

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

This is a Memorandum of Understanding (MOU) between the Georgia Department of Agriculture (GDA) and the Georgia Department of Public Health (DPH) to clarify the parties' responsibilities for regulatory authority of food and drink related establishments and surveillance and investigation of foodborne illnesses as well as to broaden cooperative efforts between the two agencies. This MOU applies to food and drink related establishments throughout the State of Georgia.

I. GENERAL

A. Background

The purpose of this MOU is to clarify the respective responsibilities of the GDA and DPH in the licensing and permitting of food sales and food service in the state of Georgia, for surveillance and investigation of foodborne illnesses, and in furtherance of such purposes, to broaden cooperative efforts between the two agencies.

Department of Agriculture § O.C.G.A. 26-2-33. Enforcement of article by Commissioner; employment of personnel

- (a) The Commissioner is charged with the duty of enforcing this article and rules, regulations, and standards adopted and promulgated under this article in establishments that have the majority of square footage of building floor space used for the operation of food sales as defined in Code Section 26-2-21. The measurement of square footage shall consider indoor and outdoor dining areas as part of food service as defined in Code Section 26-2-370. The Commissioner shall employ the necessary personnel and shall fix their compensation and prescribe their duties. Duly authorized representatives are authorized to enter upon and inspect the premises of any food sales establishment.
- (b) Notwithstanding any other provision of this article, food service establishments as defined in Code Section 26-2-370 shall be inspected and regulated under Article 13 of this chapter and shall not be subject to inspection or enforcement under this article.

Department of Public Health § O.C.G.A. 26-2-375 Enforcement of article; inspection of food service and food sales establishments

- (a) The Department of Public Health and the county boards of health, acting as duly authorized agents of the department, are authorized to enforce this article and rules, regulations, and standards adopted and promulgated under this article in establishments that have the majority of square footage of building floor space, including indoor and outdoor dining areas, used for the operation of food service as defined in Code Section 26-2-370. Their duly authorized representatives are authorized to enter upon and inspect the premises of any food service establishment as provided in Article 2 of Chapter 5 of Title 31.

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- (b) Notwithstanding any other provisions of this article, food sales establishments as defined in Code Section 26-2-21 shall be inspected and regulated under Article 2 of this chapter and shall not be subject to inspection or enforcement under this article.

B. DPH and GDA have the following responsibilities for establishments that fall under their Jurisdictional Authority:

1. Department of Public Health. DPH has authority to safeguard and promote the health of the people of this state pursuant to O.C.G.A. § 31-2A-4. O.C.G.A. § 26-2-370, *et al.*, authorizes DPH to adopt and promulgate standards, rules and regulations for Food Service Establishments and authorizes DPH and County Boards of Health (CBOH), established pursuant to O.C.G.A. § 31-3-1, to enforce those standards, rules and regulations.

DPH Food Service Establishments refers to the County Boards of Health's duties to generally:

- a. Accept, review, and approve or deny permit or renewal applications.
 - b. Perform onsite inspections of the establishment's premises; and
 - c. Enforce any adverse action against the establishment.
2. Department of Agriculture. GDA has authority to promulgate regulations for enforcement of the Georgia Food Act pursuant to O.C.G.A. § 26-2-34. The Commissioner, or the Commissioner's duly authorized agent shall have free access during all hours of operation to any establishment in which food is manufactured, processed, packed, or held for introduction into commerce and any vehicle used to transport or hold such products for the purposes of inspecting such facility and securing samples or specimens of any food, as specified in O.C.G.A. § 26-2-36.

C. Responsibilities Related to Federal and Local Partners

1. This instrument binds all authorized agents of DPH and GDA when conducting activities on behalf of each respective agency. For purposes of this agreement, GDA and DPH will help ensure implementation of this Agreement as follows:
 - a. GDA will inform its field representatives of their areas of responsibility.
 - b. DPH will inform the CBOHs areas of responsibility.
 - c. GDA and DPH may provide joint training sessions as needed in the interpretation and application of principles, regulations, standards and techniques of common concern or interest.
2. "Nothing in this MOU should be construed as to prevent or prohibit either agency from working with their respective federal partners."

D. Notices and Liaisons

DPH and GDA will coordinate and conduct communications through their respective Liaisons identified below. Any communication in writing, or any oral communication confirmed in writing, from the respective liaisons will be deemed communications and notices from either DPH or GDA

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
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For GDA:

Contractor Legal Name
Attn: Contractors Contact Name
Address:
City, State, Zip
Phone #:
E-mail:

E. **Effective Date.** This Agreement is effective upon signature by both parties.

II. JURISDICTIONAL AUTHORITY OF FOOD AND DRINK RELATED ESTABLISHMENTS

A. TYPES OF ESTABLISHMENTS

1. **FOOD SALES ESTABLISHMENT** – GDA has Jurisdictional Authority for establishments whose operations meet the definition of a Food Sales Establishment, including those entities with a food service component that is not separately operated (see "Blended Operations" below).

