

Texas Food Establishment Rules

COSM COMPLIANCE TO CURRENT REGULATIONS AND STATE LAWS

Texas Food Establishment Rules

STAFF PROVIDED UPDATE TO COUNCIL
DURING THE AUGUST 21, 2018 WORK
SESSION ON THE PROCESS OF AMENDING
THE COSM FOOD ORDINANCE TO REFLECT
THE CURRENT STATE FOOD PROTECTION
LAWS KNOWN AS THE TEXAS FOOD
ESTABLISHMENT RULES

THE OBJECTIVE...

Transitioning to new code

- ▶ Adhere to the State of Texas Food Establishment Rules effective October 2015 (Minimum Requirements by State Law)
- ▶ Streamline COSM Food Ordinance
- ▶ Create local amendments to clarify vague language in state code
- ▶ Innovation at work by providing permitting processes that meet the specific needs of the community
- ▶ Improve the Customer Experience by streamlining processes while maintaining food safety
- ▶ Provide education and outreach to our customers

Food Establishment Types

- ▶ Fixed food establishments
 - restaurants, retail food stores, and bars
- ▶ Mobile food units
 - food trucks, trailers, and push carts
- ▶ Temporary food establishments
 - single events, festivals, and celebrations
 - operates no more than 14 consecutive days

Food Establishment Types

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▶ Cottage Kitchens

- at home production of non-potentially hazardous foods such as breads, cakes, pastries, and canned jams or jellies

▶ Farmer's Markets

- a designated location used primarily for the distribution and sale of food directly to consumers by farmers and other producers.

COSM 2018 Permits

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- ▶ Fixed Establishments = 376 (Inspected twice a year)
- ▶ Mobile = 34 (Inspected twice a year)
- ▶ Temporary Food Establishments 2018= 708 (Inspected case by case)
- ▶ Cottage Food Industry = Unknown-No Permit is Required
- ▶ Farmer's Markets = 3 (Inspected minimum of twice per year)

State Code & Local Code

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▶ State code

- mandated by law: Health and Safety Code; Texas Administrative Code

▶ Local code

- can be more restrictive than state code, but not less restrictive
- modifications that achieve same results of state code can be addressed through variances (Ex: Dining with Dogs)

THE APPROACH...

COMMUNITY ENGAGEMENT INITIATIVES

- ▶ Multiple Stakeholder Meetings | December 2017 & January 2018
- ▶ Communications Press Release | January 2018
- ▶ City Website Updates | January 2018
- ▶ Multiple Health Open Houses | February 2018
- ▶ Health & Community Committee | May 2018
- ▶ Council Work Session | August 2018
- ▶ Recent stakeholder meetings
- ▶ Revised draft food ordinance on city website for comment

Code Recommendations

Changes...Clarifications...Variances...Amendments

Codes:

Fixed Establishments

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Item	State	Current Local	Proposed Local
1	Certified Food Manager on duty or equivalent	Certified Food Manager on duty or equivalent	Clarification: One Certified Food Manager for each location
2	Food Handler Card required within 60 days	Food Handler Card required on Day 1	Amendment: Requesting 45 days to obtain Food Handler Card
3	Food Handler Card kept on site	Food Handler Card kept on each person	Amendment: Food Handler Card available upon request

Codes:

Mobile Food Units

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Item	State	Current Local	Proposed Local
1	Be readily moveable-no power, water, or wastewater connections	Be readily moveable-no power water, or wastewater connections	Variance: Allow electrical connection when in operation
2	Designated central prep facility and copy of last inspection report	Designated central prep facility required	Clarification: Provide clear definition/identification
3	Food Protection Manager Certification	Food Protection Manager Certification	Clarification: One per truck or location
4	Food Handler for employees within 60 days	Food Handler on Day 1	Amendment: 45 days and available upon request
5	Restrooms for employees conveniently located and accessible to employees during all hours of operation	Follow State	Within 300 feet or conveniently located as determined by the health authority
6	No restriction on vending from a public place	Parks Ordinance has restrictions in place but not referenced	Clarification: Current restriction on vending in parks in separate code

Codes:

