

CITY OF THE COLONY, TEXAS

ORDINANCE NO. 2025- 2627

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, AMENDING THE CODE OF ORDINANCES BY REPEALING IN ITS ENTIRETY CHAPTER 6, ARTICLE VI, SECTIONS 6-131 TO 6-170, ENTITLED “FOOD AND FOOD ESTABLISHMENTS” AND REPLACING IT WITH A NEW CHAPTER 6, ARTICLE VI, SECTIONS 6-131 TO 6-160, ENTITLED “FOOD AND FOOD ESTABLISHMENTS” BY ESTABLISHING RULES AND REGULATIONS FOR FOOD ESTABLISHMENTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH AND EVERY OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in the 2025 Texas Legislative Session, the Texas Legislature approved House Bill 2844 (2025) which established regulations for food service establishments, including retail food stores and mobile food vendors; and

WHEREAS, the City Council of the City of The Colony, Texas, finds and determines that Chapter 6, Article VI, Sections 6-131 to 6-170 of the Code of Ordinances should be repealed in its entirety and replaced with a new Chapter 6, Article VI, Sections 6-131 to 6-160 of the Code of Ordinances, entitled “Food and Food Establishments” to address the recent legislative changes.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS:

SECTION 1. That the findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. That the Code of Ordinances of the City of The Colony, Texas be, and the same is, hereby amended by repealing in its entirety Chapter 6, Article VI, Sections 6-131 to 6-170, entitled “Food and Food Establishments,” and replacing it with a new Chapter 6, Article VI, Sections 6-131 to 6-160, entitled “Food and Food Establishments” which shall read as follows:

“ARTICLE VI. FOOD AND FOOD ESTABLISHMENTS.

Sec. 6-131. Texas Food Establishment Rules adopted.

- (a) The purpose of this article is to protect public health and provide to consumers food that is safe, unadulterated, and honestly presented. The enforcement of this article and the fixing of penalties shall be regulated in accordance with this chapter and the terms of the unabridged form of the Texas Food Establishment Rules. The provisions of the current rule or rules as amended by the Texas Department of State Health Services known as the

Texas Food Establishment Rules found in Title 25 Texas Administrative Code chapters 226 and 228, as amended, are herein adopted together with the additions, deletions, and amendments hereinafter contained together with the additions, deletions, and amendments hereinafter contained, as part of article VI, food and food establishments, of "Building, Construction, Health and Sanitation" chapter of this Code for the city.

- (b) In the event of a conflict between any provision of the Texas Food Establishment Rules and any provision of this article, this article shall prevail.
- (c) The adopting by reference of the Texas Food Establishment Rules, as provided in subsection (b) above, is made subject to and is modified and amended as follows:
 - (1) The words "regulatory authority" in said rules shall mean the City of The Colony; and
 - (2) The permit holder shall make all registered food service manager certificates available for immediate inspection upon request by the regulatory authority.
 - (3) A permit holder is in compliance with the provisions of this section if there is one registered food service manager employed in a supervisory capacity for several food establishments located in the same building and under the same ownership and management.

Sec. 6-132. Definitions.

The following words and terms, in conjunction with those listed in the Texas Food Establishment Rules, when used in this article shall have the following meanings unless the context clearly indicates otherwise and shall apply in the interpretation and enforcement of this article:

Food means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or sale, in whole or in part, for human consumption.

Food-borne illness means an incident in which two or more persons experience a similar illness, usually gastrointestinal in nature, after ingestion of a common food, and epidemiological analysis implicates the food as the source of the illness.

Food establishment permit (aka *health permit*) means the annual permit required for a food service establishment to operate in accordance with city regulations.

Food manager means an individual who conducts, manages, or operates a food establishment.

Health authority means the city manager or designee, authorized agent or employee or duly authorized health inspector.

Law means federal, state and local statutes, ordinances and regulations.

Official inspection report means the written notice prepared and issued by the health authority after conducting a routine inspection and/or reinspection of a food service establishment to determine compliance with all applicable federal, state, and local statutes, orders, ordinances, quarantines, rules, regulations, or directives relating to the public health.

QR code (quick response code) means a matrix bar code provided by the health authority that contains information about the food service establishment's health inspection score. The QR code must be posted at a food service establishment at all times.

Score means the sanitation deficiencies issued by the health authority at the conclusion of the routine inspection and/or reinspection of a food service establishment. The score shall reflect the food service establishment's degree of compliance with all applicable federal, state, and local statutes, orders, ordinances, quarantines, rules, regulations, or directives relating to the public health.

