

STATE OF TEXAS
ORANGE COUNTY

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INTERLOCAL AGREEMENT

INTERLOCAL AGREEMENT
REGULATING FOOD SERVICE ESTABLISHMENTS,
RETAIL FOOD STORES, MOBILE FOOD UNITS
AND ROADSIDE FOOD VENDORS

THIS INTERLOCAL AGREEMENT (“Agreement”), made and entered into pursuant to the Interlocal Cooperation Act, (V.T.C.A., Government Code, Chapter 791, and specifically §791.025 of the Act). By and between **ORANGE COUNTY, TEXAS** hereinafter referred to as **ORANGE COUNTY** and having its principal place of business at 801 Division Street, Orange, Texas 77630 and the **CITY OF ORANGE, TEXAS**, hereinafter known as the **CITY** having its principal place of business at 803 W. Green, Orange, Texas 77630.

I. PREAMBLE

- 1.01. Statutory Authorization.** The Legislature of the State of Texas has, in Chapter 437 of the Texas Health & Safety Code, allowed local governmental units to enforce state law and rules adopted under state law concerning food service establishments, retail food stores, mobile food units and roadside food vendors.
- 1.02. Findings of Fact.** There are currently over three hundred thirteen (313) food establishments within Orange County that are being inspected but not adequately controlled because of a lack of authority to enforce State Health Regulations.
- 1.03. Statement of Purpose.** It is the purpose of this Interlocal Agreement to promote the public health, safety and general welfare by creating a system to allow for inspection and licensing of food establishments by the County Health Authority. Furthermore, it is in the best interest of the public health, safety and general welfare of the citizens of **ORANGE COUNTY** to enforce the rules adopted by the Texas Board of Health under the Texas Food, Drug and Cosmetic Act.
- 1.04. Definitions.** This Interlocal Agreement incorporates the definitions set forth by the State Legislature in Chapter 437 of the Texas Health And Safety Code and the current rules or rules as amended by the Texas Board of Health found in 25 TAC §229.161-171 and 171-173 and 175.
- 1.05. Order.** On September 5, 2005, the Orange County Commissioners’ Court took action to approve an Order Regulating Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors to effectuate the purpose and resolve the concerns set forth in this Section. The **CITY** and **ORANGE COUNTY** agree that said Order should be

enforced by **ORANGE COUNTY** within the territorial limits and jurisdiction of the **CITY**. A true and correct copy of this Order is attached hereto, and incorporated herein by reference.

II. ESTABLISHMENTS AFFECTED BY THE ORDER

2.01. Applicability Throughout Orange County. This Interlocal Agreement shall apply to all food service establishments within the jurisdiction of **ORANGE COUNTY**, including territory within the municipal city limits of **CITY** or any other territory under the **CITY**'s jurisdiction.

III. COUNTY HEALTH AUTHORITY

3.01. Designation of County Health Authority. Previously, the Orange County Commissioners' Court, in a regular court session, took action to appoint The Orange County Health Authority ("County Health Authority") to administer and implement the provisions of this its Order and perform the duties set forth in this Interlocal Agreement..

3.02. Duties and Responsibilities of the County Health Authority. Duties and responsibilities of the County Health Authority shall include, but not be limited to:

- a. Maintain and hold open for public inspection all records pertaining to the provisions of this Interlocal Agreement;
- b. Review, approve or deny all applications for permits required by this Interlocal Agreement;
- c. Review plans for proposed food service establishments to determine if said establishments are in compliance with laws and regulations;
- d. Inspect and permit all existing establishments at least annually to be sure they are in compliance with state regulations.

3.03. Delegation Authorized. The County Health Authority may delegate the inspection and permitting procedure to the Health and Code Compliance Department

3.04. Delegation. The **CITY** delegates the rights, responsibilities and duties to issue permits, inspect, collect and enforce the regulations set forth or referenced herein to **ORANGE COUNTY** to be administered by the County Health Authority.

IV. PERMITS AND EXEMPTIONS

4.01. Permit Required. No person may operate a food establishment without a permit issued by the County Health Authority. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this order. A valid permit must be posted in or on every food establishment regulated by this order.

- 4.02. Exemption For Non-Profit Activities.** A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this order, but is not exempt from compliance with state laws and rules. The County Health Authority may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption. Non-profit organizations, registered as such, shall be inspected but exempt from permit fees.
- 4.03. Exemption For “Bed and Breakfast” Establishment.** A bed and breakfast establishment with seven or fewer rooms for rent that serves only breakfast to its overnight guests is not a food establishment for purposes of this order. Any other bed and breakfast is a food establishment and shall follow the applicable state rules and must obtain a permit under this Interlocal Agreement and pursuant to the aforementioned Order of Commissioners’ Court..
- 4.04. Delegation.** The CITY delegates the permitting requirement as set forth in this Section to **ORANGE COUNTY.**