O.C.G.A. § 26-2-21(a)(5) defines "food sales establishment" as:

- Retail and Wholesale Grocery Stores;
- Retail Seafood Stores;

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
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- Food Processing Plants (except those required to obtain a license from the GDA Commissioner under another provision of law);
 - Bakeries and Confectioneries;
 - Fruit, Nuts, and Vegetable Stores or Roadside Stands;
 - Wholesale Sandwich or Salad Manufacturers (including vending machines and operations connected therewith); and
 - Other similar establishments, mobile or permanent, engaged in the sale of food primarily for consumption off premises.
2. FOOD SERVICE ESTABLISHMENT – DPH has Jurisdictional Authority for establishments whose operations meet the definition of a Food Service Establishment, including those with a food sales component that is not separately operated (see “Blended Operations” below).

O.C.G.A. § 26-2-370 defines “food service establishment” as:

- Restaurants;
- Coffee Shops;
- Cafeterias;
- Short Order Cafes;
- Luncheonettes;
- Taverns;
- Lunchrooms,
- Places which Retail Sandwiches or Salads;
- Soda Fountains;
- Institutions, both Public and Private;
- Food Carts;
- Itinerant Restaurants;
- Industrial Cafeterias;
- Catering Establishments; and
- Similar Facilities by whatever name called.

B. SPECIAL CIRCUMSTANCES

1. WHOLESALE OPERATIONS

- i. GDA has Jurisdictional Authority for an establishment that manufactures, packages, stores, repackages or transports food products only for distribution to another entity for resale or redistribution (“Wholesale Operations”).
- ii. GDA has Jurisdictional Authority for a Wholesale Operations component within a Food Service Establishment that is operated under the same name, such as a restaurant that bottles and wholesales its barbecue sauce onsite. In this situation, DPH maintains Jurisdictional Authority of the Food Service Establishment and GDA has Jurisdictional Authority for the Wholesale Operations component.
- iii. DPH may seek assistance from GDA if it appears that a Food Service Establishment might have a Wholesale Operations component, including but not limited to, aide in

determining regulatory authority, interpretations of Code of Federal Regulations (CFRs), a.k.a. FDA's "processing rules," technical assistance for inspection of specialized processing equipment, or questions regarding process specific training or certifications (Better Process Control School, Acid/Acidified Process Schedules, Product Classifications, etc.).

iv. Wholesale Exemption:

1. A Food Service Establishment does not need to obtain a Wholesale Operations license from GDA where it sells food to a Nonprofit Entity that plans to re-serve or re-sell the food.
2. Subject to GDA's review, a Nonprofit Entity is defined as an entity that provides a service to the community without any expectation of making a profit, such as jails, public and private schools, senior centers, and nursing homes.

2. BLENDED OPERATIONS

- i. A Blended Operation is an establishment that either (a) undertakes food sales within a Food Service Establishment (to be referred to as a "Food Sales Component") or (b) undertakes food service within a Food Sales Establishment (to be referred to as a "Food Service Component").
- ii. Jurisdiction for Blended Operations is subject to O.C.G.A. §§ 26-2-21 and 26-2-370.
- iii. DPH and GDA will consider the following five factors on a case-by-case basis to determine the Jurisdictional Authority of a Blended Operation:
 1. Whether the operations are separately operated;
 - a. If components are separately operated, DPH has Jurisdictional Authority of a Food Service Component and GDA has Jurisdictional Authority of a Food Sales Component. If components are not separately operated, DPH or GDA will have Jurisdictional Authority of the entire Blended Operation based on consideration of the remaining four factors.
 - b. Components are separately operated if any of the following are true:
 - i. Do the components have different owners?
 - ii. Do the components each have a separate business license?
 - iii. Do the components have separate persons legally responsible or in charge of the operation? The person in charge of a component of a facility is not directly supervised by one on-site responsible party for the entire facility, thus making each the legally responsible person over that particular component.
 - iv. Do the components each have different names where one name is not solely owned and used by the other component's franchise or corporation? (An example of this could be the same owner over a convenience store and Subway franchise restaurant, or a Wal-Mart store that also has a McDonald's restaurant.)
 - v. Is there a separate entrance for each component? An example to consider is a strip mall convenience store with a sandwich shop, both

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
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operated by the same owner, where there is no common egress between the two operations.

