

Memorandum



DATE June 10, 2016

TO Honorable Members of the Quality of Life & Environment Committee: Sandy Greyson (Chair), Tiffinni A. Young (Vice-Chair), Mark Clayton, Rickey D. Callahan, Phillip T. Kingston, B. Adam McGough

SUBJECT Upcoming Code Compliance Services Agenda Item: Proposed Amendments to Chapter 17 – Food Establishments

On Wednesday, June 22, 2016, City Council will consider an agenda item to amend City Code: Chapter 17 – Food Establishments. The amendments include State of Texas changes to the Texas Food Establishment Rules (TFER) that were effective October 11, 2015 and staff recommended changes.

The purpose of the staff recommended changes is to prevent contamination of food items, increase accessibility to equipment for cleaning, strengthen dog friendly variance requirements and ensure compliance with State insurance requirements. The new rules recommended by staff will only apply to new facilities or extensive remodel to existing facilities.

The following attachments are included for review:

- Appendix A – Draft ordinance; and
- Appendix B – Summary of staff recommended changes and stakeholder feedback.

Please contact me if you have any questions or need additional information.



Joey Zapata
Assistant City Manager

Attachment

c: The Honorable Mayor and Members of the City Council
A.C. Gonzalez, City Manager
Christopher D. Bowers, Interim City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Ryan S. Evans, First Assistant City Manager

Eric D. Campbell, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Mark McDaniel, Assistant City Manager
Jeanne Chipperfield, Chief Financial Officer
Sana Syed, Public Information Officer
Elsa Cantu, Assistant to the City Manager – Mayor & Council

ORDINANCE NO. _____

An ordinance amending Chapter 17, “Food Establishments,” of the Dallas City Code by amending Sections 17-1.1, 17-1.5, 17-1.6, 17-2.1, 17-2.2, 17-3.1, 17-3.2, 17-4.1, 17-4.2, 17-5.1, 17-5.2, 17-6.1, 17-6.2, 17-7.1, 17-8.1, 17-8.2, 17-9.1, 17-9.2, 17-10.1, 17-10.2, 17-11.2, 17-12.1, 17-13.1, and adding Section 17-14.1; adopting new food establishment rules promulgated by the Texas Department of State Health Services; providing additional requirements for certain equipment; providing additional requirements for mobile food establishments; providing additional requirements for temporary food establishments; providing additional requirements for variances for dog friendly patios; providing certain Heimlich maneuver poster display requirements; making conforming changes; providing a penalty not to exceed \$2000; providing a savings 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 Section 17-1.1, “Purpose,” of Article I, “Food Establishments Generally,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“SEC. 17-1.1. PURPOSE.

The purpose set forth in Section 228.1 [~~229.161~~] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.”

SECTION 2. That Section 17-1.5, “Definitions,” of Article I, “Food Establishments Generally,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“SEC. 17-1.5. DEFINITIONS.

(a) Except for the terms defined in Subsection (b), t[F]he definitions set forth in Section 228.2 [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,” “pusheart,” “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

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(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) EXTENSIVELY REMODELLED means the expenditure of at least \$25,000 [~~40,000~~] 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.

(Z[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.

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(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 a produce stand that only offers whole, uncut fresh fruits and vegetables or an establishment that offers only prepackaged foods that are not time/temperature control for safety [~~potentially hazardous~~], except that the term does include an establishment that sells ice cream, frozen custard, soft serve dairy products, gelato, or other frozen desserts.

(~~8~~[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.

(~~9~~[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.

(~~10~~[9]) PERMIT means the document issued by the department that authorizes a person to operate a food establishment.

(~~11~~[~~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.

(~~12~~[~~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.

(~~13~~[~~12~~]) RECONSTITUTED means the recombining of dehydrated food products with water or other liquids.

(~~14~~[~~13~~]) REGULATORY AUTHORITY means the director.

(~~15~~[~~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.

(16[15]) SEAL means to close the junction between surfaces in a way that prevents entry of moisture.

