

CITY OF STARBASE, TEXAS

ORDINANCE NO. 2025-05-30-DD2-OR

AN ORDINANCE OF THE CITY OF STARBASE, TEXAS, ADOPTING THE TEXAS FOOD ESTABLISHMENT RULES REGULATING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, TEMPORARY FOOD ESTABLISHMENTS, MOBILE FOOD UNITS, ROADSIDE FOOD VENDORS, AND FARMERS' MARKETS; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR A PENALTY NOT TO EXCEED \$500 FOR ALL VIOLATIONS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; PROVIDING FOR ENGROSSMENT AND ENROLLMENT OF THIS ORDINANCE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Starbase, Texas (the "City"), is a Type C general law municipality, incorporated pursuant to Chapter 8 of the Texas Local Government Code; and

WHEREAS, between 501 to 4,999 inhabitants reside in the City, enabling the City to exercise Type A general law municipal powers in accordance with Texas Local Government Code section 51.051(a); and

WHEREAS, the City Commission desires to adopt the Texas Food Establishment Rules to regulate food service establishments, retail food stores, temporary food establishments, mobile food units, roadside food vendors, and farmers' markets within the City; and

WHEREAS, the City Commission is authorized to regulate food establishments and farmers' markets in accordance with the Texas Constitution, the Texas Health and Safety Code, the Texas Administrative Code, and Texas Local Government Code; and

WHEREAS, after due deliberation and consideration, the City Commission has determined that this Ordinance should be adopted, and that such Ordinance is in the best interest of the public health, safety, and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF STARBASE, TEXAS:

SECTION 1. Incorporation of Premises. The premises set forth above are incorporated herein as if set forth verbatim.

SECTION 2. Adoption of Texas Food Establishment Rules.

- A. The City of Starbase adopts by reference the provisions of the current rules or rules as amended by The Executive Commissioner of the Health and Human Services Commission found in 25 Texas Administrative Code, Chapter 228, and Chapter 229, Subchapter FF, regarding the regulation of food establishments and farmers' markets in the City.

B. Definitions.

- i. "City" means the City of Starbase, Texas, along with its officials, employees, contractors and other authorized city representatives or agents. "City" also means the regulatory authority as set forth in the state rules.
- ii. "Farmers' market" means a designated location used for a recurring event at which a majority of the vendors are farmers or other food producers who sell food directly to consumers. The term "farmers' market" includes the vendors selling food at the farmers' market.
- iii. "Food establishment" means a food service establishment, a retail food store, a temporary food establishment, a mobile food unit, and/or a roadside food vendor.
- iv. "Public property" means any property open or devoted to public use or owned by the City, Cameron County or State of Texas, including but not limited to, sidewalks, streets, rights-of-ways, parks and municipal buildings.
- v. "Public rights-of-way" means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, parkway, waterway, easement, or similar property in which the City, Cameron County or the State of Texas now or thereafter holds any property interest, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a person's facilities.
- vi. "State rules" means the regulations set forth in 25 Texas Administrative Code, Chapter 228, and Chapter 229, Subchapter FF, as amended. These rules are also known as the Texas Food Establishment Rules.

SECTION 3. Permits and Exemptions.

- A. A person may not operate a food establishment or farmers' market within City limits without a permit issued by the City. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this Ordinance. A valid permit must be posted in or on every food establishment or farmers' market regulated by this Ordinance. All food establishments are subject to the City's zoning requirements and all other applicable City ordinances.
- B. A food establishment or farmers' market operated solely by a nonprofit organization is exempt from the permitting requirements of this Ordinance but is not exempt from compliance with state rules. The City may require any information necessary to determine whether an organization is a nonprofit for purposes of this exemption.
- C. Single event permits for temporary food establishments are valid for one individual food booth or unit at one specific event, and are valid for fourteen consecutive days from the initial permit effective date. Multiple event permits for temporary food establishments are valid for one individual food booth or unit at multiple events and are renewable on an annual basis. Permits are required for each individual food booth or unit.

SECTION 4. Application for Permit and Fees.