2. The type of business plan and method of operation (consider primary method of sales, such as internet, for sale to cook at home, for sale to reheat, etc.);
3. Whether products are primarily consumed on-site or off-site;
4. Percentage of sales (retail sales vs. food service sales); and
5. Square footage;
 - a. If the Food Service area is enclosed, measure square footage for the enclosed area.
 - b. If the Food Service area is (1) not enclosed or (2) is adjacent to an open aisle adjoining a Food Sales area (or other area that sells retail items such as clothing, toys, office supplies), then measure square footage as follows:
 - i. To a distance of five feet from (a) the back edge of seating as placed when not being used or (b) the counter, as applicable.
 - ii. For display cases that face non-food items, measure the area in these locations to five feet from the bottom of the food display case.
 - c. *See examples of calculations and area measurements in Appendices A and B.*

3. BAKERY

- i. A Bakery produces, repackages, and/or sells flour-based foods (including those that use alternative flour products) that are baked in an oven or fried on-site, such as breads, cookies, cakes, pastries, pies and tortillas ("Bakery Products"), and the Bakery Products are primarily consumed off premise.
- ii. GDA has Jurisdictional Authority for Bakeries.
- iii. DPH has Jurisdictional Authority for an entity that makes Bakery Products on-site to be primarily consumed on the premises.
- iv. If a Food Service Establishment makes and sells Bakery Products to be primarily consumed off premises, then Jurisdictional Authority is determined based on the Blended Operations criteria, except that GDA always has Jurisdictional Authority for the Bakery Products component sold via Wholesale Operations.
 1. A Bakery that includes a café or deli operations serving coffee, tea, soups and sandwiches to customers who may wish to consume items either on or off the premises is subject to Jurisdictional Authority determined by the Blended Operations criteria.

4. CATERING

- i. Catering operations, as defined in DPH Rules and Regulations Chapter 511-6-1, are considered a Food Service Establishment and subject to DPH's Jurisdiction.
- ii. Catering operations do not include a Food Sales Establishment such as a grocery store, Bakery or other retail establishment licensed by GDA, which sells food items for delivery or pick-up by a customer.
- iii. Catering operations that are provided by a Food Sales Establishment may be evaluated under the "Blended Operations" criteria to determine Jurisdictional Authority.

5. BREWERIES, WINERIES, AND DISTILLERIES (BWDs)

- i. Jurisdiction for BWDs is determined as follows:
 1. GDA has sole Jurisdiction when:
 - a. The BWD manufactures & packages an alcohol product for off-site sales; or
 - b. The BWD manufactures & packages the alcohol for off-site sales and on-site sales and tasting, and the following are true:
 - i. Only pre-packaged food is offered to customers (staff do not prepare any food, including the slicing of cheese or fruit, nor do staff individually plate or serve customers; staff may only place out pre-sliced or prepared foods for customers to serve themselves); and
 - ii. Glasses used for tasting/drinking the alcohol are single-use, take-home souvenir, or reusable glassware washed on site; and
 - iii. Any food service is provided by a permitted Food Service Establishment and no part of the BWD is used for preparation or storage of any food, utensils or equipment (e.g., a winery has a contract with permitted caterers for any wedding events, or a brewery request that a permitted mobile food truck come to their property to provide food options for their customers, etc.).
 2. DPH has sole Jurisdiction when the BWD manufactures and serves or packages the alcohol for *only* on-site sales.
 3. DPH and GDA split Jurisdiction when the BWD manufactures and packages an alcohol product for off-site sales *and* serves food to customers that is prepared and served on site, including washing and slicing of any fruits, vegetables or cheeses, cooking, or plating any food by staff.
 - a. GDA has Jurisdiction of the manufacturing, packaging and selling of the alcohol product, including tastings of the product.
 - b. DPH has Jurisdiction of the preparation and service of food, including sales of alcohol by the glass.
 - c. The permitted kitchen used for preparation and service of food must be in a separate area from any equipment used in the manufacturing of the alcohol.
 4. A "Brew Pub" is a type of BWD that may manufacture its own alcohol, but also must sell another company's alcohol and at least 50% of the sales are food. DPH always has Jurisdictional Authority of Brew Pubs, except that GDA has Jurisdictional Authority of any Warehouse Operations component.

6. COTTAGE FOOD

- i. Cottage food operators are required to have a Cottage Food License issued by the GDA annually, which allows these food sales operators to produce non-potentially hazardous foods in their home kitchens for sale to the end consumer. These foods include: Loaf bread, rolls and biscuits; cakes; pastries and cookies; candies and confections; fruit pies; jams, jellies and preserves; dried fruits; dry herbs, seasonings

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

and mixtures; cereals, trail mix and granola; coated or uncoated nuts; vinegar and flavored vinegar; and popcorn, popcorn balls and cotton candy.

- ii. A cottage food license is not the same as a food sales establishment license, nor shall a licensed cottage food establishment be viewed as an approved source for food service establishments.
- iii. Cottage Food operations may not:
 - 1. Sell their products to Food Service Establishments without a Wholesale Operations license; or
 - 2. Serve their products, including, but not limited to samples, tasting spoons, tasting cups etc. to their customers at temporary events without a Temporary Food Service Permit from DPH.

7. RETAIL SEAFOOD SALES

- i. Some seafood establishments sell raw and cooked seafood.
- ii. Jurisdiction is determined based on the "Blended Operations" methodology.

