

FOOD CODE ORDINANCE UPDATE

**Presented to the
Health, Environment and Human Services Committee
May 23, 2005**

PURPOSE OF BRIEFING

- To inform the committee of proposed changes to the City of Dallas Food Code
- To request that the implementation and enforcement of the new code begin August 1, 2005
- Discussion of changes since previous briefing to this committee
 - Addition of food handler revisions
 - Establishment of the registration program for those distributing food to the homeless

THE NEW FOOD ORDINANCE

(SEE ATTACHMENT A)

- The Texas Food Establishment Rules (TFER) is a comprehensive set of rules for the regulation of retail food establishments and are based on the 1997 FDA Model Food Code

- The TFER is scientifically based and focused on:
 - Good Retail Practices (GRP)
 - Hazard Analysis and Critical Control Point (HACCP) principles
 - Risk Control Factors (RCF)

DEFINITIONS

- **Good Retail Practices (GRP)** - preventive measures that include practices and procedures to effectively control the introduction of pathogens, chemicals, and physical objects into food, that are prerequisites to instituting a HACCP or Risk Control Plan.

- **Hazard Analysis and Critical Control Point (HACCP) Principles** - is a pre-control system that requires the food service operator to evaluate all procedures concerned with the preparation of food, identifying hazards, observing the food flow, and determining the potential for problems.

- **Risk Control Factors** - Improper practices or procedures identified by epidemiological investigations as a cause of foodborne illness or injury:
 - Improper holding temperatures,
 - Inadequate cooking,
 - Contaminated equipment,
 - Unsafe source; and
 - Poor personal hygiene

WHAT IS IN THE CURRENT CODE TO BE RETAINED AND NOT IN THE TFER?

- Rules that will be retained which are either not addressed in the Texas Food Establishment Rules or are more stringent in the current City of Dallas Code:
 - **Registered Food Service Manager**
 - A 15-hour training and certification course for people in charge of establishments which prepare and serve food to the public
 - **Mobile Food Unit Requirements**
 - A vehicle mounted food establishment designed to be readily moveable
 - **Temporary Food Establishment Requirements**
 - A food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration
 - **Fixed Food Facility Structural Requirements**
 - An operation that stores, prepares, serves or otherwise provides food for human consumption, such as food service operation, retail food store, etc.

WHAT IS IN THE TFER AND NOT IN CHAPTER 17?

- Requires food establishment operator to provide onsite documentation of parasite destruction procedures for sushi. For example:
 - Ways to kill parasites in cold seafood
 - 4 °F or below for 168 hours (7 days) in a freezer; or
 - 31°F or below for 15 hours in a blast freezer

- Requires documentation affirming that foods are received at proper temperatures/protected from contamination during transport and receipt

- Microwave cooking requirements

- Temperature for holding of potentially hazardous cold foods
 - Changes from 45° F to 41° F

WHAT IS IN THE TFER AND NOT IN CHAPTER 17? (Cont'd)

- Ready-to-eat potentially hazardous food prepared and held refrigerated for more than 24 hours in a food establishment is required to be marked to indicate the date by which the food must be consumed:
 - Comparison of shelf life at 41 F and 45 F
 - Seven (7) days or less from the day that the food is prepared, if the food is maintained at 41° F or less; versus
 - Four (4) days or less from the day of preparation if the food is maintained at 45° F or less.
- Time can be used as a control in lieu of temperature for potentially hazardous food before cooking or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption:
 - The food must be marked, labeled, tagged, or otherwise unmistakably identified to indicate the time removed from temperature control
 - Not to exceed four hours

WHAT IS IN THE TFER AND NOT IN CHAPTER 17? (Cont'd)

- Food employees may drink from a nonspillable, closed beverage container if the container is handled to prevent contamination of: 1) the employees hands; 2) the container; and 3) exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

- Additional responsibility of person in charge of food the establishment and the employees. Such as:
 - Recognizing and notifying the regulatory authority if a food employee is diagnosed with an illness due to the “Big Four”
 - Salmonella spp
 - Shigella spp
 - E. Coli 0157:H7
 - Hepatitis A Virus

ADDITIONS TO THE CODE NOT COVERED IN TFER

■ Food Handler Certification

- Purpose:

- Increase the overall sanitation level of the food establishment
- Decrease the incidents of foodborne illnesses

- Requirements:

- Any food establishment scoring 70 or below, out of a possible 100 points, on an inspection
- Any food establishment scoring from 71 to 79, out of a possible 100 points, on a re-inspection during which a critical violation is found
- Any food establishment in which the same critical violation is found twice within a twelve month period during inspection
- Any food establishment that has a confirmed foodborne illness

ADDITIONS TO THE CODE NOT COVERED IN TFER (Cont'd)

- Posting of Scores at the restaurant
 - Scores are currently available under the old system by establishment name for the most recent inspection
 - after June 30, 2005 scores will also be available on the City's website by establishment name, street address, and zip code

- A food establishment will be required to provide a copy of their most recent inspection report to any customer or potential customer upon request.

- Food establishment will be required to post their most recent letter/numerical food inspection scores (on a form provided by the director) at the main entrance to the establishment so that the scores are clearly visible to the public.

HOMELESS FEEDING ADDITION TO THE CODE

- Require registration program for those who distribute food to the homeless (See Attachment B)
 - There is no fee associated with the registration
- Require that feeding activities take place at a location approved by the Director
- Require written consent from the property owners to conduct that activity on the property
- Conduct feeding activities in accordance with all the terms and conditions of the registration as required by the director
- Require homeless feeder providers to attend training annually on safe food handling
 - Provided by the department on a quarterly basis
 - At least one person that has received the training must be present at time of distribution
- Registration process has been discussed with the subcommittee of the Homeless Task Force

TRAINING ON REVISIONS TO THE FOOD CODE

- Changes to the Code will be published on the website in both English and Spanish
- Classes will be conducted during the months of June and July at various times (morning, afternoon, and evening)
 - Some classes will also be conducted in Spanish
 - Training will be conducted at 7901 Goforth
 - There is no fee for this training
- Additional training will be provided in concert with the Dallas Restaurant Association
- Notices of the changes and of the training schedules will be provided to all current permit holders
- Notices of information pertaining to code violations as a result of the changes instead of notice of violations will be given for the 6 months after the effective date of August 1, 2005

STAFF RECOMMENDATIONS

- Recommend approval of staff recommendations
- Schedule food ordinance change for approval by City Council on May 25, 2005
 - Request adoption of the Texas Department of State Health Services, Texas Food Establishment Rules (TFER)
 - Request approval of revision Chapter 17 (City of Dallas Food Code) with additions and retain City of Dallas specific requirements
- The TFER based new food ordinance be implemented starting August 1, 2005
- Initially give six months grace period from August 1, 2005 and issue Notice of Information pertaining to code violations encountered at all retail food establishments affected by the new provisions of the food code

ATTACHMENT A

ATTACHMENT B

5/16/05

ORDINANCE NO. _____

An ordinance amending in its entirety CHAPTER 17, “FOOD ESTABLISHMENTS AND DRUGS,” of the Dallas City Code, as amended; adopting the Texas Food Establishment Rules published by the Texas Department of State Health Services, with local amendments; defining terms; providing regulations, requirements, permitting procedures, inspection procedures, and fees for fixed food establishments, mobile food establishments, temporary food establishments; and catering services; providing requirements and fees for registered food service managers and certified food handlers; providing for administration and enforcement of food establishment rules and regulations, including provisions for denial, suspension, and revocation of food establishment permits; providing defenses, including defenses relating to homeless feeding; providing for appeals from actions of the director; repealing obsolete city regulations relating to codeine preparations; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That CHAPTER 17, “FOOD ESTABLISHMENTS AND DRUGS,” of the Dallas City Code, as amended, is repealed and reenacted to read as follows:

“CHAPTER 17

FOOD ESTABLISHMENTS

ARTICLE I.

FOOD ESTABLISHMENTS GENERALLY.

SEC. 17-1.1. PURPOSE.

The purpose set forth in Section 229.161 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.

SEC. 17-1.2. COOPERATION AMONG DEPARTMENTS.

The regulation of food establishments is a complex task that may involve various fields of enforcement and administration; accordingly, cooperation among city departments to provide effective regulation is encouraged.

SEC. 17-1.3. GENERAL AUTHORITY AND DUTY OF THE DIRECTOR, CITY HEALTH AUTHORITY, AND ENVIRONMENTAL HEALTH OFFICER.

In accordance with state law the director, city health authority, or environmental health officer, or an officer or employee designated by the director, city health authority, or environmental health officer, may enforce any city ordinance applicable to a food establishment. The director, city health authority, or environmental health officer may also enforce a state or federal statute or regulation applicable to a food establishment operating within the city if that enforcement is not contrary to law. The director, city health authority, or environmental health officer shall implement and enforce this chapter.

SEC. 17-1.4. CHAPTER CUMULATIVE.

The provisions of this chapter and other city ordinances are cumulative law, and this chapter does not prevent enforcement of another city ordinance that regulates an area covered by this chapter and is otherwise applicable.

SEC. 17-1.5 DEFINITIONS.

(a) The definitions set forth in Section 229.162 of the Texas Food Establishment Rules are hereby adopted and made a part of this chapter by reference, except that the definitions for “adulterated food,” “child care center,” “department,” “food establishment,” “mobile food establishment,” “permit,” “person in charge,” “premises,” “pushcart,” “regulatory authority,” “roadside food vendor,” and “temporary food establishment” contained in Section 229.162 are not adopted.

(b) In addition to the definitions adopted in Subsection (a), the following terms have the following meanings in this chapter:

(1) ADULTERATED means the condition of food that:

(A) contains a poisonous or deleterious substance in a quantity that may render it injurious to health; or

(B) contains an added poisonous or deleterious substance:

(i) for which no safe tolerance has been established or accepted by a governmental agency; or

(ii) in excess of a safe tolerance, established or accepted by a governmental agency; or

(C) consists in whole or part of a filthy, putrid, or decomposed substance; or

(D) is unsafe for human consumption; or

(E) was processed, prepared, or otherwise handled under an unsanitary condition that may have contaminated the food or rendered it injurious to health; or

(F) is in whole or part the product of a diseased animal or an animal that did not die by slaughter; or

(G) the container of which is composed in whole or part of a poisonous or deleterious substance that may render the food injurious to health; or

(H) is not in a safe, sound condition, free from spoilage, filth, and other contamination.