- A. Any person desiring to operate a food establishment or farmers' market must make a written application for a permit on forms provided by the City. The application must contain the completed application form, the applicable fee, copies of all food manager certifications, proposed food menu, copy of TABC license (if applicable), Texas sales and tax permit, written authorization as required by section 4(B) below (mobile food units and temporary food establishments only), and any other information or document requested by the City to ensure compliance with state rules and this Ordinance. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.
- B. All mobile food units and temporary food establishments must have written authorization from the owner or person in control of each premises from which the mobile food unit or temporary food establishment will sell or serve food. The authorization must include the specific dates and times during which the mobile food unit or temporary food establishment is authorized to be present on the premises. A current copy of each written authorization must be submitted with the permit application and maintained on file with the City. The mobile food unit or temporary food establishment shall also keep a current copy of the written authorization(s) in its files for review by inspectors. Operation of a mobile food unit or temporary food establishment outside of the specific dates and times set forth in the written authorization shall be a violation of this Ordinance. As part of the permitting process, the City may also place additional date, time and location restrictions on a mobile food unit or temporary food establishment. Mobile food units and temporary food establishments may not sell or serve food, or otherwise operate on public property or public rights-of-way.
- C. Prior to the approval of an initial permit or the renewal of an existing permit, the City shall inspect the proposed food establishment or farmers' market to determine compliance with state rules and other applicable laws. A food establishment or farmers' market that does not comply with state rules and other applicable laws will be denied a permit or the renewal of a permit.
- D. The City's comprehensive fee schedule sets forth the fees applicable to permits issued under this ordinance.

SECTION 5. Review of Plans.

- A. Whenever a food establishment or farmers' market is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment or farmers' market, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the City for review before work is begun. Extensive remodeling means that 20% or greater of the area of the food establishment or farmers' market is to be remodeled. The plans and specifications shall indicate the proposed layout,

equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. The plans and specifications will be approved by the City if they meet the requirements of the rules adopted by this Ordinance. The approved plans and specifications must be followed in construction, remodeling or conversion.

- B. Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

SECTION 6. Suspension of Permit.

- A. The City may, without warning, notice, or hearing, suspend any permit to operate a food establishment or farmers' market if the operation of the food establishment or farmers' market constitutes an imminent hazard to public health. Suspension is effective upon service of the notice required by Section (6)(B) of this Ordinance. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing.
- B. Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the City by the holder of the permit within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The City may end the suspension at any time if reasons for suspension no longer exist.

SECTION 7. Revocation of Permit.

- A. The City may, after providing an opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the City in the performance of its duties. Prior to revocation, the City 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 days following service of such notice unless a written request for a hearing is filed with the City by the holder of the permit within such ten day period.
- B. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

SECTION 8. Administrative Process.

- A. A notice as required in these rules 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.

- B. The hearings provided for in these rules shall be conducted by the City at a time and place designated by it. Based upon the recorded evidence of such hearing, the City 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 holder of the permit by the City.

SECTION 9. Enforcement. This Ordinance shall be enforced by the City or its authorized designee.

SECTION 10. Definitions, Interpretation and Conflict. Unless otherwise defined herein, the terms used in this Ordinance shall have the same definition and meaning as used in Chapters 437 and 438 of the Texas Health and Safety Code, and 25 Texas Administrative Code, Chapter 228, and Chapter 229, Subchapter FF, as amended. In the event of a conflict between this Ordinance and the aforementioned state law, this Ordinance shall control.

SECTION 11. Penalty. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed \$500 for all violations of this Ordinance. Each day or any portion thereof during which any violation of this Ordinance occurs or continues shall be deemed a separate offense and upon conviction thereof shall be punishable as herein provided. The City may seek to enjoin violations of these rules.

SECTION 12. Severability. It is hereby declared to be the intention of the City Commission that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Commission without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 13. Repealer. This Ordinance shall be cumulative of all provisions of all ordinances of the City of Starbase affecting food establishments, as amended, and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this Ordinance.

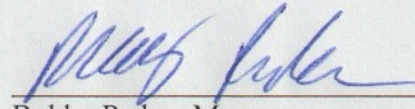
SECTION 14. Engrossment/Enrollment. The City Secretary is hereby directed to enroll and engross this Ordinance by reflecting the passage of this Ordinance in the minutes of the City Commission and by filing this Ordinance in the Ordinance Records of the City.

SECTION 15. Publication. The City Secretary is hereby directed to publish the caption, penalty clause, and effective date of this Ordinance required by Texas Local Government Code section 52.011 and as otherwise provided by law.

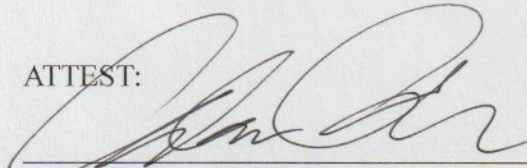
SECTION 16. Effective Date. This Ordinance shall become effective upon its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED by the City Commission of the City of Starbase, Texas, on this 30th day of May 2025.

CITY OF STARBASE

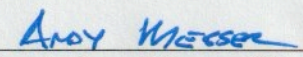

Bobby Peden, Mayor

ATTEST:


Caroline Cole, City Secretary



APPROVED AS TO FORM:


Wm. Andrew Messer, City Attorney