8. MOBILE FOOD UNITS

- i. GDA has Jurisdiction of mobile vehicles that sell commercially wrapped, pre-packaged food items, fresh or frozen meat, seafood or poultry that were purchased by the mobile vehicle operator from another Food Sales Establishment licensed by GDA.
- ii. DPH has Jurisdiction of mobile food service operators that prepare and serve food within and from the mobile vehicle or prepare food at a separate location (the Base of Operation), individually portion the food, and load the food onto the mobile vehicle for sale to the end consumer, unless the Base of Operation is a Food Sales Establishment.
 - 1. If the Base of Operation at which the food is prepared is a licensed Food Sales Establishment (e.g., a Hispanic grocery store adds a mobile taco truck, or a bakery adds a mobile sales component), Jurisdictional Authority is determined based on the "Blended Operations" criteria.
 - 2. If the Blended Operations assessment determines that DPH has Jurisdictional Authority, then DPH will have Jurisdiction over both the mobile vehicle and the Base of Operations.

9. FRANCHISE OPERATIONS

- i. Certain traditional food service operations that are not solely owned and operated by a franchise or corporation but are combined with a food sales operation will always fall under the jurisdiction of DPH.
- ii. Examples include the following that may be located inside, for example, a Walmart: Arby's, Blimpie, Bojangles, Burger King, Captain D's Seafood, Checker's, Chick-Fil-A, Church's Fried Chicken, Dairy Queen, Domino's Pizza, Hardee's, KFC, Little Caesar's Pizza, McDonald's, Papa John's Pizza, Pizza Hut, Popeye's Chicken, Starbucks, Steak & Shake, Subway, Taco Bell, Waffle House, Wendy's and Zaxby's.

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
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- iii. There may be other similar food service operations; please refer to the interpretive guidelines in this MOU to determine Jurisdiction.

10. ICE CREAM

- i. Ice cream must comply with 21 CFR sec. 135.110.
- ii. DPH has Jurisdictional Authority where ice cream is produced on-site or off-site, consumption is on-site or off-site, and the product is sold in a single container directly to the end user, including if a Food Service Establishment produces and sells single serving size ice cream.
- iii. GDA has Jurisdictional Authority when
Ice cream is sold via Wholesale Operations (if produced within a Food Service Establishment, then DPH has Jurisdictional Authority of the Food Service Establishment, and GDA has Jurisdictional Authority for the Wholesale Operations component).
- iv. All ice cream ingredients other than fruit and fruit flavorings must be pasteurized and from an approved source. Food service or food sales establishments that wish to produce ice cream or frozen desserts from raw milk or egg ingredients must first obtain a GDA Dairy License to manufacture ice cream.

11. YOGURT

- i. Yogurt is subject to DPH's jurisdiction when produced on-site within a Food Service Establishment, consumption is on-site or off-site, and the product is sold in a single container directly to the end consumer. This is considered a special process and requires a variance from DPH.
GDA has Jurisdictional Authority if the establishment sells the yogurt via Wholesale Operations.

12. TEMPORARY FOOD SERVICE EVENTS

- i. DPH has Jurisdiction to issue a Temporary Food Service permit if a vendor with a Cottage Food License or Retail Food Sales Establishment License issued by GDA prepares samples or other food outside of their licensed facility (e.g., mixing herbs for sauces, slicing bread, allowing customers to taste jams or jellies with a single-service spoon, or any other manipulation of food products) for on-site consumption at a temporary event.
- ii. If the samples or food items are pre-packed into single service small containers at the licensed facility ahead of time and brought to the event to be handed out or sold individually, then DPH does not have Jurisdiction.
- iii. Vendors that have an out-of-state Cottage Food License or Retail Sales License are required to provide evidence that they are allowed to sell their products across state lines by providing a letter or other means of approval from that state's licensing agency. Once sufficient proof has been provided, then the same guidelines apply for their permitting requirements.

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

- iv. Exceptions: Vendors with a Cottage Food License or Retail Sales License do not need to obtain a Temporary Food Service permit at temporary events where:
 - 1. GDA personnel are on-site during the event and are providing oversight of the food handling operations,
 - 2. Food sales and handling are being conducted in a building and/or an event sponsored* by GDA, and/or
 - 3. GDA personnel are directly preparing and serving food solely for marketing/promotional purposes (i.e., no financial transactions).

GDA must confirm the presence of its staff in advance of these events with the local environmental health department issuing permits for the events. CBOHs and DPH are entitled to verify the GDA license status of vendors at these events operating under this exemption. Nothing in this exemption should be construed as to prevent CBOHs or DPH from permitting food service operations, which ARE NOT operating under the oversight of GDA, at these same events.

*Local community farmers markets are not conducted under the auspices of GDA and should not be included in the exemption provided above.

