

ORDINANCE NO. 0-2025-007

AN ORDINANCE OF THE TOWN OF BROCK, TEXAS, REGULATING FOOD ESTABLISHMENTS; ESTABLISHING FEES FOR PERMITS AND INSPECTIONS; PROVIDING A SUSPENSION AND HEARING PROCEDURE; ESTABLISHING A MAXIMUM \$2,000 FINE OR INJUNCTIVE RELIEF FOR NONCOMPLIANCE; PROVIDING A REPEALING AND SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 437 of the Texas Health and Safety Code provides the authority for municipalities to regulate and inspect food service establishments, retail food stores, mobile food units, and roadside food vendors; and

WHEREAS, after reviewing the needs of the community, the Town Commission of the Town of Brock, Texas, has determined it is necessary to exercise the authority granted by Chapter 437 of the Health and Safety Code for regulation and inspection of food establishments in the Town, including the collection of necessary fees; and

WHEREAS, the Town Commission finds that the regulations set forth in this Ordinance are a proper exercise of the Town's authority and promote the public health and safety of Town residents.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF BROCK, TEXAS:

SECTION 1. Adoption of Texas Food Establishment Rules

A. The Town of Brock, Texas, hereby 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, regarding the regulation of food establishments in Texas applicable to the Town.

B. Definitions

- i. The words "authorized agent or employee" mean the employees or independent contractors of the regulatory authority.
- ii. The words "food establishment" means a food service establishment, a retail food store, a temporary food establishment, a mobile food unit or vendor, and/or a roadside food vendor, unless the context requires otherwise. After July 1, 2026, mobile food units/vendors will not be regulated by this Ordinance as provided in Section 2.
- iii. The words "state rules" mean the state rules found at 25 Texas Administrative Code, Chapter 228. These rules are also known as the Texas Food Establishment Rules.
- iv. The words "regulatory authority" means the Town of Brock, including any independent contractor(s) working under the delegated authority of the Town to enforce this Ordinance.

SECTION 2. Permits and Exemptions

- A. A person may not operate a food establishment without a permit issued by the regulatory

authority. Permits are not transferrable 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 regulated by this Ordinance.

B. A food establishment 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 regulatory authority may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption

C. A "cottage food production operation" as defined by Texas Health and Safety Code Chapter 437 is exempt from the requirements of this Ordinance to the extent the cottage food production operation qualifies for an exemption under Section 437.0191 and 437.0192 of the Health and Safety Code.

D. On or after July 1, 2026, a "small-scale food business" as defined by Texas Health and Safety Code Chapter 437 is exempt from the requirements of this Ordinance if the small-scale food business has obtained a permit from the Department of State Health Services as provided in Section 437.0063 of the Health and Safety Code.

E. Under Texas Health and Safety Code Section 437.01235, the regulatory authority will not charge a local fee under the authority of the Texas Alcoholic Beverage Code if the premises is a food establishment that has already paid a fee to operate to the regulatory authority under this Ordinance.

F. On or after July 1, 2026, a "mobile food vendor" as defined by Texas Health and Safety Code Chapter 437B is exempt from the requirements of this Ordinance as provided by that chapter. On or after July 1, 2026, a mobile food vendor must obtain a permit as required by Chapter 437B from the appropriate state regulatory agency to lawfully operate within the Town's jurisdiction.

SECTION 3. Application for Permit and Fees

A. Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. 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. Prior to the approval of an initial permit or the renewal of an existing permit, the regulatory authority shall inspect the proposed food establishment to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules will be denied a permit or the renewal of a permit.

C. The following fee schedule applies to permits issued under this Ordinance:

**Annual Permit
Fees**

Notes

Food
Establishment
Permit \$240

Mobile Food
Vendor Permit* \$150

*In addition to Food
Establishment Permit
requirement; applicable until July
1, 2026.

**Food
Establishment
Inspection Fees**

Notes

General Inspection
Fee* \$150

Required
Reinspection Fee* \$150

*Applicable for all permit types,
initial and renewal.

*Applicable if (1) the reinspection
is necessary to cure a violation
that presents a direct and
significant risk to public
health; and (2) not more than one
reinspection fee is charged within
60 days of the previous
inspection, unless the entity on
which the fee is imposed failed to
make reasonable efforts to correct
the violation.

SECTION 4. Review 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 to the regulatory authority for review before work is begun. Extensive remodeling means that 20% or greater of the area of the food establishment 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 regulatory authority 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 5. Suspension of Permit

A. The regulatory authority may, without warning, notice, 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 by Paragraph (5)(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 regulatory authority 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 regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

SECTION 6. Revocation of Permit

A. The regulatory authority may, after providing 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 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 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 day period.

B. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

SECTION 7. 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 regulatory authority.

B. The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. 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 holder of the permit by the regulatory authority.

SECTION 8. Remedies

A. Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be fined not more than Two Thousand Dollars (\$2,000.00).

B. The regulatory authority may seek to enjoin violations of these rules.

SECTION 9. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 10. All ordinances or portions thereof of the Town in conflict with the provisions of this Ordinance are hereby repealed, and all other ordinances of the Town not in conflict with the provisions of this Ordinance shall remain in full force and effect.

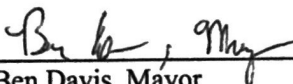
SECTION 11. This Ordinance shall become effective from and after its passage and approval and after publication as may be required by law.

PASSED AND APPROVED BY THE TOWN COMMISSION OF THE TOWN OF BROCK, TEXAS ON THIS THE 20TH DAY OF OCTOBER, 2025.

TOWN OF BROCK, TEXAS



ATTEST:


Ben Davis, Mayor

APPROVED AS TO FORM:


Melanie Matheus, Town Administrator


Alex M. Phipps III, Town Attorney