(17[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;

(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

(vii) a neighborhood farmers market for which a permit has been issued under Chapter 29A of this code; or

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

(18[17]) TEXAS FOOD ESTABLISHMENT RULES means the rules of the Texas Department of State Health Services found in Title 25 Texas Administrative Code, Chapter 228, as amended [~~Chapter 229, Subchapter K (effective date March 15, 2006)~~].”

SECTION 3. That Subsection (a) of Section 17-1.6, “Defenses for Certain Types of Activities,” of Article I, “Food Establishments Generally,” of Chapter 17, “Food Establishments” of the Dallas City Code is amended to read as follows:

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

(a) It is a defense to prosecution under this chapter 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-time/temperature control for safety [~~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) serving or distributing food, without charge, to homeless individuals on public or private property, provided that the person:

(A) sent a notice within the time required by subparagraph (B) to the director (by United States mail, facsimile, electronic mail to the addresses or numbers provided by the director, via the City’s 311 call center, or on the City’s Code Compliance Department’s website [~~at www.dallascityhall.com/code_compliance/index.html]~~) containing the following information:

(i) the name of the individual or organization that was or will be serving or distributing food to the homeless;

(ii) the date or dates when food was or will be served or distributed to the homeless;

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(iii) the times of day when food service and distribution is anticipated to or did begin and end on each date listed in the notice;

(iv) the street address or addresses of where food was or is anticipated to be served or distributed to the homeless or, if the location has no street address, then a description of the location by street block number or by naming the nearest intersecting streets; and

(v) the approximate or expected number of food preparers and servers on the site where the food was or will be served or distributed and the approximate or expected number of individuals that were or will be served, provided the number of individuals that were or is anticipated to be served exceeds 75 at a single location;

(B) sent the notice required in subparagraph (A) at least 24 hours before the service or distribution of food to the homeless will commence, if it is anticipated that more than 75 people will be served, or within 48 hours after the service or distribution of food to the homeless has concluded, if it is anticipated that 75 or fewer people will be served at a single location;

(C) if the person is an individual, had attended a free city-sponsored food safety training class within the 24 months preceding the service or distribution of food to the homeless or, if the person is an organization, had at least one person who has attended a free city-sponsored food safety training class or has taken the class to become a certified food handler in the State of Texas within the 24 months preceding the service or distribution of food to the homeless present at all times when food was being served or distributed to the homeless, although this requirement applies only so long as the city sponsors a free food safety training class at least once during each three month period during a calendar year;

(D) did not serve or distribute time/temperature control for safety [~~potentially hazardous~~] to the homeless, unless the food has been stored at a temperature of:

(i) 41° F. (5° C.) or below; or

(ii) 135° F. (57° C.) or above;

(E) transported the food in a clean conveyance and, if the food was a time/temperature control for safety [~~potentially hazardous~~] food, as that phrase is defined in the Texas Food Establishment Rules, as amended, [9.161 et seq.,] served or distributed it within four hours after preparation;

(F) used one of the following methods of sanitizing hands before preparing, serving, or distributing food for the homeless:

(i) a hand sanitizer containing at least 70 percent alcohol or another substance capable of killing 99.9 percent of the bacteria on hands within 30 seconds of application;

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(ii) disposable gloves; or

(iii) handwashing equipment that included at a minimum:

(aa) a sink, or a five-gallon container with a spigot that provides free-flowing water and a catch bucket to collect wastewater from handwashing; and

(bb) soap and individual paper towels;

(G) properly disposed of any wastewater generated from any handwashing equipment used in the preparation, service, or distribution of food to the homeless into a sanitary sewer system and did not dispose of the wastewater on the ground or into the stormwater drainage system; and

(H) brought a sufficient number of trash bags to dispose of the solid waste generated by the food provided by the servers and used best efforts to remove or cause the removal of all trash or debris from the feeding site that was generated by the service or distribution of food to the homeless, and deposited the trash or debris in a public trash receptacle, or in a private trash receptacle if permission from the receptacle owner was obtained.”

SECTION 4. That Section 17-2.1, “Adoption of Section 229.163, Texas Food Establishment Rules,” of Article II, “Management and Personnel,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“SEC. 17-2.1. ADOPTION OF SUBCHAPTER B [~~SECTION 229.163~~], TEXAS FOOD ESTABLISHMENT RULES.