Seasonal health permit means a permit which allows a facility providing food to the public in a single designated location by means of a semi-permanent structure such as, a temporary building or other approved structure that can be removed. The permit is valid for no less than 14 days and no more than six months and need not to be associated with a special event.

Temporary food establishment means a food service establishment that operates for a period of no more than 14 consecutive days in conjunction with a special event or an event approved by the regulatory authority.

Sec. 6-133. Health authority—Powers.

- (a) The city manager or designee is hereby authorized to issue permits to any person or firm making application for a food establishment permit; provided that only a person or firm that complies with the requirements of this article shall be entitled to receive and retain such.
- (b) The city manager or designee hereby has the power and authority to issue a notice or citation to anyone in violation of any provision of this article, without warning.
- (c) The city manager or designee hereby has the power and authority to cause the temporary closing of an establishment to protect the health of the community.

Sec. 6-134. Catastrophe.

In the event of any imminent health hazard, the owner or operator of a food establishment must immediately notify the health authority. It will be required that the food establishment cease operations. It shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exists.

Sec. 6-135. Health authority—Administrative process.

A notice as required in this article is properly served when it is delivered to the holder of the permit or the person in charge, 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 city.

Sec. 6-136. Permits—Required.

- (a) No person or firm shall operate a food establishment in the city without a valid permit issued by the health authority.
- (b) In cases where a person or firm conducts more than one operation, as a food establishment in a single building or at the same address, a separate permit shall be required for each operation.
- (c) A permit lapses if the food establishment operating under the permit:
 - (1) Ceases its operation for 60 days; or
 - (2) Fails to pay the annual inspection fee on or before the due date.

Sec. 6-137. Same—Application.

- (a) Application for such permit as required of this article shall be made in writing to the health authority upon forms maintained and furnished by the city health division. Incomplete applications will not be accepted.
- (b) A food establishment permit and plan review fees shall be due for each food establishment that requires plans to be submitted according to this chapter. Prior to the approval of new or change of ownership permits, the health authority shall inspect the food service establishment to determine compliance with state and local laws.
- (c) A food establishment permit application fee shall be due for each food establishment that requires a new food establishment permit due to change of ownership, change in type of operation, or revocation, and a new application shall be made for a permit as required of this article. Whenever a new food establishment permit is required, the health authority shall inspect the food establishment prior to beginning operation to determine compliance with requirements of this article.
- (d) Failure to provide all required information, or falsifying information required on the application, may result in denial or revocation of the permit.

Sec. 6-138. Same—Review and approval of plans.

- (a) Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted for

review prior to beginning construction. Extensive remodeling means that 20 percent or greater of area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical and construction of materials, and the type and model of proposed fixed equipment and facilities in accordance with this article. The construction, remodeling or conversion shall conform to the approved plans and specifications.

- (b) Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.
- (c) The provisions of this article regarding food establishment construction or remodeling are in addition to other applicable building and licensing ordinances.
- (d) Whenever plans and specifications are required to be submitted to the health authority, the health authority shall inspect the food establishment prior to its beginning operation to determine compliance with the approved plans, specifications and the requirement of these rules.
- (e) Regardless of prior existing conditions of the equipment and the facility, upon change of ownership of a business, or expansions, the new business owner shall be required to meet current food establishment standards as defined in this Code and state law before a permit will be issued by the health authority.

Sec. 6-139. Same—Duration.

- (a) Any food establishment permit granted under the provisions of section 6-136 shall remain in full force through December 31 of the applicable calendar year of issuance as long as the annual food establishment permit fee is paid, unless denied, suspended or revoked for cause. Food establishments without permit for an excess of 30 days may not be reinstated and must obtain new permits and comply with current regulations for new businesses. It will be the responsibility of the food establishment owner and/or manager to ensure a valid permit exists at all times.
- (b) An exception to subsection 6-136(a) above is that a temporary food establishment permit shall remain in full force and effect for a period of time not more than 14 consecutive days in conjunction with a single event or celebration from date of issuance unless sooner suspended or revoked for cause.

Exception: Seasonal snow cone stands.

Sec. 6-140. Same—Limited operation of mobile food vendor.

Only food items previously approved by the regulatory authority may be sold on a mobile food vending unit. Nonfood items such as toys, fireworks, or any hazardous substances are prohibited.

Sec. 6-141. [Reserved]

Sec. 6-142. Same—Suspension, denial or revocation.