III. Procedures for Food Sales/Service Establishments Requiring Jurisdiction Change

- A. Upon learning that an establishment may be operating differently from its current license or permit and business plan, GDA and DPH shall consider whether to change Jurisdiction of the establishment to the other party as follows:
 - 1. The GDA Retail Compliance Specialist (RCS) or DPH Environmental Health Specialist (EHS) of the agency that currently licenses or permits the establishment ("Current Agency") will discuss the suspected or confirmed change in operations with his/her immediate supervisor to determine to engage the other agency ("Other Agency") because of the likelihood for a jurisdiction change.
 - 2. If it is necessary to engage the Other Agency, the RCS or EHS will contact their local counterpart(s) at the Other Agency to discuss the establishment and the change in operations. The counterpart will contact his/her immediate supervisor.
 - 3. If both agencies agree that the establishment may be operating differently from its current license or permit, the Current Agency will contact the establishment's owner and conduct an inspection/investigation to document the deviations from the business as originally licensed or permitted and to note any deficiencies. The investigation must include a thorough discussion with the establishment's owner to inform him or her of the deviations and clarify what the change in operation will mean regarding a change in regulatory oversight and possible required operational/equipment changes. It is important to explain the situation in detail. The establishment should be urged toward compliance.
 - i. The Current Agency will discuss the findings of the inspection/investigation with the Other Agency and determine whether the establishment needs to be subject to

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

- jurisdiction of the Other Agency. The Current Agency will communicate the jurisdiction decision in writing to the establishment.
- a. If the inspection/investigation revealed an imminent health hazard due to the changed operations or otherwise, the Current Agency must order that the establishment cease operations until the hazard(s) have been abated.
 - b. If there are no imminent health hazards, the establishment may either (i) continue the changed operations under its current license or permit while beginning the process of transition Jurisdictional Authority to the Other Agency or (ii) discontinue any changed operations and resume operations as originally licensed or permitted.
 - c. Note: If the establishment is severely out of compliance with both its current license or permit and any changes needed for the jurisdictional transition, either agency may order that certain activities be discontinued until compliance and proper licensing or permitting is attained. This will be decided through joint conservation between both agencies, based on whether the unapproved activities could present a food safety issue or be a risk to public health.
- B. If the establishment owner decides to continue the changed operations and transition Jurisdictional Authority to the Other Agency, then the Other Agency and Current Agency will meet with the establishment owner to provide the Other Agency's licensing or permitting paperwork, including information on any related fees and documentation required for a plan review. The Other Agency will also inform the establishment owner of possible equipment or operational changes that may be necessary, and any corrections that may need to be made prior to receiving the new license or food service permit. The agencies must conduct this meeting with the establishment owner within 14 days of the owner's decision to transition Jurisdictional Authority, subject to the owner's schedule.
- C. The agencies should aim for jurisdictional transition to occur from the Current Agency to the Other Agency within 60 calendar days from when the changed operations were initially discovered.
- i. The Current Agency will maintain Jurisdictional Authority of the establishment until the Other Agency issues the new license or permit.
 - ii. During this transitional time, the agencies will continue to work together to ensure that the establishment is not left in limbo between regulatory agencies and that the establishment's operations do not need to be suspended prior to issuance of the new license or permit. A transitional plan must be completed by the agencies and the owner.
EXAMPLE – See a sample transitional plan template in Appendix C.
 - iii. Within 30 calendar days of the joint meeting between the agencies and the establishment, the details of the transition shall be agreed upon and the establishment must submit any paperwork as required by the receiving agency. Within no more than

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

an additional 30 calendar days, the receiving agency shall have accepted the paperwork and taken jurisdictional responsibility for the establishment.

- iv. The 60-day timeline may only be extended in rare cases with extenuating circumstances. Any extensions should have District level approval from both agencies and a reasonable revised timeline for resolution.
- D. Once the establishment submits all necessary paperwork and fees to the Other Agency and it is accepted as "complete", then the Other Agency will conduct a pre-licensing or initial inspection.
- E. If the establishment achieves satisfactory compliance for the Other Agency's license or permit, then the Current Agency will make the establishment inactive in its system. However, records for the Current Agency must not be made inactive until the establishment is accepted and set-up by the Other Agency. The change must be documented in the database systems of both agencies.
- F. If the establishment owner refuses to cooperate in the jurisdictional changeover and continues to operate in noncompliance, then the Current Agency will implement appropriate legal recourse against the establishment.

IV. Policy to Escalate Jurisdictional Disputes:

- A. In the event that GDA's Retail Compliance Specialist and DPH's Environmental Health Specialist cannot agree upon jurisdictional authority, or the situation requires additional review in order to effectively determine appropriate jurisdiction, the decision will be escalated as follows:

Level 1: GDA Retail Compliance Specialist and DPH Environmental Health Specialist
Level 2: GDA Field Supervisor and DPH County Manager
Level 3: GDA District Manager and DPH District Environmental Health Director
Level 4: GDA Retail Program Manager and DPH Food Service Program Consultant
Level 5: GDA Food Safety Division Director and DPH Food Service Program Director

- B. At each level, GDA and DPH representatives shall review disputes or questions related to jurisdiction and discuss and/or make recommendations for a jurisdictional transitional plan. A jurisdictional transition plan may be necessary if jurisdictional authority is going to change from GDA to DPH, or vice versa. If the dispute reaches Level 5, GDA Food Safety Division Director and the DPH Food Service Program Director will have the final decision-making authority to resolve the matter. The final transition plan may involve the legal sections of both departments.