Temporary Food Establishments

Item	State	Current Local	Proposed Local
1	Food not prepared on site or requiring extensive preparation at a licensed food establishment	Follow State	No Change
2	May be required to have food handler	Required Day 1	Amendment: May be required depending on food type
3	Permitted for Max 14 consecutive days- No limit to number of events	Permitted for Max 14 consecutive days- No limit to number of events	Amendment: Limit number of events to 12
4	No Annual or long-term permits	No Annual or long-term permits	Variance: Create provisions for government, non profits, and school programs

Codes:

Cottage Food Industry

Item	State	Current Local	Proposed Local
1	No permit required	Follow state	No change
2	Labeling of ingredients is required	Follow state	No change
3	Food must be sold or given by the preparer	Follow state	No change

Codes:

Farmers Market

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Item	State	Current Local	Proposed Local
1	Allows permitting of potentially hazardous foods (TCS Foods) e.g., cut melons, frozen meat	Allows permitting of potentially hazardous foods (TCS Foods)	Amendment: Permit required for potentially hazardous foods (TCS Foods)
2	Food Handler not stipulated	Required	Amendment: Food Handler if required to permit
3	Hand & ware washing station not stipulated	Hand & ware washing station not stipulated	Amendment: Treat as temp food permit
4	No requirements for self serve	No requirements for self serve	Amendment: Unattended self serve not allowed

Permit Fees

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Item	Permit	Current	Proposed	Notes
1	Food Operation, Temp Food, and Other Fees:			
2	Food Handler Training	\$15.00	Eliminate	Cannot offer local training
3	Choking Poster (Heimlich)	No Charge	Eliminate	No longer required by state code
4	Central Prep Facility Permit	N/A	\$50.00	Covers inspection
5	Annual Temporary	N/A	No Fee	Government, school districts, non profits
6	Expedited Permit	N/A	\$50.00	For permits submitted < 7 days
7	Seasonal Permit	N/A	\$101.50	Special conditions, longer than temporary but less than annual

Permit Fees

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Permit	Current	Proposed	Notes
Farmers Market	\$101.50	\$10.00	Permits only for vendors selling potentially hazardous foods (TCS foods)

Seasonal Food Permit (NEW)

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An individual permit with special conditions

- ▶ Bridges the gap between temporary and annual permitting
- ▶ Duration determined by health authority
- ▶ Duration not to exceed 270 days in a calendar year
- ▶ May limit menu items that can be prepared or sold
- ▶ May limit permit to specific days or dates of operation (e.g., Fridays)
- ▶ May waive certified food protection manager based on risk
- ▶ Examples include concession stands, summer school feeding program, fixed establishment special events, fish Fridays for Lent

Next Steps...

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- ▶ Adopt local ordinance that references the state code...1st reading April 2019
- ▶ Develop outreach plan with Communications/Intergovernmental Relations department
- ▶ Complete online permitting and inspection processes through MyPermitNow.org

- ▶ Certified Food Protection Manager and Food Handler training and testing available in classroom or online by visiting www.dshs.texas.gov/food-handlers or www.dshs.Texas.gov/food-managers

Questions?

COMMUNITY ENGAGEMENT FEEDBACK

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- ▶ Initial proposed fees were too high.
- ▶ Concerns about certified food manager requirements
- ▶ Concerns about local produce being sold to restaurants
- ▶ Requirement for mobile food units to obtain a temporary permit
- ▶ Are mobile food units required to move each day
- ▶ Samples at cook off events
- ▶ Concerns regarding limiting the number of temporary events
- ▶ A process for annual permits related to non profit/government events

Solutions for Local Organizations

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- ▶ Event Coordinator—Allows for 501 c3's to obtain permits for participants
- ▶ Cottage Kitchen—An annual permit is issued covering all Fridays
- ▶ Downtown Association—Third Thursday required adjustments for 501 c3 permits, food manager for event
- ▶ School District—Annual permit for school feeding program
- ▶ Cook Off Events—On the spot permitting, and 501 c3 permits
- ▶ Sights and Sounds—Batch permitting and meetings with participants
- ▶ Dining with Dogs—variance for companion animals on outdoor patios