(2) CATERING SERVICE means a food establishment, other than a mobile food preparation vehicle, that:

(A) prepares or serves food on premises in control of another; or

(B) prepares food on the premises of a fixed food establishment and delivers the food to a different location to be served.

(3) COMMISSARY means a food establishment that serves as an operating base for a mobile food establishment and where:

(A) food, containers, or supplies are kept, handled, prepared, packaged, or stored for use by a mobile food establishment; and

(B) a mobile food establishment is stored, parked, serviced, cleaned, supplied, and maintained.

(4) DEPARTMENT means the department designated by the city manager to enforce and administer this chapter.

(5) DIRECTOR means the director of the department, the city health authority, or the environmental health officer and includes representatives, agents, or city employees designated by the director of the department, the city health authority, or the environmental health officer to enforce or administer this chapter; except that, in Section 17-10.2(p), the term refers only to the director of the department.

(6) FOOD ESTABLISHMENT:

(A) The term means an operation that:

(i) sells, stores, prepares, packages, serves, or otherwise provides food for human consumption such as: a food service establishment; retail food store; satellite or catered feeding location; catering operation; if the operation provides food directly to a consumer or to a conveyance used to transport people; market; remote catered operations; conveyance used to transport people; institution; or food bank; and

(ii) relinquishes possession of food to a consumer directly, or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(B) The term includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; a restaurant; a grocery store; an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off premises; and regardless of whether there is a charge for the food.

(C) The term does not include an establishment that offers only prepackaged foods that are not potentially hazardous.

(7) MOBILE FOOD ESTABLISHMENT means a vehicle-mounted food establishment that is designed to be readily moveable and from which food is distributed, sold, or served to an ultimate consumer. The term includes, but is not limited to, mobile food preparation vehicles and pushcarts.

(8) NON-FOOD CONTACT SURFACE means a surface (including, but not limited to, a shelf, counter, fan, or an exterior part of equipment) that does not normally come into contact with food in the operation of a food establishment.

(9) PERMIT means the document issued by the department that authorizes a person to operate a food establishment.

(10) PERSON IN CHARGE means the individual present in a food establishment who is the apparent supervisor of the food establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

(11) PREMISES means:

(A) the physical facility, its contents, and the contiguous land or property under the control of the permit holder; or

(B) the physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the permit holder that may impact food establishment personnel, facilities, or operations, if a food establishment is only one component of a larger operation.

(12) RECONSTITUTED means the recombining of dehydrated food products with water or other liquids.

(13) REGULATORY AUTHORITY means the director.

(14) SAFE TEMPERATURE means a temperature of not more than 41 degrees Fahrenheit (5 degrees Centigrade) or not less than 140 degrees Fahrenheit (60 degrees Centigrade). The symbols "°F." and "°C." are used in this chapter to refer, respectively, to degrees Fahrenheit and degrees Centigrade.

(15) SEAL means to close the junction between surfaces in a way that prevents entry of moisture.

(16) TEMPORARY FOOD SERVICE ESTABLISHMENT means:

(A) a food establishment that operates at a fixed location for a limited period of time in conjunction with:

(i) a plaza event for which a permit has been issued by the city under Chapter 35;

(ii) a special event for which a permit has been issued by the city under Chapter 42A;

(iii) a special event conducted with written permission of the city on property under the control of the park and recreation board, on property of the "convention center" or "reunion arena" as defined in Section 43-127 of this code, or on property of the "municipal produce market" as defined in Section 29-3 of this code;

(iv) a temporary carnival or circus conducted with written authorization of the building official under Section 51A-4.206(2) of the Dallas Development Code;

(v) an activity or event conducted entirely inside a facility that is primarily and routinely used to hold exhibitions, conventions, concerts, symphonies, plays, sporting events, or similar activities or events at which food is customarily served or offered for sale; or

(vi) a single event or celebration conducted on any nonresidential premises as an accessory use under Section 51A-4.217 of the Dallas Development Code; or

(B) a concessionaire operating under a seasonal contract with the city on property owned or operated by the city.

(17) TEXAS FOOD ESTABLISHMENT RULES means the rules of the Texas Department of State Health Services found in 25 Texas Administrative Code, Chapter 229, Subchapter K (effective date October 6, 1998).

SEC. 17-1.6. DEFENSES FOR CERTAIN TYPES OF ACTIVITIES.

(a) It is a defense to prosecution under this chapter, except as provided in Section 17-1.6(b), that, at the time of the offense, the person charged was:

(1) conducting food operations that are licensed, and inspected at least once a year, under federal or state law (as illustrated by, but not limited to, milk producers, day care facilities, nursing homes, and meat processors);

(2) selling, distributing, transporting, or storing a raw agricultural commodity (including, but not limited to, raw vegetables and fruit, and pure honey) by the original producer, provided that the sale, distribution, transportation, or storage is on property owned or leased by the original producer;

(3) selling, distributing, or serving food at an event, party, or other special gathering that is not open to persons other than the members or invited guests of the sponsor, provided that there is no public advertisement of the event, public solicitation of funds at or for the event, or participation by the general public in the event;

(4) conducting the retail sale or distribution of non-potentially hazardous food from a fixed facility if the food is acquired and sold or distributed in cans, bottles, or other prepackaged containers that are not opened before obtained by a consumer, and no food manufacturing, processing, or preparing operations are conducted at the facility; or

(5) a church, civic, or other charitable organization serving or distributing food, without charge, to homeless individuals on public or private property, provided that the organization:

(A) was conducting that activity at a location approved by the director;

(B) had written consent from the property owner to conduct that activity on the property;

(C) was currently registered with the director (on a form provided by the director that is required to be completed on an annual basis) to conduct that activity on the property;

(D) conducted the activity in accordance with all terms and conditions of the registration as required by the director; and

(E) had met annual training requirements for safe food handling as required by the director.

(b) A person commits an offense if he violates, or fails to comply with, a term or condition of a homeless feeding registration issued pursuant to Section 17-1.6(a)(5).

ARTICLE II.

MANAGEMENT AND PERSONNEL.

SEC. 17-2.1. ADOPTION OF SECTION 229.163, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.163 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Subsections (b) and (e)(3) of Section 229.163 are not adopted.

SEC. 17-2.2. ADDITIONAL REQUIREMENTS.

(a) In addition to the requirements adopted in Section 17-2.1 of this chapter, the requirements contained in this section govern the management and personnel of food establishments.

(b) **Demonstration of knowledge by person in charge of a food establishment.** Based on the risks of foodborne illness inherent to the food operation, the person in charge shall, during inspections and upon request, demonstrate to the director knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this chapter. The person in charge shall demonstrate this knowledge by compliance with this chapter, by being a registered food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program and by responding correctly to the inspector's questions as they relate to the specific food operation. The person in charge may demonstrate such knowledge by:

(1) describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;

(2) explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;

(3) describing the symptoms associated with the diseases that are transmissible through food;

(4) explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness;

(5) explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;

(6) stating the required food temperatures and times for safe cooking of potentially hazardous food including meat, poultry, eggs, and fish;

(7) stating the required temperatures and times for safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food;

(8) describing the relationship between the prevention of foodborne illness and the management and control of the following:

(A) cross-contamination;

(B) hand contact with ready-to-eat foods;

(C) handwashing; and

(D) maintaining the food establishment in a clean condition and in good repair;

(9) explaining the relationship between food safety and providing equipment that is:

(A) sufficient in number and capacity; and

(B) properly designed, constructed, located, installed, operated, maintained, and cleaned;

(10) explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;

(11) identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections;

(12) identifying poisonous and toxic material in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law;

(13) identifying critical control points in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this chapter;

(14) explaining the details of how the person in charge and food employees comply with the Hazard Analysis Critical Point (HACCP) plan (if a plan is required by the law), the Texas Food Establishment Rules, and this chapter; and

(15) explaining the responsibilities, rights, and authorities assigned by this chapter to:

(A) the food employee;

(B) the person in charge; and

(C) the director.

(c) Registered food service managers.

(1) Registered food service managers required.

(A) A food establishment shall employ at least one person who:

(i) is a full-time, on-site supervisory employee of that food establishment responsible for food preparation and service; and

(ii) has a valid and current food service manager registration issued by the director.

(B) A food establishment must comply with the requirements of Section 17-2.2(c) before being issued an operating permit.

(C) One registered food service manager in a supervisory capacity may serve up to four food establishments contained within the same building and under the same ownership and same management.

(D) A food establishment shall have one registered food service manager employed and present in the establishment during all hours of operation, except that a registered food service manager serving multiple food establishments as authorized by Section 17-2.2(c)(1)(C) must only be present in the building in which the food establishment is located during all hours of operation.

(E) A food establishment that serves, sells, or distributes only prepackaged foods and non-potentially hazardous beverages, and a temporary food service establishment that is in operation fewer than four consecutive calendar days, are exempt from Section 17-2.2(c)(1).

(2) **Registered food service manager replacement.** If a food establishment cannot meet the requirements of Section 17-2.2(c)(1) because of the termination or permanent transfer of a registered food service manager, the food establishment shall:

(A) notify the director, in writing, within 10 days after the effective date of the termination or permanent transfer of the registered food service manager; and

(B) employ another registered food service manager within 45 days after the effective date of the termination or permanent transfer of the previous registered food service manager.

(3) **Registration of food service managers.**

(A) The director shall issue a food service manager registration to any person who submits the required application on a form provided by the director, pays to the city the fee required by Section 17-2.2(c)(6), and provides proof of holding a current, valid registered food manager certification issued by the Texas Department of State Health Services or by a provider approved by that state department.

(B) During those times a registered food service manager is on duty at a food establishment, the registered food service manager must possess evidence of registration.

(C) A food service manager registration is not transferable from one person to another.

(D) Unless sooner revoked by the director, a food service manager registration issued under this article expires two years after the date of issuance.