V. MECHANISMS FOR INFORMATION EXCHANGE

- A. GDA and DPH shall maintain rosters of DPH district environmental health directors and GDA food program managers and district managers. These rosters shall be updated annually and made available to the other agencies included in this MOU.
- B. Additionally, each agency has its own policies and procedures related to chain of command, chain of custody and sharing of information. Both agencies shall share and review the other agency's

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

policies pertaining to information exchange and use such policies to detail best practices for sharing information between the GDA and DPH.

- C. Shared information may be designated as confidential, privileged or otherwise protected and all agencies will handle such information in a manner that will continue to protect such information. Any reports containing proprietary business information will continue to be exempt as allowed by the Open Records Act and/or Freedom of Information Act when shared outside of GDA. GDA will provide notification(s) when sharing records that may contain privileged information and such documents will be conspicuously marked as such. The requirement in this Section to protect or otherwise maintain the confidentiality of records shall not apply to records that are required to be released by law.

VI. MECHANISMS FOR EMBARGO/SEIZURE OF FOOD SOURCES IMPLICATED IN EPIDEMIOLOGICAL INVESTIGATIONS AND ENVIRONMENTAL ASSESSMENTS

- A. DPH will investigate confirmed foodborne illness outbreaks as they are reported to the Health District(s) or DPH's Acute Disease Epidemiology Section (ADES). These investigations are conducted by the district/county health departments, and/or the State Public Health Department, following existing protocols and procedures.
- B. The GDA Compliance and Complaint Officer(s) will forward any reports of laboratory confirmed illness or clusters of unconfirmed illness that it receives to ADES.
 - 1. The ADES or the Health District where the outbreak(s) occurred will be the lead investigator of all reported foodborne illness outbreaks.
 - 2. If ADES determines that such reported cases of confirmed foodborne illness or clusters of unconfirmed illness are caused by a product regulated by GDA, FDA or USDA, then ADES will collaborate with GDA on the investigation.
- C. ADES will notify GDA of on-going investigations when it suspects that a product regulated by GDA, FDA or USDA is the cause of a disease outbreak. In such cases, ADES will be the lead investigator but collaborate with GDA on the investigation.
- D. ADES and/or District Epidemiologists will analyze epidemiological data to determine the likelihood of an association between the illness outbreak and possible food source(s).
- E. DPH may request that GDA aid any investigation. Additionally, when the investigation involves a product regulated by GDA, FDA or USDA, DPH may request that the GDA lead the traceback or traceforward investigation for contaminated foods by conducting inspections with retailers, wholesalers, manufacturers and producers to review and obtain records that document the chain of distribution for the product(s).
- F. After an investigation that implicated a product regulated by GDA, FDA or USDA is complete, ADES will provide GDA with relevant final outbreak reports and GDA will share any reports with ADES that it generated during the investigation (e.g., complaint intake forms, reportable food registry reports, inspection summaries, incident action plans, etc.).
- G. GDA and DPH will coordinate any resulting actions to remove contaminated food from distribution. DPH may utilize the local Health Authority or Georgia Environmental Health Strike Team in conjunction with Georgia Food and Feed Rapid Response Team (RRT) members, and other

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

GDA field representatives as needed, to assist in removing highly distributed contaminated food products from sale. DPH, through the District Environmental Health Directors, will direct the operations of local authorized agents in the investigation of food service establishments and the control of contaminated food leading to foodborne illnesses.

VII. Laboratory Findings:

- A. The GDA Agriculture Laboratory (Ag Lab)'s primary focus is food samples and the Georgia Public Health Laboratory (GPHL)'s primary focus is clinical samples.
- B. In the event of a joint investigation between GDA and DPH of a suspected foodborne illness or outbreak, emergency response situation, or otherwise the GPHL and GDA Lab will collaborate and determine current capabilities, ensuring the most accurate and efficient means to perform the work, as approved by the lab director or designee.
 - 1. Samples from either DPH or GDA may be requested for testing at either lab when the analysis falls outside the capabilities of a lab.
 - 2. DPH shall ensure that all samples it provides to the Ag lab are properly labeled, sealed, collected in a temperature-controlled container and transported with chain of custody documentation. Upon completion of testing, the Ag Lab will provide GPHL Lab Director with a copy of the reports for all samples relevant to the investigation.
 - 3. GPHL will analyze and/or conduct molecular subtyping on sample isolates that it receives from GDA, as approved by the GPHL lab director or designee. GDA shall ensure that all samples it provides to GPHL are properly labeled, sealed, collected in a temperature-controlled container, and transported with chain of custody documentation. Upon completion of testing, GPHL will provide the Ag Lab Director with a copy of the reports for all samples relevant to the investigation.
 - 4. The sample submitter of record would be the primary person to receive the results of testing. Shared information may be designated as confidential, privileged or otherwise protected, and both agencies will handle such information in a manner that will continue to protect such information. The requirement in this Section to protect or otherwise maintain the confidentiality of records shall not apply to records that are required to be released by law.