V. PERMIT PROCEDURES

- 5.01. Permit Application.** Applications for a permit shall be presented to the County Health Authority, on forms furnished by him, and may include, but not be limited to, plans in duplicate drawn to scale showing the locations and dimensions of existing and proposed structures.
- 5.02. Permit Fees.** The County Health Authority shall require an annual fee as provided hereinbelow for issuance or renewal of a permit to operate a food service establishment, retail food store, mobile food unit or a roadside food vendor payable by said food provider.
- 5.03. Fee Schedule.** Fees shall be established as follows:

a.	Restaurant 0-20 seats	75.00
b.	Restaurant 21-50 seats	100.00
c.	Restaurant 51-75 seats	125.00
d.	Restaurant 75+ seats	150.00
e.	Convenience Stores (No Food Service)	75.00
f.	Convenience Stores (Food Service)	125.00
g.	Grocery Stores (No Food Service)	125.00
h.	Grocery Stores (Food Service)	150.00
i.	Take Out (Food Service)	125.00
j.	Roadside Vendors (Roadside Permits for Profit)	150.00
k.	Second Re-inspection	75.00
l.	Snow Cone Stands	50.00
m.	Day Care/Nursery	75.00
n.	Bakeries	75.00

o.	Meat/Fish (No Food Service)	75.00
p.	Meat/Fish (Food Service)	100.00
q.	Temporary Permits (3 days)	100.00
r.	Lounges/Bars	100.00
s.	Foster Home	No Charge
t.	School	No Charge
u.	Church	No Charge

5.04 Temporary Food Establishment. The County Health Authority shall require a fee of \$100.00 for a permit to operate a temporary food service establishment which shall mean a food service establishment that operated at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

5.05. Delegation. The CITY delegates the issuance of all permits and the collection of the permit fees associated with the same, as set forth in this Section, to **ORANGE COUNTY**. All fees collected shall be due and payable to **ORANGE COUNTY** and shall be used to offset the cost of **ORANGE COUNTY** on account the performance of the terms of this Interlocal Agreement..

VI. REFUSAL TO ISSUE PERMIT - APPEALS PROCEDURE

6.01. Refusal To Issue Permit. The County Health Authority may refuse to issue a permit or may suspend or revoke a permit if it is found that the food service establishment, retail food store, mobile food unit, or roadside food vendor is not in compliance with state law, rules adopted under state law or orders adopted by the County Health Authority.

6.02. Review Of Findings. If an establishment is refused a permit for any reason, that establishment may request a review of the findings of the Health and Code Compliance Department with the County Health Authority by filing the same with the County Judge of the Orange County Commissioners' Court within seven (7) days of the date of the refusal. The Commissioners' Court shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the County Health Authority in the enforcement or administration of this Order.

6.03. Judicial Review. Any person or persons aggrieved by the decision of the Commissioner's Court may appeal such decision in the court of competent jurisdiction.

6.04. Records Of Appeal. The County Health Authority shall maintain a record of all actions invoking an appeal.

6.05. Delegation. The CITY delegates the handling of all appeals proceedings as set forth in this Section to **ORANGE COUNTY** to be administered by, and through, the County Health Authority.

VII. PENALTIES

- 7.01. Criminal Penalty.** Violations of the provisions of this Order or failure to comply with any of its requirements shall constitute a Class C Misdemeanor, and upon conviction thereof, the violators shall be fined not more than \$500.00, and in addition thereto, shall pay all costs and expenses incurred in the case, Each day such violations continue shall be considered a separate offense.
- 7.02. Injunctive Relief.** Injunctions shall issue to prevent violations or threatened violations.
- 7.03. Delegation.** The CITY delegates enforcement of the penalties set forth in this Section to **ORANGE COUNTY**.

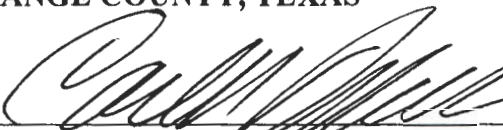
VIII. MISCELLANEOUS PROVISIONS

- 8.01. Severability.** In the event any provision of this Interlocal Agreement is held to be unenforceable for any reason, the remainder of the Order with its terms shall not be affected.
- 8.02. No Liability Created By Order.** The degree of public health protection required by this Interlocal Agreement is considered reasonable for regulating purposes and is based on state laws and regulations. This Interlocal Agreement shall not create liability on the part of **ORANGE COUNTY**, or the **CITY**, or any office or employee thereof for any damages that result from reliance of this Order or any administrative decision lawfully made thereunder.

EXECUTED ON THIS THE 22nd DAY OF November, 2005.

ORANGE COUNTY, TEXAS

CITY of ORANGE, TEXAS



Carl K. Thibodeaux, Orange County Judge



Its Authorized Representative

ATTEST:

By: 

Karen Jo Vance, Orange County Clerk

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH ORANGE COUNTY RELATING TO REGULATING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, MOBILE FOOD UNITS, AND ROADSIDE FOOD VENDORS.

WHEREAS, the Legislature of the State of Texas has, in Chapter 437 of the Texas Health & Safety Code, allowed local governmental units to enforce state laws and rules adopted under state law concerning food service establishments, retail food stores, mobile food units, and roadside food vendors; and

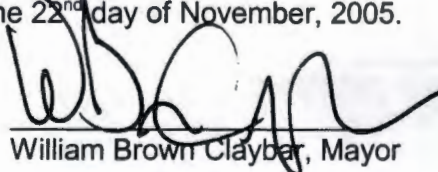
WHEREAS, it is the purpose of this Interlocal Agreement to promote the public health, safety and general welfare by creating a system to allow for inspection and licensing of food establishments by the County Health Authority. Furthermore, it is in the best interest of the public health, safety and general welfare of the citizens of the City of Orange to enforce the rules adopted by the Texas Board of Health under the Texas Food, Drug and Cosmetic Act; and

WHEREAS, the City of Orange agrees that said ORDER should be enforced by Orange County within the territorial limits and jurisdiction of the City of Orange; now therefore

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE, TEXAS:

That the City Manager be and is hereby authorized to execute the attached Interlocal Cooperative Agreement with Orange County.


PASSED and APPROVED on this the 22nd day of November, 2005.


William Brown Claybar, Mayor

ATTEST:


Kerry Kittrell, City Secretary

APPROVED:


City Attorney