- (a) The health authority may, without prior notice or hearing, suspend, deny or revoke any permit granted under this article to operate a food establishment if the permit holder or person in charge does not comply with the requirements of this article, or if the operation of the food establishment otherwise constitutes a hazard to public health. The city may suspend, deny and revoke a permit upon service of the notice. When a permit is suspended or revoked, a cease and desist order shall be issued and food service operations shall immediately cease.
- (b) An establishment may appeal such orders issued under this section to the health authority. The health authority shall hold a hearing as soon as practical to determine whether such cease and desist order shall continue into effect. The health authority may end the suspension or revocation at any time if reasons for such no longer exist.
- (c) Whenever a food establishment-is required under the provisions of this section to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exist or an appeal before the health authority is held. Opportunity for reinspection shall be offered no later than two business days. During the time a food establishment, or temporary food establishment is required to cease operations, a sign shall be posted on the outside of the establishment, clearly visible to a reasonably observant person, which shall state "Closed by The Colony Health Department."

Sec. 6-143. Examination and condemnation of food.

- (a) Food may be examined or sampled by the health authority as often as necessary for the enforcement of these rules. The health authority may, upon written notice to the owner or person in charge specifying with particularity the reasons therefor, place a hold order on any food which it believes is in violation. The health authority shall tag, label, or otherwise identify any food subject to the hold order. No food subject to the hold order shall be used, served, or moved from the establishment. The health authority shall permit storage of the food under the conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished.
- (b) A hold order shall state that a request for hearing may be filed within ten days after issuance thereof and that if no hearing is requested the food shall be destroyed. On the basis of evidence produced at the hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of these rules.

Sec. 6-144. Inspections—Score.

All food establishments shall be inspected and scored uniformly using an official inspection form, as provided by the Texas Department of State Health Services. The inspection score of each food establishment shall be determined by the health authority using the scoring method provided on the inspection form. Establishments scoring below 70 percent will be closed until such time that a reinspection is made and all corrective action on all identified critical violations are complete. Corrective action on all other violations must be initiated within 48 hours. The establishment shall remain closed until reopened by the health authority.

- (1) Denial of access to the health authority shall be cause for suspension or revocation of the food establishment permit.

Sec. 6-145. Same—Posting of QR codes.

- (a) The QR code shall be provided by the health authority.
- (b) The QR code shall be posted in a conspicuous place, so as to be clearly visible to the general public and to patrons entering the establishment. "Clearly visible to the general public and to patrons" shall mean:
 - (1) Posted in the front window of the establishment within five feet of every public entrance;
 - (2) Posted in a location as directed and determined at the discretion of the health authority to ensure proper notice to the general public and to patrons; and/or
 - (3) In the event that a food establishment is operated in the same building or space as a separately licensed or permitted business, or in the event that a food establishment shares a common patron entrance with such a separately licensed or permitted business, or in the event of both, the health authority shall post the QR code in the initial patron contact area, or in a location as determined in the discretion of the health authority.
- (c) The QR code shall not be altered, defaced, marred, camouflaged, hidden or removed. It shall be unlawful to operate a food establishment unless the QR code is in place as set forth herein. Removal or alteration of the QR code is a violation of this article and may result in the suspension or revocation of the food establishment permit. In the event the QR code is stolen, it is the responsibility of the owner and/or manager to notify the health authority for a replacement within 24 hours.
- (d) In the event the food establishment is closed by the health authority, the QR code shall remain. An additional placard will be posted by the health authority, advising the public of the closure. The sign must remain visible until such time the health authority allows the reopening to occur.

Sec. 6-146. Same—Frequency/priority.

- (a) The health authority shall inspect each food establishment using a risk-based system and conduct inspections on the basis of assessment of a food establishment's potential as a vector of foodborne illness.
- (b) The health authority shall classify food establishments as high priority, medium priority, or low priority, according to the type of operations, particular foods that are prepared, numbers of people served, susceptibility of the population served, and any other risk factor deemed relevant to the operation.
- (c) Additional inspections of the food establishment shall be performed as often as necessary for the enforcement of this article and a reinspection fee may be charged.
- (d) Whenever necessary to make an inspection to enforce any of the provisions of this article, or whenever the health authority has reasonable cause to believe that there exists in any building or upon any premises any condition or violation of this article, the health authority may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the administrator or his designee by this article. If such building or premises is occupied, the health authority shall first present proper credentials and request entry. If such building or premises is unoccupied, the health authority shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused or if no owner or other person having charge or control of the building or premises can be located, the health authority shall have recourse to every remedy provided by law to secure entry.
- (e) A signed copy of the official inspection form shall be delivered to the owner, operator, or person in charge of the food establishment or food facility who shall sign in receipt thereof.
- (f) Refusal to sign acknowledgement. The health authority shall inform a person who declines to sign acknowledgement of receipt of inspectional findings that:
 - (1) An acknowledgement of receipt is not an agreement with findings;
 - (2) Refusal to sign an acknowledgement of receipt will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frame specified; and
 - (3) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the health authority's historical record for the food establishment.
- (g) If, after a reinspection of the food establishment or facility, critical items still exist, any or all of the following legal actions may ensue:
 - (1) Administrative hearing offered for the suspension or revocation of the license;
 - (2) Issuance of a citation; and/or