(4) **Renewal of food service manager registration.** The director shall renew a food service manager registration if the applicant:

(A) submits an application for renewal within 30 days before expiration of the current food service manager registration;

(B) pays to the city the fee required by Section 17-2.2(c)(6);

(C) provides proof of holding a current, valid registered food manager certification issued by the Texas Department of State Health Services or by a provider approved by that state department; and

(D) provides evidence that within the six months prior to submitting the application for renewal the applicant has:

(i) attended a food service manager refresher training course approved by the director; or

(ii) received a passing score on a national examination for certification of food service managers that meets requirements of the United States Food and Drug Administration.

(5) Denial or revocation of food service manager registration.

(A) The director may refuse to issue or renew a food service manager registration or may revoke a food service manager registration if the applicant or holder:

(i) has been convicted of interfering with the lawful inspection of a food establishment;

(ii) makes a false statement of material fact in the application for registration or renewal of registration; or

(iii) fails to show proof of holding a current, valid registered food manager certification issued by the Texas Department of State Health Services or by a provider approved by that state department.

(B) An applicant for or a holder of a food service manager registration may, in accordance with Section 17-10.2(q), appeal the director's decision to deny issuance or renewal of a registration or to revoke a registration.

(6) Food service manager registration fees. An applicant shall pay a nonrefundable fee of \$55 for a food service manager registration. The fee for replacing a lost, stolen, or damaged certificate of registration is \$5.

(7) Display of certificate of registered food service manager. A food service establishment shall display the original certificate of each primary registered food service manager employed by the establishment. Each certificate must be displayed in a glass-covered frame at a location where it is easily visible to the public.

(d) Food handlers.

(1) Food establishments for which food handler certification is mandatory. Section 17-2.2(d) is only mandatory for the following food establishments:

(A) Any food establishment scoring 70 or below, out of a possible 100 points, on an inspection conducted under this chapter.

(B) Any food establishment scoring from 71 to 79, out of a possible 100 points, on a reinspection conducted under this chapter during which a critical violation is found.

(C) Any food establishment in which the same critical violation is found twice within any 12-month period during inspections conducted under this chapter.

(D) Any food establishment that has had a confirmed foodborne illness.

(2) Food handler certificate required.

(A) A person who owns, manages, or otherwise controls any food establishment described in Section 17-2.2(d)(1) (including but not limited to a fixed facility, a catering service, a mobile food preparation vehicle, a general service mobile food establishment, or a temporary food establishment operating for a duration of four or more consecutive days) shall not permit any person to be employed in the establishment who:

(i) will perform work that requires the handling of food, utensils, or food service equipment; and

(ii) does not hold a valid food handler certificate issued under Section 17-2.2(d) within 45 days after:

(aa) the date of employment by a food establishment described in Section 17-2.2(d)(1), for a new employee; or

(bb) the date the food establishment receives notice from the director that food handler certification is required because the establishment falls under Section 17-2.2(d)(1), for an existing employee.

(B) A food establishment described in Section 17-2.2(d)(1) shall maintain on the premises a food handler certificate for each employee whose work requires the handling of food, utensils, or food service equipment, and shall make each certificate available for inspection upon the director's request.

(3) Food handler certificate - application; issuance; expiration; nontransferability.

(A) The director shall issue a food handler certificate to any person who submits the required application, pays to the city the fee required by Section 17-2.2(d)(5), and meets all of the following requirements:

(i) Provides evidence that the person has either:

(aa) viewed a video on sanitary food handling as approved by the director; or

(bb) attended a sanitary food handling presentation by the city of Dallas as approved by the director.

(ii) Is not infected with a disease in a communicable form that can be transmitted by foods.

(iii) Is not a carrier of any organism that causes a disease that can be transmitted by foods.

(iv) Does not have a boil, an infected wound, or an acute respiratory infection.

(B) Unless sooner revoked by the director, a food handler certificate expires two years after the date of issuance and may be renewed by submitting an application in compliance with Section 17-2.2(d)(3)(A). Renewal is not required unless the person's work requires the handling of food, utensils, or food service equipment at a food establishment that has been notified by the director within the preceding two years that food handler certification is required because the establishment falls under Section 17-2.2(d)(1).

(C) A food handler certificate is not transferable from one person to another.

(4) Denial or revocation of a food handler certificate.

(A) The director may refuse to issue or renew a food handler certificate or may revoke a food handler certificate if the applicant or holder:

(i) is not qualified for a certificate under Section 17-2.2(d)(3);

(ii) fails to provide medical confirmation when required under Section 17-2.2(d)(4)(B);

(iii) has been convicted of interfering with the lawful inspection of a food establishment; or

(iv) makes a false statement of material fact in an application for issuance or renewal of a food handler certificate.

(B) If the director suspects that an applicant or holder is not qualified for a food handler certificate under Section 17-2.2(d)(3)(A)(ii), (iii), or (iv), the director may require the holder or applicant to produce medical confirmation by a physician that the applicant or holder is qualified for a food handler certificate under those provisions.

(C) If the director denies issuance or renewal of a food handler certificate, or revokes a food handler certificate, the director shall notify the applicant or holder in writing by personal service or regular United States mail. The notice must include the grounds for denial or revocation and a statement informing the applicant or holder of the right to appeal the decision. A copy of the notice must also be given to the food establishment in accordance with Section 17-10.2(n).

(D) An applicant for or a holder of a food handler certificate may, in accordance with Section 17-10.2(q), appeal the director's decision to deny issuance or renewal of a certificate or to revoke a certificate.

(5) **Food handler certification fees.** An applicant shall pay a nonrefundable fee of \$16 for a food handler certificate. The fee for replacing a lost, stolen, or damaged certificate is \$5.

(6) **Exemption.** A person holding a current and valid food service manager registration issued by the director under Section 17-2.2(c) is exempt from the requirements to obtain a food handler certificate.

ARTICLE III.

FOOD.

SEC. 17-3.1. ADOPTION OF SECTION 229.164, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.164 [including Figure 1: 25 TAC §229.164(k)(1)(A)(ii), Figure 2: 25 TAC §229.164(k)(1)(B)(i), and Figure 3: 25 TAC §229.164(k)(1)(B)(ii)] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Section 229.164(e) is not adopted.

SEC. 17-3.2. ADDITIONAL REQUIREMENTS.

(a) In addition to the requirements adopted in Section 17-3.1 of this chapter, the requirements contained in this section govern food at food establishments.

(b) Preventing contamination by employees.

(1) Preventing contamination from hands.

(A) Food employees shall wash their hands as specified under Section 229.163(e) of the Texas Food Establishment Rules (relating to management and personnel).

(B) Except when washing fruits and vegetables as specified in Section 229.164(f)(6) of the Texas Food Establishment Rules, food employees shall avoid contact of exposed ready-to-eat food with their bare hands by use of suitable utensils such as deli tissue, spatulas, tongs, or single-use gloves.

(C) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

(2) Preventing contamination when tasting. A food employee may not use a utensil more than once to taste food that is to be sold or served.

(c) Preventing contamination from the premises.

(1) Food storage.

(A) Except as specified in Section 17-3.2(c)(1)(B) and (C), food must be protected from contamination by storing the food:

(i) in a clean, dry location;

(ii) where it is not exposed to splash, dust, or other contamination; and

(iii) at least 15 centimeters (6 inches) above the floor.

(B) Food in packages and working containers may be stored less than 15 centimeters (6 inches) above the floor on case lot handling equipment as specified under Section 229.165(f)(22) of the Texas Food Establishment Rules.

(C) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

(2) **Food storage, prohibited areas.** Food may not be stored:

(A) in locker rooms;

(B) in toilet rooms;

(C) in dressing rooms;

(D) in garbage rooms;

(E) in mechanical rooms;

(F) under sewer lines that are not shielded to intercept potential drips;

(G) under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;

(H) under open stairwells; or

(I) under other sources of contamination.

(d) **Outside distribution of potentially hazardous food.** A food establishment that serves, sells, or distributes potentially hazardous food outside the premises of a fixed facility must maintain the food at a safe temperature.

(e) **Outdoor bars.**

(1) An outdoor bar is a food establishment that prepares and serves only beverages at a location not completely housed inside a fixed facility.

(2) An outdoor bar is in compliance with Sections 17-3.1 and 17-3.2 if:

(A) the director finds that the outdoor bar will not result in a health or safety hazard or nuisance; and

(B) the outdoor bar is either:

(i) limited to a single, fixed structure; or

(ii) meets the requirements of this chapter pertaining to a general service mobile food establishment; and

(C) the outdoor bar complies with all other requirements of this chapter.

(3) An outdoor bar in compliance with Section 17-3.2(e)(2)(B)(i) must:

(A) have overhead protection of a suitable material that:

(i) completely covers the food preparation area;

(ii) extends at least 18 inches beyond the edge of the service counter; and

(iii) if the overhead protection extends to or beyond the edge of a swimming pool, is guttered to prevent the drainage of rainwater into the swimming pool;

(B) have service counters, walls, partitions, and doors constructed and finished to impede the entrance of rodents;

(C) store and dispense utensils, single service articles, and bar condiments and other unpackaged food only in containers with sealed, self-closing doors;

(D) dispense ice only from automatic ice dispensers or from containers with sealed, self-closing doors;

(E) provide only single service articles for use by the consumer; and

(F) store food (including beverages), utensils, and single service articles in cabinets that are sealed to adequately protect the stored items from contamination by dust, water, insects, and rodents during the times the outdoor bar is not open for business.

(f) **Labeling of foods.** Bulk, unpackaged foods that are apportioned to consumers with the assistance of food establishment personnel, including bakery products, need not be labeled if:

(1) a health or nutrient content claim, or other claim, is not made;

(2) the food is manufactured or prepared on the premises of the food establishment that is owned by the same person and is licensed by the food regulatory agency that has primary jurisdiction; and

(3) ingredients contained in the food, including potential allergens, are provided to the consumer on request from a recipe book or by other means.

(g) Food transportation.

(1) Transportation. A food establishment that transports food shall:

(A) comply with the applicable requirements of Section 17-3.2(c) during the transportation of food;

(B) transport the food in a clean conveyance;

(C) protect food and utensils from contamination by completely wrapping or packaging, except that foods in original individual packages do not need to be overwrapped or covered if the original package is intact.

(2) Carryout food. A food establishment that prepares food for off premises consumption shall place the food in a sack or closed container, or wrap the food in a way that protects it from adulteration, unless:

(A) the food is served in an individual serving;

(B) the food is intended for immediate consumption; and

(C) it is impracticable to enclose or wrap the food (as illustrated by, but not limited to, a serving of ice cream).