VIII. Summary Actions, Recalls and Public Notifications:

- A. Upon receiving a request for assistance, the Commissioner of Public Health or the Commissioner of Agriculture shall direct the embargo, seizure and/or destruction of the food or feed in question in accordance with the provisions of O.C.G.A. § 31-2A-4 and O.C.G.A. § 26-2-38 (Georgia Food Act).
- B. Upon belief that a food product is unwholesome or otherwise adulterated or misbranded, the Health Authority shall order a Withhold from Sale order in accordance with Chapter 290-5-14-.10 subsection (3) (b) of the Rules and Regulations for food service adopted pursuant to O.C.G.A. § 26-2-373 of the Official Code of Georgia. Upon ordering the Withhold from Sale order, the food

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

- product is not to be used, served, or removed from the food service establishment, unless this order is rescinded by the Health Authority, or the Health Authority removes subject food for safe keeping.
- C. Upon belief that a food product is unwholesome or otherwise adulterated or misbranded, the Georgia Department of Agriculture shall order an Embargo order pursuant to O.C.G.A. § 26-2-38 of the Official Code of Georgia Annotated. Upon ordering the Embargo, the food product is not to be used, served, or removed from the food sales establishment, unless this order is rescinded by the Georgia Department of Agriculture, or the Georgia Department of Agriculture removes subject food for safe keeping.
 - D. GDA and DPH shall assist in cases involving such seizures, quarantines, destructions and recalls by attempting to remove any remaining contaminated food from food sales and service establishments and food plants, and by making available witnesses for any administrative proceedings and/or litigation associated with such actions.
 - E. Nothing herein contained shall be construed to restrict the power of the Commissioner of Public Health or the Commissioner of Agriculture to take Summary Action under their respective authorities to require the discontinuance of conditions or activities constituting a danger to public health when such action is deemed appropriate under the circumstances.
 - F. When appropriate, GDA will work with federal partners in requesting the firm implement a recall of adulterated product(s) and to notify the public of the recall following the direction of USDA Food Safety Inspection Service (FSIS) or FDA. Whenever GDA learns of an FDA or USDA-FSIS Class I or similar recall of food products distributed in Georgia, a GDA designee shall contact designee(s) at DPH, including members of Environmental Health and ADES, by phone and/or email. Throughout the recall process, both agencies will work to keep the other agency informed of and cooperate in every way possible to expedite the removal of hazardous food from the marketplace.

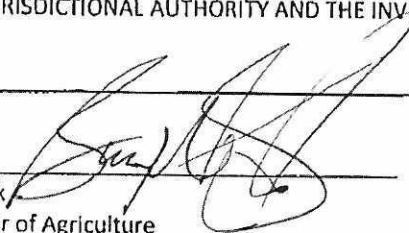
IX. REVIEW OF AGREEMENT

The Parties agree to observe the highest standards of cooperation and administrative transparency in all actions and activities related to this Memorandum of Understanding. In addition, the GDA/DPH, to the extent applicable and without prejudice, agree to comply with the provisions of the Memorandum of Understanding and in the applicable norms of the state/county in which the program, and/or activities are executed.

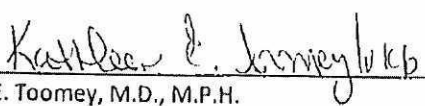
Modifications to this Agreement may only be made by mutual agreement in writing by the duly authorized representatives of the GDA/DPH. Changes made to the Memorandum of Understanding once agreed upon will require the signature(s) of the respective commissioners of both regulatory agencies.

This MOU is in effect until terminated by either party in writing. Such termination shall be effective three (3) days after the notice of termination is received by the non-terminating party. This MOU between the two state departments shall be reviewed as needed, upon request by either party.

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

Signature 
Gary W. Black
Commissioner of Agriculture

Date 11/09/2021

Signature 
Kathleen E. Toomey, M.D., M.P.H.
Commissioner of Public Health

Date 11/04/2021

Date: _____

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-22223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

Appendix A

How to determine square footage

Food Service sq. ft. = Floor area of food prep., dishwashing,

Cooking, service.	_____
Dry storage for food products used in	
Food service.	_____
Storage of utensils and other dry	
Goods Stored.....	_____
Dining areas inside building.....	_____
Dining areas outside building	_____

TOTAL Square Footage _____

Food Sales includes retail sales areas where food, beverages and single service articles are displayed.