- (3) Initiation of civil, criminal or other legal proceedings.

Secs. 6-147 to 6-150. [Reserved]

Sec. 6-151. Same—Penalty.

Any person (or responsible party) who violates a provision of this article who does not comply with the requirements of this article, shall be deemed guilty of an offense and upon conviction of the municipal court of the city, shall be subject to a fine not to exceed \$500.00 for each offense, and each and every day such violation continues shall constitute a separate offense.

Sec. 6-152. Same—Injunctive relief.

In addition to and cumulative of all other penalties, the city shall have the right to seek injunctive relief for any and all violations of this section.

Sec. 6-153. Fees.

The various requirements for permits, licenses, and such administrative function of this article shall require the payment of fees, submitted to the City of The Colony, in an amount approved by resolution of The Colony City Council. Fees are nontransferable and nonrefundable.

Sec. 6-154. Responsibilities of the owner, manager, or person in charge.

The permit holder, owner, manager, or person in charge of a food establishment shall operate the facility in compliance with the provisions of this article and other applicable sections of the Code of Ordinances of the City of The Colony and the Texas Food Establishment Rules and shall respond within the specified schedule of time when any deficiency or violation has been identified by the health authority.

Sec. 6-155. Pests and pesticides.

Only individuals licensed by the Texas Structural Pest Control Board may apply pest control products in a food establishment. A minimum of monthly pest control services is required.

Sec. 6-156. Retention of certain records required.

The following records shall be retained on premises by food establishments and available for inspection and copying by the health authority:

- (1) Grease trap pumping trip tickets shall be retained for a period of three years;
- (2) When time is used as a public health control measure or the establishment has been required to establish a risk control plan, the documentation must be retained for a period of one year.
- (3) Professional insect and rodent control records shall be retained for a period of one year.

Sec. 6-157. Procedure when infection is suspected.

When the health authority has reasonable cause to suspect possible disease transmission by an employee of a local food establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The health authority may require any or all of the following measures:

- (1) The immediate exclusion of the employee from employment in local food establishments;
- (2) The immediate closing of the local food establishment until, the health authority determines, no further danger of disease outbreak exists;
- (3) Restriction of the employee's services to areas of the establishment where there would be no danger of transmitting disease; and/or
- (4) Adequate medical and laboratory examination of the employee and other employees at owner's expense.

Sec. 6-158. Handwashing lavatory and water temperature.

- (a) A handwashing lavatory must be equipped to provide water at a temperature of at least 38 degrees celsius (100 degrees Fahrenheit) under pressure through a mixing valve or a combination faucet within 20 seconds.
- (b) A hand sink shall be located within 25 linear feet of each food preparation area and warewashing area.

Sec. 6-159. Physical facilities.

- (a) Refrigeration equipment must have an internal thermometer.
- (b) Only commercial grade equipment or utensils that meet or exceed National Sanitation Foundation (NSF) standards or the equivalent will be approved.
- (c) A grease interceptor/trap is to be located outside of the building and must be readily and easily accessible for cleaning and inspection. The necessity and size of the grease interceptor/trap to be installed in a food establishment shall be a minimum of 1,000 gallons or determined by the city manager or designee. All grease interceptors/traps must be cleaned/pumped by a licensed waste hauler. The grease interceptor/trap must be pumped empty at a frequency of once every 90 days or as deemed necessary by the regulatory authority. Food establishment owners may submit a variance request for extended servicing with provided documentation from a state licensed engineer.
- (d) Outdoor refuse containers must remain closed at all times when not in continuous use and must be emptied by an approved commercial service at a frequency of at least three days per week. The frequency of garbage pickup may be determined by the health authority if

necessary to maintain the premises of the food establishment free of litter, garbage, odor, rodents and insects. Dumpster enclosures must have drilled stops at both the open and closed locations for the doors to prevent damage or injury.