ARTICLE IV.

EQUIPMENT, UTENSILS, AND LINENS.

SEC. 17-4.1. ADOPTION OF SECTION 229.165, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.165 [including Figure 1: 25 TAC §229.165(a)(3) and Figure 2: 25 TAC §229.165(k)(14)(A)] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Section 229.165(i)(3) is not adopted.

SEC. 17-4.2. ADDITIONAL REQUIREMENTS.

(a) In addition to the requirements adopted in Section 17-4.1 of this chapter, the requirements contained in this section govern equipment, utensils, and linens at food establishments.

(b) **Clothes washer and dryer location requirements.** If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles. Laundry facilities may not be located in food handling areas.

(c) **Maintenance of equipment.** Equipment shall be maintained in a state of repair and condition that:

(1) meets the requirements specified in Section 229.165(a) and (b) of the Texas Food Establishment Rules; and

(2) enables the equipment to perform the function for which it is used, intended, or designed.

ARTICLE V.

WATER, PLUMBING, AND WASTE.

SEC. 17-5.1. ADOPTION OF SECTION 229.166, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.166 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Subsections (c)(3), (f)(2), and (g)(3) of Section 229.166 are not adopted.

SEC. 17-5.2. ADDITIONAL REQUIREMENTS.

(a) In addition to the requirements adopted in Section 17-5.1 of this chapter, the requirements contained in this section govern water, plumbing, and waste at food establishments.

(b) **Hot water.** Hot water generation and distribution systems must be sufficient to meet the peak hot water demands throughout the food establishment. Such systems must be of not less than 50-gallon water tank capacity.

(c) Handwashing lavatory, water temperature, and flow.

(1) A handwashing lavatory must be equipped to provide water at a temperature of at least 43 degrees Celsius (110 degrees Fahrenheit) through a mixing valve or combination faucet.

(2) A steam-mixing valve may not be used at a handwashing lavatory.

(3) Self-closing, slow-closing, sensor-closing, or metering faucets are prohibited in food preparation areas.

(d) **Service sink.** In new or extensively remodeled food establishments, at least one free-standing, stainless steel service sink or one curbed cleaning facility equipped with a floor drain must be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

ARTICLE VI.

PHYSICAL FACILITIES.

SEC. 17-6.1. ADOPTION OF SECTION 229.167, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.167 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Subsections (b) and (c) of Section 229.167 are not adopted.

SEC. 17-6.2. ADDITIONAL REQUIREMENTS.

(a) In addition to the requirements adopted in Section 17-6.1 of this chapter, the requirements contained in this section govern the physical facilities of food establishments.

(b) Outdoor areas, surface characteristics.

(1) **Walking and driving areas.** The outdoor walking and driving areas must be:

(A) surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions; and

(B) graded to prevent pooling.

(2) Exterior surfaces. Exterior surfaces of buildings and mobile food establishments must be of weather-resistant materials and must comply with applicable law.

(3) Storage areas. Outdoor storage areas for refuse, recyclables, or returnables must be of materials specified under Section 229.166(1), (2), and (3) of the Texas Food Establishment Rules, which governs water, plumbing, and waste. Only articles necessary for the operation and maintenance of a food establishment and its exterior may be stored on the premises, but only when the storage does not violate this chapter, other city ordinances, or other applicable law.

(c) Floors, walls, and ceilings.

(1) A food establishment containing a food handling area, food processing area, food preparation area, food storage area, equipment or utensil washing area, walk-in refrigerating unit, dressing room, locker room, toilet room, or vestibule shall:

(A) construct the walls (including nonsupporting partitions), and wall covering in these areas of smooth, rigid, non-absorbent, and easily cleanable material that is light in color and not easily torn or punctured, such as fiberglass-reinforced plastic; except that walls in dry storage areas may be finished with a light-colored, oil-based enamel paint that provides a smooth surface;

(B) make the ceiling in these areas light in color and construct it of smooth, non-absorbent, and easily cleanable material or of a lay-in type acoustical material in T-type metal grids that can be easily replaced when the material becomes soiled;

(C) prevent exposed construction in these areas, including but not limited to the exposure of pipes, conduits, ductwork, studs, joists, and rafters;

(D) prevent unnecessary exposure of utility service lines and pipes on floors, walls, and ceilings in these areas, or if exposure is necessary install them in a way that does not obstruct cleaning of floors, walls, and ceilings;

(E) attach light fixtures, vent covers, wall-mounted fans, decorative material, and similar equipment used in these areas, in a manner that permits easy cleaning; and

(F) finish and seal concrete or pumice blocks used for interior wall construction in these areas to provide an easily cleanable surface.

(2) Special requirements for floors. A food establishment shall:

(A) construct floors that are water flushed for cleaning, or that receive discharges of liquid from equipment or pressure sprays, of sealed concrete, terrazzo, ceramic tile, or similar material that is graded to a properly installed trapped floor drain;

(B) cove and seal junctures between walls and floors in new or extensively remodeled establishments and in other cases construct the junctures between walls and floors so that the seam is not greater than 1/32 inch;

(C) use only mats and duckboards that are constructed of nonabsorbent, grease resistant material of a size, design, and construction that permits easy cleaning;

(D) not use duckboards as storage racks;

(E) not use floor carpeting in food preparation areas, food storage areas, equipment and utensil washing areas, or toilet rooms; and

(F) not use sawdust, wood shavings, peanut hulls, or similar material as a floor covering.

(3) Anti-slip floor covering may be used in areas where necessary for safety. Floor carpeting may be used in areas not listed in Section 17-6.2(c)(2)(E) if it is of closely woven construction, properly installed, easily cleanable and in good repair.

ARTICLE VII.

POISONOUS OR TOXIC MATERIALS.

SEC. 17-7.1. ADOPTION OF SECTION 229.168, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.168 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.

SEC. 17-7.2. ADDITIONAL REQUIREMENTS.

Reserved.

ARTICLE VIII.

MOBILE FOOD ESTABLISHMENTS.

SEC. 17-8.1. ADOPTION OF SECTION 229.169, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.169 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Subsections (a), (b), and (c)(2) of Section 229.169 are not adopted.

SEC. 17-8.2. ADDITIONAL REQUIREMENTS.

(a) In addition to the requirements adopted in Section 17-8.1 of this chapter, the requirements contained in this section govern mobile food establishments.

(b) **Categories of mobile food establishments.** Mobile food establishments in the city are divided into the following categories:

(1) **Limited service.** A limited service mobile food establishment is a mobile food establishment from which only the following foods and beverages are served, sold, or distributed:

(A) Food that is prewrapped, bottled, or otherwise packaged in individual servings.

(B) Beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment.

(2) **Vegetable and fruit vendor.** A vegetable and fruit vendor is a mobile food establishment from which only raw vegetables and fruits are served, sold, or distributed.

(3) **Mobile food preparation vehicle.** A mobile food preparation vehicle is a commercially-manufactured, motorized mobile food establishment in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution. “Commercially-manufactured” means the vehicle was originally manufactured for use as a mobile food preparation vehicle by a person regularly in the business of manufacturing mobile food preparation vehicles for sale and does not include any vehicle that is converted or retrofitted as a mobile food preparation vehicle.

(4) **General service.** Any mobile food establishment that is not a limited service mobile food establishment, a vegetable and fruit vendor, or a mobile food preparation vehicle is a general service mobile food establishment.

(c) **Vehicles.**

(1) A food establishment that uses a vehicle in the operation of a mobile food establishment shall:

(A) identify the vehicle with characters three inches high on both exterior sides of the vehicle stating the following:

(i) the name of the food establishment;

(ii) a brief description of the nature of the business if not included in the name; and

(iii) the permit number of the vehicle;

(B) secure an inspection of the vehicle by the director on the date designated by the director;

(C) maintain the vehicle in a clean, undamaged condition, both inside and outside, and in good working order;

(D) keep the permit or a copy of the permit on the vehicle at all times;

(E) display on the vehicle, in a manner and location approved by the director, a city telephone number provided by the director through which complaints about the mobile food establishment may be reported;

(F) display on the vehicle current license plates and a current vehicle safety inspection sticker issued by the State of Texas, when required by state law; and

(G) not equip the vehicle with any sound amplification device that, when operated, violates Section 30-2(k) of this code.

(2) In addition to other vehicle requirements of Section 17-8.2(c), a mobile food preparation vehicle must:

(A) be equipped with four-way hazard lights; and

(B) in addition to the left and right outside rearview mirrors, be equipped with two outside wide-angle mirrors, one located on the front of the vehicle and one located on the rear of the vehicle.

(3) In addition to other vehicle requirements of Section 17-8.2(c), a general service mobile food establishment must:

(A) be constructed of 18 gauge stainless steel (equivalent to .05 inches durable stainless steel);

(B) not exceed six feet in length (including any handles measuring six inches or more in length and any permanently attached trailer hitches), three feet in width (exclusive of wheels), or four feet in height (exclusive of wheels);

(C) have the bottom of the food service or storage unit at least six inches above the ground;

(D) be equipped with an electrical oven or refrigeration system to maintain proper food temperature; and

(E) not contain a grill.

(4) In addition to other vehicle requirements of Section 17-8.2(c), a limited service mobile food establishment must not exceed three feet in length, two feet in width (exclusive of wheels), or two feet in height (exclusive of wheels), except for frozen dessert stationary pushcarts, which must not exceed six feet in length, three feet in width (exclusive of wheels), or four feet in height (exclusive of wheels).

(d) Site of operation of general service pushcarts.

(1) All food products, supplies, and equipment necessary for the operation of a pushcart must be contained on the vehicle or at a permitted facility.

(2) Slicing, dicing, and chopping of vegetables and other food items are prohibited.

(3) No cooking, including but not limited to grilling, baking, and frying, is allowed on a pushcart. Only the reheating of cooked food by boiling or steaming is allowed.

(4) An operator of a pushcart must have access to restroom facilities during the hours the pushcart is in operation.

(5) The fixed site from which a pushcart is operated must have a valid food establishment permit issued under Article X of this chapter, unless otherwise approved by the director.

(e) **Food served or distributed from a mobile food establishment.** A person may not serve or distribute from a mobile food establishment any food not specified in the food establishment permit issued under Article X of this chapter.