Food Sales sq. ft. = Floor area including and between

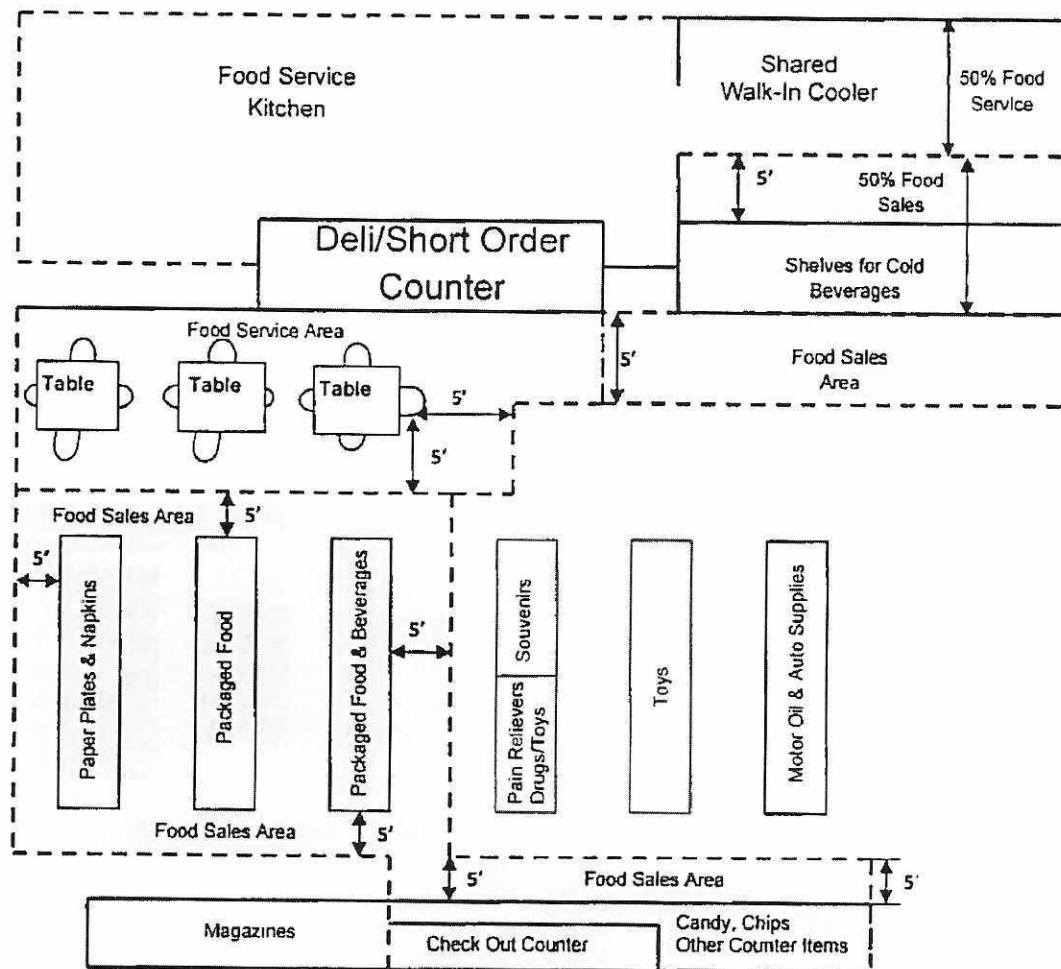
display cases	_____
Dry storage for food products and single	
service articles	_____
Cold Storage	_____

TOTAL Square Footage _____

NOTE: For any storage area that is jointly used between Food Sales and Food Service, estimate square footage by percentage of use for each operation. If area is used equally for both, use 50% of area for each.

Appendix B

Sample Floor Plan Layout



NOTE: NOT TO SCALE

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-2223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

Appendix C

Sample Business Transition Form

BUSINESS INFORMATION

Name of Business: _____ License/Permit Number: _____

Address: _____ City: _____ County: _____ Zip: _____

Owner

Name: _____ Phone: _____ Email: _____

OVERVIEW

Transitioning From: ☐ GDA ☐ DPH Transitioning To: ☐ GDA ☐ DPH

Reason For Transition: _____

Name of Regulatory Compliance Specialist (RCS): _____

Phone: _____ Email: _____

Name of Environmental Health Specialist (EHS): _____

Phone: _____ Email: _____

SCOPE

Date Initiated: _____ Date to Be Completed (*No more than 60 calendar days*): _____

MEMORANDUM OF UNDERSTANDING (MOU) 40500-049-2223999
GEORGIA DEPARTMENTS OF AGRICULTURE AND GEORGIA DEPARTMENT OF PUBLIC HEALTH
ESTABLISHING JURISDICTIONAL AUTHORITY AND THE INVESTIGATION OF FOODBORNE ILLNESS

Items to Be Completed (ex: application submitted to receiving agency, list of equipment to be installed, etc.)	Date Completed	EHS/RCS Initials

Attach additional paperwork if more space is needed