- (e) Outer openings must be protected. Openings to the outdoors must be protected against the entry of insects and rodents by:
 - (1) Closed, tightfitting windows and solid, self-closing, tightfitting doors;
 - (2) Installation of air curtains at all rear doors used for the loading and unloading of food products, doors that open to the outside directly off of food prep areas, ware wash areas, or food storage areas, and at all drive-through windows.
 - (3) Installation of 16 mesh, 25.4 millimeters (16 mesh to one inch) screens on window and doors that are kept open for ventilation or other purposes.
 - (4) Properly sealed perimeter walls and roofs of the establishment.
- (f) Food preparation areas must have installed approved finishes:
 - (1) Wall and ceiling covering materials shall be attached so that they are easily cleanable. Walls where excessive heat from equipment such as grills, griddles, fryers, or gas burners must be covered with stainless steel sheets from floor to ventilation hood, unless otherwise approved by regulatory authority. Walls in areas where food is not prepackaged at all times, shall be nonabsorbent, easily cleanable and covering must be approved by the regulatory authority. Walls in these areas must be non-absorbent, and easily cleanable, such as FRP, tile or an equivalent material, as approved by the regulatory authority, from floor to ceiling.
 - (2) Floors and floor coverings of all food preparation and utensil-washing areas, walk-in refrigeration units, dressing rooms, locker rooms; and toilet rooms provided for employee use shall be constructed of smooth durable material such as terrazzo, ceramic, quarry tile, or equivalent, with at least a four (4) inch coved tile base or coved base profile approved by the regulatory authority installed integral and flush with finished floor and shall be maintained in good repair. Epoxy resin systems poured monolithic flooring, and other durable seamless flooring systems may be used in these areas installed to a finished product thickness of a minimum of one-quarter ($1/4$, 0.25) inch with coved base monolithic, integral, and flush with floor when approved by the regulatory authority prior to installation. The regulatory authority may impose additional requirements such as, but not limited to, the addition of nonskid additives and may approve alternative minimum thicknesses of floors and base if it is proven in writing that a finished product of different thickness and/or additives render the same or increased standards. Written documentation of compliance with these requirements shall be submitted to the regulatory authority at time of installation and no later than the date of issuance of the Certificate of Occupancy.

- (g) Listed finish requirement will not be retro-active. Remodeling or change of ownership will require all finishes to be brought up to these above requirements.

Sec. 6-160. Mobile food unit.

- (a) *Generally.* Mobile food units as defined by the Texas Food Establishment Rules.
- (b) *Permit required.* It shall be unlawful for any mobile food unit to operate without a valid health permit issued by the city up to June 30, 2026.
- (c) All mobile food units must operate from a base of operation such as a commissary or provide documentation showing that the vehicle carries the equipment necessary to comply with state law. All foods must be from an approved source. No home prepared foods will be allowed.
- (d) *Location.* Mobile food unit may conduct business city wide in conjunction with a special event permit, master plan development (PD), or specific use permit (SUP)."

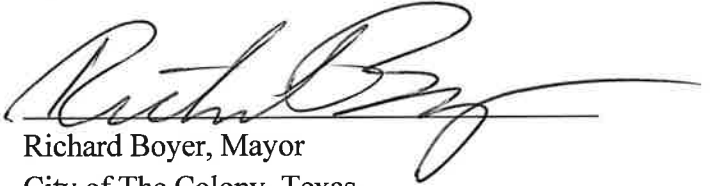
SECTION 3. If any section, article paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any persons or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance; and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 4. That all provisions of the Ordinances of the City of The Colony, Texas, in conflict with the provisions of this Ordinance be, and the same are hereby amended, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 5. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of The Colony, Texas, shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense. Every day a violation occurs shall constitute a separate offense.

SECTION 6. This Ordinance shall become effective from and after its date of passage in accordance with law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE COLONY, TEXAS, THIS 8th DAY OF OCTOBER 2025.

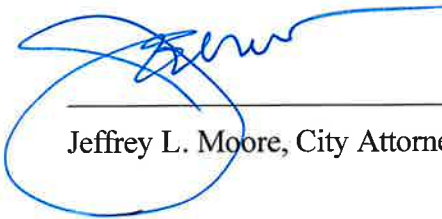

Richard Boyer, Mayor
City of The Colony, Texas

ATTEST:


Tina Stewart, TRMC, CMC, City Secretary



APPROVED AS TO FORM:


Jeffrey L. Moore, City Attorney