(f) **Ice.**

(1) Ice used in a beverage served by either a limited service mobile food establishment, a mobile food preparation vehicle, or a general service mobile food establishment must be:

(A) from an approved source;

(B) stored in a stainless steel container that is covered and drained into the mobile food establishment's liquid waste retention tank; and

(C) dispensed with an approved scoop by an employee of the mobile food establishment or from automatic self-service ice dispensing equipment.

(2) All ice used to keep food cold must be drained into the mobile food establishment's liquid waste retention tank and properly disposed of at the mobile food establishment's designated commissary or servicing area.

(g) **Central preparation facility or commissary.**

(1) **Supplies, cleaning, and servicing operations.** A mobile food establishment must operate from a central preparation area, commissary, or other fixed food establishment and must report to the location for supplies and for cleaning and servicing operations at the end of each day.

(2) **Construction.** The central preparation facility, commissary, or other fixed food service establishment, used as a base of operation for a mobile food establishment, must be constructed and operated in compliance with this chapter.

(h) **Operating requirements for mobile food establishments.**

(1) **General operating requirements for mobile food establishments.** A food establishment that serves, sells, or distributes any food or beverage from a mobile food establishment shall comply with the following operating requirements:

(A) Any person operating a motor vehicle as a mobile food establishment must have a current driver's license issued by the State of Texas.

(B) Garbage storage containers must be maintained on each mobile food establishment in a number sufficient to contain all trash and garbage generated by the establishment. Every garbage container must have a tight-fitting lid. Before a mobile food establishment leaves a vending site, all trash and garbage must be removed from the site. Excessive trash and garbage may not be allowed to accumulate inside or around the mobile food establishment. All trash and garbage must be disposed of in an approved garbage receptacle.

(2) **Mobile food preparation vehicles.** In addition to other operating requirements of Section 17-8.2(h), a food establishment that serves, sells, or distributes any food or beverage from a mobile food preparation vehicle must comply with the following requirements.

(A) A mobile food preparation vehicle must have written authorization from the owner or person in control of each premises from which the mobile food preparation vehicle will sell or serve food. The authorization must include permission to use the toilet facilities and garbage receptacles on the premises. A current copy of each authorization must be maintained in the vehicle and presented to the director for inspection upon request.

(B) Before the first business day of each month, a monthly itinerary for each mobile food preparation vehicle must be filed with the director. The itinerary must include:

(i) the address of each premises to be serviced and the name and telephone number of the owner or person in control of those premises;

(ii) the scheduled times of arrival at and departure from each premises to be serviced, which times must be accurate to within 30 minutes; and

(iii) a description of the food to be sold or served at each premises.

(C) Only fast-cooked food items may be prepared on a mobile food preparation vehicle. No raw poultry or shellfish may be prepared on the vehicle, except for frozen, breaded poultry or shellfish products that are directly placed from the freezer into a fryer.

(D) No cooking may be conducted while the vehicle is in motion.

(E) All cooking equipment and hot holding units must be located at the rear of a mobile food preparation vehicle. All cooking equipment must be properly vented. An approved automatic fire extinguishing system must be provided over cooking surfaces that require exhaust ventilation. Covers for deep fryers must be provided and installed over fryer units while the vehicle is in motion.

(F) A mobile food preparation vehicle must:

(i) be operated only in a location where such operation is allowed by the Dallas Development Code;

(ii) not sell or serve food on any public street, sidewalk, or other public right-of-way;

(iii) park only on an improved surface to sell or serve food;

(iv) not stop for more than 60 consecutive minutes at any one location to sell or serve food and not sell or serve food from any one location for more than a total of three hours within any 24-hour period; or

(v) be parked overnight only at its commissary or at another location approved by the director that does not violate any applicable city ordinance or state or federal law.

(G) It is a defense to prosecution under Section 17-8.2(h)(2)(F) that a mobile food preparation vehicle was being operated in compliance with all terms and conditions of a valid special event permit issued by the city.

(i) Structural requirements for mobile food preparation vehicles and general service mobile food establishments.

(1) A mobile food preparation vehicle and a general service mobile food establishment must have a potable water system under pressure that is:

(A) equipped with a permanently installed water supply tank of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing;

(B) equipped with a water inlet that is:

(i) located where it will not be contaminated by waste discharge, road dust, oil, or grease; and

(ii) provided with a connection of a size or type that will prevent its use for any other service; and

(C) constructed and installed in accordance with the Rules on Food Service Sanitation, as adopted and amended by the Texas Department of State Health Services, which include National Sanitation Foundation standards, Underwriter Laboratory standards, and equivalent standards; and

(D) equipped with a propane tank installed in accordance with applicable fire department regulations pursuant to a valid liquid propane gas (LPG) permit issued by the fire department.

(2) In lieu of the potable water system under pressure required in Section 17-8.2(i)(1), a general service mobile food establishment may have a potable water system that is gravity fed with a mixing faucet if the water tanks:

(A) are vented for escape or intake of air of sufficient volume to allow for water flow, and the vent openings are protected;

(B) have a smooth interior with no recesses and crevices; and

(C) have a combined water capacity of not less than five gallons.

(3) If liquid waste results from the operation of a mobile food preparation vehicle or a general service mobile food establishment, the vehicle or establishment must have a liquid waste retention system equipped with:

(A) a permanently installed retention tank of at least 15 percent larger capacity than the potable water supply tank; and

(B) servicing connections that are:

(i) located lower than the water inlet to prevent contamination of the potable water system; and

(ii) of a different size or type than the connection used for supplying potable water to the unit.

(4) In addition to other structural requirements of Section 17-8.2(i), a mobile food preparation vehicle must meet the following requirements:

(A) Floors must be constructed of durable, easily cleanable material, including, but not limited to, anodized aluminum, stainless steel, or tile. All junctures must be properly sealed. All service lines and pipes must be installed off the floor to allow for easy cleaning.

(B) Walls must be durable, easily cleanable, nonabsorbent, and light in color. Minimum wall covering materials include, but are not limited to, aluminum or fiberglass-reinforced paneling. Walls at vent hood and grill areas must be covered with stainless steel panels. Wall covering must be installed to cover the entire height of each wall. Studs and utility lines may not be unnecessarily exposed on the wall or prevent cleaning.

(C) Ceilings must be light in color, nonabsorbent, and easily cleanable. Joists and rafters may not be exposed.

(D) The cab of the vehicle must be physically separated from the food preparation area, and the seats designated for the cook and any passengers must be located outside of the food preparation area.

(E) The vehicle must be equipped with a built-in hose that may be used to wash the interior of the vehicle.

(5) A food establishment may not serve, sell, or distribute any food or beverage from a mobile food preparation vehicle or a general service mobile food establishment that does not comply with the requirements of Section 17-8.2(i).

(j) Servicing requirements for mobile food preparation vehicles and general service mobile food establishments.

(1) A food establishment that serves, sells, or distributes any food or beverage from a mobile food preparation vehicle or a general service mobile food establishment shall comply with the following regulations:

(A) **Servicing area.** The food establishment shall provide a servicing area where every mobile food preparation vehicle and general service mobile food establishment must report at least once daily for servicing operations. The servicing area must include:

(i) overhead protection for any supplying, cleaning, or servicing operation;

(ii) a location for the flushing and draining of liquid waste separate from the location provided for water service and the loading and unloading of food and related supplies; and

(iii) a surface constructed of a smooth nonabsorbent material, including, but not limited to, concrete or machine-laid asphalt, that is maintained in good repair, kept clean, and graded to drain.

(B) Servicing methods and equipment.

(i) Potable water servicing equipment must be installed according to all applicable city ordinances and state and federal law and stored and handled in a way that protects the water and equipment from contamination.

(ii) The liquid waste retention tank for a mobile food preparation vehicle or a general service mobile food establishment must be thoroughly flushed and drained during the servicing operation.

(iii) All liquid waste must be discharged to a sanitary sewerage disposal system constructed and operated according to all applicable city ordinances and state and federal law.

(iv) Liquid waste may not be discharged from a mobile food preparation vehicle or a general service mobile food establishment while it is in motion.

(C) Site cleanup. A service site must be left in a clean, waste-free condition.

(D) Food preparation and service. Food may not be prepared or served while the vehicle is in motion or in an area that exposes any person present to a health or safety hazard.

(2) A food establishment may not serve, sell, or distribute any food or beverage from a mobile food preparation vehicle or a general service mobile food establishment if the food establishment does not supply, clean, or service the mobile food preparation vehicle or general service mobile food establishment in accordance with Section 17-8.2(j).

ARTICLE IX.

TEMPORARY FOOD ESTABLISHMENTS AND CATERING SERVICES.

SEC. 17-9.1. ADOPTION OF SECTION 229.170, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.170 of the Texas Food Establishment Rules is not adopted.

SEC. 17-9.2. REQUIREMENTS FOR TEMPORARY FOOD ESTABLISHMENTS.

(a) Authority. The director shall issue a permit, in accordance with applicable food establishment permit and fee requirements set forth in Article X, to a temporary food service establishment if:

(1) the director finds that the operation will not result in a health or safety hazard or a nuisance;

(2) the operation is limited to a single, fixed location, which may include one or more facilities at the location;

(3) the establishment submits proof to the director that it has obtained all city, state, and federal permits and authorizations necessary to conduct a temporary food service operation, including, but not limited to the following:

(A) an out-of-town vendor must submit a copy of its current local health permit and a copy of its last health inspection from the local health department where the vendor is located; and

(B) a food manufacturer must submit a copy of its state manufacturer's license;

(4) the establishment and its location comply with all requirements of this chapter, the Dallas Development Code, and any other applicable city ordinance or state or federal law; and

(5) the completed application for the permit to operate a temporary food service establishment is received by the director at least 48 hours before the scheduled commencement of the activity or event for which the permit is issued.

(b) Exception. A permit is not required for a temporary food service establishment that does not serve potentially hazardous food and the weekly gross income of which does not exceed \$25.

(c) Limit on permits issued for same premises or address. No more than one temporary food service establishment permit may be issued within any calendar quarter for the same premises or street address, even if the permits are issued to different temporary food service establishments. This subsection does not apply if the permit is issued in conjunction with an activity or event described in Section 17-1.5(b)(16)(A)(i) through (v) of this chapter.

