of a separate fee will be required for each location.
- (g) *Shared/Multi Use Kitchens.* A single operating permit shall be issued to one food establishment owner, or a food establishment company occupying space in a fixed brick and mortar commercial location and allows for food service operations by that permit holder only. The operating permit cannot be used for the purposes of shared/multi use kitchens within that building, or for the purpose of subletting or sharing space in that facility to other food production tenants, establishments, or companies.
- (h) *Catering.* A food establishment, whether located in the city or in another city, may cater food to businesses located in the city that do not have a restaurant or cafeteria within that building provided:

- (1) There is a designated space or area for the caterer to set up that is protected from potential customer contact or contamination with the foods being served to include appropriate sneeze guards, as well as a fully operable handwashing sink with available hot and cold water, paper towels, and soap. Caterers may not set up in a lobby area open to the public.
 - (2) Caterers must have the appropriate hot and cold holding equipment as required for maintaining temperatures of all time/temperature control for safety food items unless this equipment is provided by the business being catered.
 - (3) If not based in the City, caterers will be required to complete an operating permit application, pay the required operating permit fee, and be subject to routine inspections. Food establishments that currently operate a permanent food establishment within the City and possess a valid food permit issued by the regulatory authority may, at the discretion of the regulatory authority, be exempted from the requirement to obtain a food permit for catering operations at other locations within the City but will be subject to routine inspections.
 - (4) Caterers, whether located in the city or in another city, must comply with this Article when servicing businesses within the city.
 - (5) Caterers who supply food upon request for a private function or event to a company, business, or organization in the City are exempt from inspections by the regulatory authority and do not have to apply for an operating permit.
- (i) *Fixed Location.* An operating permit, annual permit, or seasonal permit, will be issued only to food establishments located in a permanently affixed building that complies with design and structure requirements of the current food establishment rules as adopted by the City.
 - (j) *Permit Displayed.* The food establishment operating permit shall be posted in a conspicuous location that is visible to consumers.
 - (k) *Issuance of Permit; Inspection.* The regulatory authority shall issue a permit to the applicant after inspection reveals that the food establishment complies with the requirements of the Food Establishment Rules.
 - (l) *Permit Suspension.* The regulatory authority may, without warning or hearing, suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon service of the notice required in subsection (n) of this section. When a permit is suspended, the preparation and service of food shall immediately cease. The holder of the suspended permit shall be offered an opportunity for a hearing not later than twenty (20) days after receipt by the regulatory authority of a written request for a hearing.
 - (m) *Revocation of Permit.* The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations this article or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten (10) calendar days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit

within such ten (10) calendar day period. If no request for hearing is filed within said ten-day period, the revocation of the permit becomes final.

- (n) *Notice.* A notice as required in article is properly served when it is delivered to the holder of the permit or the person in charge of the food service establishment, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority. The hearings provided for in this article shall be conducted by the regulatory authority at a time and place designated by the regulatory authority. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the regulatory authority.
- (o) *Additional Responsibilities.* Additional responsibilities of the permit holder:
 - (1) Immediately discontinue operations and notify the regulatory authority if an imminent health hazard exists because of an emergency such as fire, flood, extended interruption of electrical or water service, plumbing back-up issue, grease trap overflow, misuse of a poisonous or toxic material, onset of an apparent foodborne illness outbreak, gross unsanitary occurrence or conditions, or other circumstance that may endanger public health.
 - (2) Replace existing facilities and equipment specified in Rule 228.241(a) of this article with facilities and equipment that comply with these rules if the regulatory authority directs replacement because existing facilities and equipment constitute a health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted, or the facilities and equipment need replacing in the normal course of operation, or the regulatory authority directs the replacement of equipment and facilities because of change of ownership.
 - (3) Comply with the lawful directives of the regulatory authority including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the regulatory authority in regard to the permit holder's food establishment or in response to public health emergencies.
 - (4) Accept notices issued and served by the regulatory authority according to law.
 - (5) Be subject to administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with these rules or a directive of the regulatory authority, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.
 - (6) Notify customers that a copy of the most recent establishment inspection report is available upon request by posting a sign or placard in a location in the food establishment that is conspicuous to customers or by another method acceptable to the regulatory authority.
- (p) *Exemptions.*
 - (1) A permit fee waiver may be obtained if the proof of charitable nonprofit status is submitted with the health application.

- (2) Public schools accredited with the State of Texas shall be exempt from the payment of a permit fee to operate food establishments but must fill out an initial and annual permit application request.
- (3) Church kitchens where food is prepared and served to members only shall be exempt from the permit requirements to operate food establishments.”

SECTION 2. All provisions of the Ordinances of the City of Farmers Branch, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City of Farmers Branch, Texas, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be unconstitutional, illegal or invalid.

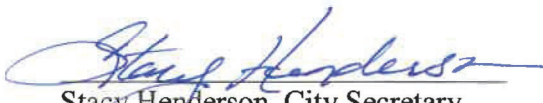
SECTION 4. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 5. Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances as amended hereby, shall upon conviction be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2000.00) for each offense unless a lesser maximum fine is provided in the Code of Ordinances as amended by this Ordinance.

SECTION 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provide.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, ON THE 10TH DAY OF OCTOBER 2023.

ATTEST:


Stacy Henderson, City Secretary

APPROVED:


Terry Lynne, Mayor

APPROVED AS TO FORM:


Peter G. Smith, City Attorney
(kbl:9/25/2023:4887-8624-0380,v1)