(d) Expiration. A temporary food service establishment permit expires:

(1) upon expiration of a special event permit, plaza event permit, or other written authorization of the city issued in conjunction with the temporary food service establishment permit for an activity or event described in Section 17-1.5(b)(16)(A)(i) through (iv) of this chapter;

(2) upon expiration of a concession agreement executed by the city in conjunction with the temporary food service establishment permit for an activity or event on property owned or operated by the city; or

(3) 14 days after the issuance of a temporary food service establishment permit for an activity or event described in Section 17-1.5(b)(16)(A)(v) or (vi) of this chapter or upon termination of the activity or event, whichever occurs first.

(e) **Food and ice preparation and service.** A temporary food establishment required to be permitted under this chapter shall not:

(1) prepare, serve, sell, or distribute any food not approved in advance by the director;

(2) prepare potentially hazardous food, except that an establishment may prepare potentially hazardous food that is approved in advance by the director and does not require substantial preparation prior to consumption (including, but not limited to, pre-formed hamburgers, beef fajitas, sausages, hotdogs, and frankfurters) or may provide potentially hazardous food that is:

(A) obtained by the establishment in precooked, individual servings;

(B) stored at a temperature of:

(i) 41° F. (5° C.) or below using mechanical refrigeration (ice chests are not allowed for maintaining cold temperatures); or

(ii) 140° F. (60° C.) or above using mechanical holding units in each boot to ensure the proper temperature is maintained (canned heat or Sterno is not allowed for maintaining hot temperatures outdoors); and

(C) served to a consumer in the container in which it was originally packaged;

(3) prepare, serve, sell, or distribute raw seafood or poultry, except when the product is:

(A) pre-cut, breaded, and frozen and ready to be directly placed from the freezer into a fryer; or

(B) precooked;

(4) allow open and unprotected displays of food (when using chafing dishes, only hinged lid dishes are allowed so that at least half of the food remains covered at all times);

(5) permit consumption of ice or contact of ice with food unless the ice is:

(A) obtained from a source that is approved as safe by the director;

(B) in chipped, crushed, or cubed form;

(C) obtained in single-use plastic or wet-strength paper bags that are sealed by the manufacturer and unopened until used by the establishment; and

(D) dispensed from a container that is continuously drained into a waste receptacle approved by the director;

(6) store food in contact with water or undrained ice, except that wet storage of a beverage in a pressurized container is permitted if the water used:

(A) contains not less than 50 mg/l of available chlorine; and

(B) is maintained in a clean condition; or

(7) use water from a source that is not approved as safe by the director.

(f) **Operational requirements.** An establishment operating under authority of this article shall comply with all of the following requirements:

(1) Protect each food and food-contact surface from contamination, including, but not limited to, complying with the following requirements:

(A) All condiments, including, but not limited to, onions, relish, peppers, catsup, and mustard, that are available for customer self-service must be available in individual packets or from an approved dispenser.

(B) All foods, food containers, utensils, napkins, straws, and other single service articles must be stored at least six inches off the floor and adequately protected from splash, dust, insects, weather, and other contamination.

(C) When self-service ice dispensers are not used, ice scoops are required.

(D) Effective hair restraints (such as nets and caps) are required in food preparation and service areas. Food, beverage, and tobacco consumption is prohibited inside food booths, food preparation areas, and food service areas. Gum chewing is prohibited in food preparation and food service areas.

(E) Food handling personnel must wash their hands as frequently as necessary to maintain clean hands, even if disposable gloves are used. Nails must be closely trimmed and maintained. Long fingernails (natural, sculptured, etc.) or chipped nail polish is prohibited.

(F) Animals may not be located within 50 feet of a temporary food establishment or food service area.

(2) Install equipment in a way that permits cleaning and sanitizing and that is not likely to cause adulteration of food, including, but not limited to, complying with the following requirements:

(A) A container of soapy water solution must be provided for washing dirty utensils. This is for emergency use only.

(B) A sanitizer solution must be provided to sanitize clean utensils and equipment. The required residual of 50-100 ppm chlorine may be obtained by placing one tablespoon of bleach in one gallon of water for the sanitizer. Other approved sanitizers may be used. Test papers must be provided to ensure that proper sanitizer concentration is achieved. All utensils must be taken to a commissary location daily to be properly washed, rinsed, and sanitized.

(C) Wastewater (including but not limited to wastewater from handwashing, utensil washing, sinks, and steam tables) must be placed in an approved container until properly disposed. All wastewater must then be disposed of into a sanitary sewer system or in a manner that is consistent with federal, state, and local regulations and requirements relating to liquid waste disposal.

(3) Provide hot and cold running water, under pressure, in a quantity sufficient to maintain personal hygiene of employees and the cleanliness and sanitation of the establishment, except that cold running water that is not under pressure may be used when the establishment will be in operation for fewer than four consecutive calendar days.

(4) Provide a convenient handwashing facility with soap and individual paper towels for persons preparing and serving food, including, but not limited to, complying with the following requirements:

(A) The handwashing facility must have at least a 5-gallon container with a spigot that provides free flowing water.

(B) The handwashing facility must have a catch bucket to collect wastewater from hand washing

(5) Comply with federal, state, and local regulations and requirements relating to liquid waste disposal.

(6) Use only equipment and utensils that meet the standards set forth in Article IV of this chapter, if the establishment will be in operation for four or more consecutive calendar days.

(7) Use only equipment approved by the director if potentially hazardous foods will be served by the establishment.

(8) Maintain a full-time, on-site food service manager who is currently registered under Article II of this chapter if the establishment will be in operation for four or more consecutive calendar days, except that multiple establishments under the same ownership and management that are operating at the same activity or event may use the same full-time, on-site food service manager.

(g) **Design and structural requirements.** The design and structural material of a facility that houses a temporary food service establishment must be approved by the director. Each facility must:

(1) be enclosed by barriers at least 32 inches high that prevent customers from entering food preparation areas;

(2) have a serving counter with a depth of at least 12 inches;

(3) have floors constructed of concrete, asphalt, tight-fitting wood, or other similar, easily cleanable material kept in good repair;

(4) if the temporary food service establishment is outdoors, have over every food preparation and serving area a fire resistant overhead covering that protects the interior of the facility from the weather; and

(5) comply with all design and structural standards that may be established by the director for temporary food service establishments.

SEC. 17-9.3. REQUIREMENTS FOR CATERING SERVICES.

(a) **Affiliation with permitted food establishment required.** A person shall not engage in a catering service unless the service is affiliated with a food establishment operating from a fixed facility that is permitted under Article X of this chapter.

(b) **Food preparation.** A catering service may prepare food at the service site. If food requires substantial preparation in addition to cooking at the service site, a catering service shall not serve the food requiring additional preparation unless approved as safe by the director.

(c) **Operational requirements.** A catering service shall:

(1) notify the director in writing four days in advance of serving to a group of 500 or more people, stating the location, time, and menu of the service;

(2) take necessary steps to provide facilities and supplies for maintenance of personal hygiene (including, but not limited to, potable water, soap, and towels) for employees at the service site;

(3) provide refuse containers at the service site that permit disposal of refuse in a way that does not result in a health or safety hazard;

(4) leave a service site in a clean, waste-free condition; and

(5) not prepare or serve food in an area that exposes any person present to a health or safety hazard.

(d) **Duration of service at same site.** A catering service shall not serve at the same service site on more than two successive days unless the catering service complies with additional requirements as the director determines are necessary to protect the public health and safety at the service site.

(e) **Vehicles.** A food establishment that uses a vehicle in the operation of a catering service shall:

(1) identify the vehicle with characters three inches high on both exterior sides of the vehicle stating the following:

(A) the name of the food establishment;

(B) a brief description of the nature of the business if not included in the name; and

(C) the permit number of the vehicle;

(2) secure an inspection of the vehicle by the director on the date designated by the director;

(3) maintain the vehicle in a clean condition;

(4) keep the permit or a copy of the permit on the vehicle at all times; and

(5) not equip the vehicle with any sound amplification device that, when operated, violates Section 30-2(k) of this code.

ARTICLE X.

COMPLIANCE AND ENFORCEMENT.

SEC. 17-10.1. ADOPTION OF SECTION 229.171, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.171 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Figure 1: 25 TAC §229.171(j)(6) is not adopted.

SEC. 17-10.2. ADDITIONAL REQUIREMENTS.

(a) In addition to the requirements adopted in Section 17-10.1 of this chapter, the requirements contained in this section govern compliance and enforcement of this chapter.

(b) **Documenting information and observations on inspection of food establishments.** The director shall document administrative information about a food establishment's legal identity and all other findings and observations on the inspection report form. A copy of the inspection report must be furnished to the owner or person in charge, which constitutes written notice of any violation of this chapter. The inspection report must summarize the inspectional findings and must set forth a demerit point value for each classification of inspection items. A food establishment shall provide a copy of the most recent inspection report to any customer or potential customer upon request. A food establishment shall post the inspection scores (on a form provided by the director) at the main entrance to the establishment so that the scores are clearly visible to the public.

(c) **Permits.**

(1) **Requisite.** A person shall not operate a food establishment inside the city without a permit issued by the director. A separate permit is required for:

(A) each establishment that is under a separate ownership;

(B) each separate and distinct fixed facility from which an establishment operates;

(C) each vehicle used to operate a catering service; and

(D) each mobile food establishment.

(2) **Facilities that are not separate and distinct.** For purposes of this article, the following facilities are not considered separate and distinct if they are in the same building and under the same ownership and same management:

(A) A restaurant and a bar that is:

(i) either located within the restaurant or adjacent to the restaurant; and

(ii) preparing beverages for service in the restaurant.

(B) A holding kitchen for a banquet room and a main kitchen preparing food for service in the banquet room.

(C) A main kitchen and any food service area for which the main kitchen prepares food.

(3) **Common areas.** If several separate and distinct facilities in the same building or at the same fixed location share common food storage, utensil storage, dishwashing, cleaning, laundry, or other areas, each facility's permit must specify which common areas are to be inspected with the facility. Each common area specified under a permit must be included in the calculation of the floor area of the permitted facility for purposes of assessing the annual inspection fee.

(4) **Lapse.** A permit lapses if the food establishment operating under the permit:

(A) ceases its operation for 12 or more months;

(B) fails to pay the annual inspection fee on or before the due date;

(C) extensively remodels the facility from which it operates;

(D) constructs a new facility or mobile food preparation vehicle; or

(E) changes ownership.

(5) **Transferability.** A permit is not transferable. A person who acquires an existing food establishment may not operate the establishment without obtaining a new permit within 30 days of the change of ownership.

(6) **Operating authority.** A permit issued under this article gives only the person to whom the permit is issued the authority to operate the establishment identified on the permit. As a lawful condition to the operation of the establishment, the director may impose in the permit such additional requirements relating to the operation of the food establishment as the director determines is necessary to protect the public health and safety.

(7) **Application.** A person who desires a permit for a food establishment shall apply for the permit on a form provided by the department, requiring such information as the director determines is necessary to implement or enforce this chapter. A food establishment shall apply for a new permit if:

(A) the facility from which it operates is to be extensively remodeled;

(B) a new facility or mobile food preparation vehicle is to be constructed; or

(C) there is a change of ownership.

(8) **Extensive remodeling.** For purposes of this chapter, "extensive remodeling" means the expenditure of at least \$10,000 or an amount equal to at least 10 percent of the assessed value of the facility, whichever is more, for the purpose of repairs or remodeling, but does not include:

(A) expenditures for the replacement of movable equipment; or

(B) remodeling that does not affect the construction or operation of food storage or food preparation areas or areas used to store or clean utensils and equipment used in food storage or food preparation.

(9) **Issuance.** If the director finds that a food establishment applying for a permit complies with applicable requirements of this chapter and other law and is current on the payment of all fees owed to the city under this chapter, the director shall issue the permit. The director may not issue a permit for any mobile food establishment that is equipped with any sound amplification device that, when operated, violates Section 30-2(k) of this code.

(10) **Acceptance.** Acceptance of a permit issued by the director constitutes an agreement by the food establishment to:

(A) comply with all conditions of the permit and all applicable provisions of this chapter; and

(B) allow the lawful inspection of its facility, vehicles, and operations.

(11) **Display.** A food establishment that operates from a fixed facility shall display its permit in a frame with a glass cover at a prominent place inside the facility where it can be easily seen by the public.

(d) **Permit application fee.**

(1) An applicant for a permit for a food establishment shall pay the city an application fee for each separate and distinct fixed facility and for each mobile food preparation vehicle inside the city from which the establishment is to be operated.

(2) The applicant shall pay a nonrefundable fee according to the following schedule:

	<u>Fixed Facility</u>	<u>Mobile Food Preparation Vehicle</u>
<u>Cessation of operation of existing facility or vehicle for 12 or more months</u>	\$350	\$315
<u>Change of ownership of existing facility or vehicle</u>	\$350	\$315
<u>Change of ownership of newly constructed facility or vehicle or extensively remodeled facility</u>	\$350	\$315

Newly constructed facility or vehicle
or extensively remodeled facility
under same ownership \$350 \$315

Reinstatement fee after lapse
of permit for failure to pay
annual inspection fee by due
date: existing facility or
vehicle under same ownership \$50 \$50

(3) Section 17-10.2(d) does not apply to:

(A) a temporary food service establishment permitted under this
chapter; or

(B) a wholesale produce dealer permitted under Chapter 29 of this
code.

(4) The permit application and reinstatement fees required to be paid under
this section are in addition to the annual inspection fees required to be paid under Section 17-
10.2(g) or (h), whichever applies.

(e) **Plans and specifications.**

(1) A person shall not begin constructing a fixed facility or a mobile food
preparation vehicle, or extensively remodeling a fixed facility, intended for use in the operation of
a food establishment (other than a temporary food service establishment) before a copy of plans
and specifications of the construction or remodeling are approved, in writing, by the director. A
request for approval of plans and specifications must be accompanied by a nonrefundable plans
review fee of \$50.

(2) The director's written approval of plans and specifications is valid until
whichever of the following dates or events occurs first:

(A) 18 months after the date of approval, for new construction of a
fixed facility or a mobile food preparation vehicle;

(B) six months after the date of approval, for extensive remodeling of
an existing facility; or

(C) completion of construction and issuance of a food establishment
permit;

(3) Before construction or remodeling may be continued or recommenced after an approval of plans and specifications lapses:

(A) a new permit application must be made, and an application fee paid, in accordance with Section 17-10.2(d); and

(B) the plans and specifications must be resubmitted to and approved by the director and a new plans review fee must be paid.

(4) Approval of the plans and specifications by the director does not prevent the director from enforcing an ordinance or other law applicable to the construction or remodeling.

(5) Plans and specifications submitted under this section for a fixed facility must conform to the requirements for plans and specifications in the Dallas Building Code.

(6) If plans and specifications are approved by all affected departments of the city and construction has been in accordance with the plans and specifications, before an inspecting officer from any department may require a change, written notice must be served to the food establishment in accordance with Section 17-10.2(n). The notice must state:

(A) the required change in the plans and specifications;

(B) the reason for the change; and

(C) the establishment's right to appeal the order of change.

(7) A food establishment may appeal a change ordered under this section following the procedures of Section 17-10.2(q).

(f) **Inspections.**

(1) **Consent to inspection.** Application for and operation of a food establishment inside the city constitutes consent for the director to inspect the food establishment to determine whether the establishment complies with all conditions of the permit and applicable requirements of this chapter and other city ordinances and state and federal law.

(2) **Inspection procedure.** An inspection will be conducted in the following manner:

(A) The director may inspect during business hours or at any other reasonable time.

(B) An inspecting officer shall present official identification to the manager or person in charge before conducting the inspection.

(C) An inspecting officer shall wear appropriate clothing and hair restraint when entering food preparation or equipment and utensil washing areas of a food establishment.

(D) Upon authorization of the director, photographs of any part of a food establishment, or of any food handling activities conducted inside or outside of a food establishment, may be taken during an inspection.

(3) **Pre-operation inspection.** Before issuing a permit under this article, the director shall inspect a food establishment to determine whether the establishment complies with applicable requirements of this chapter and other city ordinances and state and federal law. If the food establishment does not comply, the director shall notify the permit applicant of the nonconformance in the manner prescribed by this article.

(4) **Periodic inspections.** The director shall periodically inspect each separate and distinct facility and vehicle from which a food establishment operates to determine whether the establishment complies with this chapter and other applicable city ordinances and state and federal law. The director shall conduct the periodic inspection as often as the director considers necessary to enforce this chapter or other applicable law, but at least once each six-month period.

(5) **Inspection form.** The director shall prepare and use an inspection form for rating the code compliance of a food establishment.

(6) Nothing in this chapter authorizes the entry of persons other than the director and the director's authorized representatives into food preparation or equipment and utensil washing areas of a food establishment.

(g) **Annual inspection fees: catering services and mobile food establishments.**

(1) **Catering service.** A catering service shall pay the city a nonrefundable annual inspection fee of \$40 for each vehicle used to operate the service inside the city.

(2) **Mobile food establishment.**

(A) A food establishment that operates a mobile food establishment inside the city shall pay the city a nonrefundable annual inspection fee in accordance with the following schedule:

<u>Type of Operation</u>	<u>Each Vehicle</u>
<u>General service</u>	<u>\$250</u>
<u>Limited service</u>	<u>\$110</u>
<u>Vegetable or fruit vendor</u>	<u>\$105</u>
<u>Mobile food preparation vehicle</u>	<u>\$315</u>

(B) An additional nonrefundable \$50 fee will be charged for each vehicle requested by a food establishment to be inspected at a location other than a location designated by the director.

(h) Annual inspection fee: fixed facilities.

(1) Requisite. A food establishment shall pay the city a nonrefundable annual inspection fee for each separate and distinct, fixed facility inside the city from which the establishment is operated. If a building contains multiple facilities, a separate fee will be calculated for each facility required to be permitted under Section 17-10.2(c).

(2) Amount. The amount of the fee for each facility is determined by the floor area of the facility. In determining the floor area, the director shall include each interior part of the facility used to manufacture or process, store, package, prepare, distribute, sell, or serve food. The fees are as prescribed in the following schedule:

(A) For facilities not included in Section 17-10.2(h)(2)(B):

<u>Area in square feet</u>	<u>Annual fee</u>
<u>1 to 2,000</u>	<u>\$300</u>
<u>2,001 or more</u>	<u>\$425</u>

(B) If a food establishment is being operated from more than one separate and distinct facility in the same building, for each facility in excess of one:

<u>Area in square feet</u>	<u>Annual fee</u>
<u>1 to 2,000</u>	<u>\$250</u>
<u>2,001 or more</u>	<u>\$350</u>

(3) No later than December 31 of each year, a food establishment shall pay the annual inspection fee for the following calendar year.

(4) The annual inspection fee for a new food establishment will be prorated from the calendar month in which operations begin to the end of the calendar year.

(5) **Exceptions.** Section 17-10.2(h) does not apply to:

(A) a temporary food service establishment permitted under this chapter; or

(B) a wholesale produce dealer permitted under Chapter 29 of this code.

(i) **Temporary food service fee.**

(1) Before the director issues a permit to a temporary food service establishment, the applicant for the permit shall pay the city a nonrefundable permit fee of \$100, plus \$5 for each day of operation for each facility from which the establishment is operated. A maximum nonrefundable annual fee of \$150 for each facility will be collected from concessionaires operating under contract with the city park and recreation department or the municipal produce market.

(2) Section 17-10.2(i)(1) does not apply to a temporary food service establishment that:

(A) does not serve potentially hazardous food; and

(B) the weekly gross income of which does not exceed \$25.

(j) **Registration of food establishments outside the city; fee.**

(1) A food establishment operating from a facility located outside the city that sells, distributes, or transports food inside the city may not conduct operations inside the city unless the establishment annually:

(A) registers with the director on a form provided for the purpose;

(B) pays to the city a nonrefundable registration fee of \$10 and other applicable fees; and

(C) furnishes the department with:

(i) a certificate from a health authority with jurisdiction over the establishment indicating that the establishment complies with applicable public health laws; and

(ii) other information that the director determines is necessary to enable the director to implement or enforce this chapter or otherwise protect the public health or safety.

(2) The director may inspect the operations of a food establishment specified in Section 17-10.2(j)(1) that are conducted inside the city to determine if the operations comply with applicable requirements of this chapter or other law.

(3) This subsection does not affect the liability of a food establishment specified in Section 17-10.2(j)(1) for payment of any other fee imposed under this article.

(k) **Payment of fee.** Except as expressly provided by this article, a fee prescribed by this article is payable on the date and in the manner prescribed by the director. If in a particular year a food establishment fails to pay the annual inspection fee required on or before the due date, the permit of that establishment lapses and the establishment must pay the reinstatement fee required by Section 17-10.2(d)(2), and all other outstanding fees owed to the city under this chapter, before the permit will be renewed.

(l) **Service fees.**

(1) If a food establishment changes its name, continuing under the same ownership, the establishment shall inform the director in writing of the change and pay the city a service fee of \$5, not more than seven days after the change.

(2) To obtain from the director a detailed, written survey of an existing food establishment, a prospective operator must:

(A) present to the director written permission for the survey from the owner of the food establishment; and

(B) pay to the city a nonrefundable service fee of \$50.

(m) **Violations; notification and order to correct.**

(1) **Authority to order correction.** If the director determines that a food establishment is in violation of this chapter or other law, the director may notify the establishment in writing of the violation and by written order direct the establishment to correct the violation within a definite period of time. In setting the time for correction the director shall consider the degree of danger to the public health or safety and the period of time reasonably necessary to make the correction.

(2) **Immediate corrections.** Upon determining that a violation constitutes an imminent and serious threat to the public health or safety, the director may order the establishment to correct the violation immediately or cease food operations to the extent the director determines is necessary to abate the threat until the violation is corrected.

(3) **Contents of notice.** The director shall include in a notice of violation under this subsection:

(A) identification of the violation by code section number and the name of the issuing officer;

(B) the date of issuance of the notice and the time period within which the violation must be corrected;

(C) a warning that failure to comply with the order may result in one or more of the following:

(i) temporary closure of the establishment;

(ii) suspension or revocation of the establishment's permit; or

(iii) imposition of a fine; and

(D) a statement indicating that the order may be appealed.

(4) **Closure.**

(A) If, pursuant to Section 17-10.2(m)(2), the director determines that a food establishment must cease operations in order to correct a violation that constitutes an imminent and serious threat to the public health and safety, the director shall:

(i) if the establishment voluntarily closes for the required time period, post a placard that states that the establishment is closed in cooperation with the city to improve food sanitation in the establishment; or

(ii) if the establishment closes only after a written order is issued by the director, post a placard that states that the establishment is closed by order of the city to correct food sanitation deficiencies.

(B) A person commits an offense if he continues operation of a food establishment after being ordered by the director to close the establishment. An offense under this subparagraph is punishable by a fine of not less than \$200 or more than \$2,000.

(5) Placard requirements.

(A) A placard posted in accordance with Section 17-10.2(m)(4) shall:

(i) be no larger than nine inches by 12 inches in size;

(ii) contain any language and symbols determined appropriate by the director;

(iii) be placed at the main entrance of the establishment where it is clearly visible to the public;

(iv) remain posted until the director determines that the food sanitation deficiencies are corrected and that the establishment may re-open; and

(v) be removed only by the director.

(B) A person commits an offense if, without the consent of the director, he defaces, removes, or conceals (in whole or in part) a placard posted in accordance with Section 17-10.2(m)(4). An offense under this subparagraph is punishable by a fine of not less than \$200 nor more than \$2,000.

(n) Service of notice.

(1) The director or an authorized representative shall personally serve notice required under this article to:

(A) the permittee;

(B) the registered agent for service of the permittee; or

(C) a person in charge of the food establishment.

(2) If the permittee, registered agent, or a person in charge cannot be found after a diligent effort to locate, or if the establishment is located outside the city, the director may serve notice by certified United States mail, return receipt requested, to the address of the permittee on file with the department or to the address of the registered agent.

(3) Service of notice executed in accordance with Section 17-10.2(n) constitutes notice to a food establishment.

(o) Examination and condemnation of food.

(1) Authority to examine. The director may examine food that is to be served, sold, offered for sale, transported, distributed, or stored inside the city by a food establishment as often as reasonably necessary to determine if the food is adulterated or misbranded. The director may take a reasonable sample of food subject to examination under Section 17-10.2(o).

(2) Hold order. If the director has reasonable cause to suspect that food is adulterated or misbranded, the director by written order may instruct the food establishment that possesses the food to withhold the food from use or sale. A hold order takes effect immediately upon issuance. If a hold order is imposed, the department shall serve notice of that fact in the manner prescribed by Section 17-10.2(n). The director shall identify the food subject to a hold order in a reasonable way (including, but not limited to, a note or tag attached to the food). An establishment that possesses food subject to a hold order shall store the food as directed by the director and shall not alter the food in any way without written permission from the director. The director shall take such samples as may be necessary to examine food subject to a hold order as soon as reasonably possible to determine if the food is adulterated or misbranded. If the food is not adulterated or misbranded, the director shall cancel the hold order.

(3) Condemnation order. If the director determines that the food is adulterated, the director shall order the food condemned and dispose of the food in a way that does not result in a health hazard. If the director determines that the food is misbranded, the director shall order the food condemned and may dispose of the food in a way that does not result in a health hazard, or order the food establishment in control of the food to put the food in compliance with applicable law.

(p) Suspension and revocation of permits.

(1) The director may suspend a permit, for a definite period of time not to exceed one year, if the director determines that a food establishment has:

(A) made a false statement of a material fact in an application for a food establishment permit;

(B) violated a provision of this chapter;

(C) failed to timely comply with a correction order, a hold order, or a condemnation order;

(D) intentionally or knowingly impeded a lawful inspection by the director or the director's authorized representative; or

(E) failed to pay a fee required under this chapter at the time it was due.

(2) The director may revoke a permit if the director determines that a food establishment has:

(A) been convicted twice within a 12-month period for violations of this chapter;

(B) failed to comply, within the time specified, with an order to correct or abate an imminent and serious threat to the public health or safety;

(C) been closed two or more times within a 12-month period for conditions that constituted a serious and imminent threat to public health;

(D) had a food establishment permit suspended under Section 17-10.2(p)(1) three times within a 24-month period; or

(E) operated a food establishment during a period when the food establishment's permit was suspended.

(3) Upon receipt of written notice of suspension or revocation issued by the director, the food establishment shall immediately cease operation of the facility or vehicle for which the permit is suspended or revoked. The director shall serve notice of suspension or revocation in the manner prescribed by Section 17-10.2(n). The notice of suspension or revocation must include:

(A) the name of the permittee;

(B) the location or identification of the food establishment facility or vehicle for which the permit is suspended or revoked;

(C) the reason for the suspension or revocation; and

(D) a statement informing the establishment of its right to appeal the suspension or revocation.

(q) **Appeal.**

(1) A decision of the director that is appealable under this chapter is final unless the applicant, permittee, registrant, certificate holder, or food establishment to which the decision applies files an appeal with a permit and license appeal board in accordance with Section 2-96 of this code.

(2) The filing of an appeal in accordance with Section 2-96 of this code stays an action of the director until a final decision is made by the permit and license appeal board, unless the director determines that continued operation of a food establishment, or continued employment of a food service manager or a food handler, constitutes an imminent and serious threat to public health and safety and gives proper notice of that determination to the food establishment, the food service manager, or the food handler.

(r) **Criminal offenses; presumption.**

(1) A person commits an offense if he:

(A) impedes the lawful inspection of a food establishment; or

(B) violates any other provision of this chapter.

(2) A culpable mental state is not required for the commission of an offense under this chapter.

(3) A person violating a provision of this chapter is guilty of a separate offense for each day or part of a day during which a violation is committed, continued, or permitted. Unless otherwise provided in this chapter, an offense committed under this chapter is punishable by a fine of not less than \$50 or more than \$2,000; however, a second or subsequent conviction for the same offense within a period of less than one year from the first conviction is punishable by a fine of not less than \$200 or more than \$2,000.

(4) If an enforcing officer designated by the director has probable cause to believe that a person has committed an offense under this chapter, the enforcing officer may cause the arrest of the person or issue the person a written citation to appear in municipal court to answer the charge against the person. If, upon request by the enforcing officer, the person believed by the officer to have committed the offense or an owner, officer, manager, or other person in charge of the food establishment believed by the officer to have violated this chapter, refuses to promise to appear in court by signing the citation, the enforcing officer shall cause the arrest of the person. The citation must include:

(A) the section of the code violated;

(B) the name and location of the establishment;

(C) identification of and the date of the offense alleged;

(D) the date of the citation; and

(E) the signature of the officer issuing the citation.

(5) Prosecution for an offense does not prevent the use of other enforcement remedies or procedures applicable to the conduct involved in the offense.

(6) Whenever a violation of this chapter occurs that involves a mobile food establishment, it is presumed that the registered owner of the vehicle for which the citation was issued is the person who committed the violation, either personally or through an agent or employee. Proof of ownership may be made by a computer-generated record of the registration of the vehicle with the Texas Department of Transportation showing the name of the person to whom state license plates were issued. This proof is prima facie evidence of the ownership of the vehicle by the person to whom the certificate of registration was issued.

ARTICLE XI.

HEIMLICH MANEUVER POSTER.

SEC. 17-11.1. ADOPTION OF SECTION 229.173, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.173 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.

SEC. 17-11.2. ADDITIONAL REQUIREMENTS.

Reserved.

ARTICLE XII.

BED AND BREAKFAST EXTENDED ESTABLISHMENTS.

SEC. 17-12.1. ADOPTION OF SECTION 229.174, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.174 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.

SEC. 17-12.2. ADDITIONAL REQUIREMENTS.

Reserved.

ARTICLE XIII.

OUTFITTER OPERATIONS.

SEC. 17-13.1. ADOPTION OF SECTION 229.175, TEXAS FOOD ESTABLISHMENT RULES.

Section 229.175 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.

SEC. 17-13.2. ADDITIONAL REQUIREMENTS.

Reserved."

SECTION 2. That any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and former CHAPTER 17 of the Dallas City Code is continued in effect for that purpose.

SECTION 3. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 4. That this ordinance will take effect on August 1, 2005, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., Interim City Attorney

By _____
Assistant City Attorney

Passed _____

LC/DCC/00193A