Subchapter B [~~Section 229.163~~] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Section 228.32 and Subsection 228.38(c) [~~Subsections (b) and (g) of Section 229.163~~] are not adopted.”

SECTION 5. That Subsection (b), “Demonstration of Knowledge by Person in Charge of Food Establishment,” of Section 17-2.2, “Additional Requirements,” of Article II, “Management and Personnel,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“(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

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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 time/temperature control for safety [~~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 time/temperature control for safety [~~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 time/temperature control for safety [~~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:

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- (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.”

SECTION 6. That Subsection (c), “Registered Food Service Managers,” of Section 17-2.2, “Additional Requirements,” of Article II, “Management and Personnel,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“(c) Registered food service managers.

(1) Registered food service managers required.

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

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(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-time/temperature control for safety [~~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.

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(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 five [~~two~~] years after the date of issuance. The expiration date on the city-issued food service manager registration may not be later than the expiration date on the food manager certificate issued by the state or by an approved provider organization.

(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.

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(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 \$20 per year for a food service manager registration. The fee for replacing a lost, stolen, or damaged certificate of registration is \$11.

(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."

SECTION 7. That Subsection (d), "Food Handlers," of Section 17-2.2, "Additional Requirements," of Article II, "Management and Personnel," of Chapter 17, "Food Establishments," of the Dallas City Code is deleted in its entirety as follows:

~~"[(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.~~

~~(E) Any mobile food establishment described in Section 17-8.2(b) of this chapter that prepares or serves non-prepackaged potentially hazardous food.~~

~~(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,~~

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~~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~~

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~~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 \$55 for a food handler certificate. The fee for replacing a lost, stolen, or damaged certificate is \$11.~~

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

SECTION 8. That Section 17-3.1, “Adoption of Section 229.164, Texas Food Establishment Rules,” of Article III, “Food,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“SEC. 17-3.1. ADOPTION OF SUBCHAPTER C [~~SECTION 229.164~~], TEXAS FOOD ESTABLISHMENT RULES.

Subchapter C [~~Section 229.164~~] [including Figure 1: 25 TAC § 228.71(a)(1)(B) [~~229.164(k)(1)(A)(ii)~~], Figure 2: 25 TAC § 228.71(a)(2)(A) [~~229.164(k)(1)(B)(i)~~], and Figure 3: 25 TAC § 228.71(a)(2)(B) [~~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 228.65(a) [~~229.164(e)~~] is not adopted.”

SECTION 9. That Section 17-3.2, “Additional Requirements,” of Article III, “Food,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“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 228.38(a) [~~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 228.66(e) [~~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 228.106(v) [~~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 time/temperature control for safety [~~potentially hazardous~~] food. A food establishment that serves, sells, or distributes time/temperature control for safety

[~~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

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(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).”

SECTION 10. That Section 17-4.1, “Adoption of Section 229.165, Texas Food Establishment Rules,” of Article IV, “Equipment, Utensils, and Linens,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“SEC. 17-4.1. ADOPTION OF SUBSECTION D [~~SECTION 229.165~~], TEXAS FOOD ESTABLISHMENT RULES.

Subchapter D [~~Section 229.165~~] [including Figure 1: 25 TAC § 228.101(c)(1) [~~229.165(a)(3)~~] and Figure 2: 25 TAC § 228.111(n)(1) [~~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 228.109(c) [~~229.165(i)(3)~~] is not adopted.

SECTION 11. That Subsection (c), “Maintenance Equipment,” of Section 17-4.2, “Additional Requirements,” of Article IV, “Equipment, Utensils, and Linens,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

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

(1) meets the requirements specified in Subs[~~S~~]ection 228.101(a) and Section 228.102 [~~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.”

SECTION 12. That Section 17-5.1, “Adoption of Section 229.166, Texas Food Establishment Rules,” of Article V, “Water, Plumbing, and Waste,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“SEC. 17-5.1. ADOPTION OF SUBCHAPTER E [~~SECTION 229.166~~], TEXAS FOOD ESTABLISHMENT RULES.

Subchapter E [~~Section 229.166~~] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Paragraphs 228.143(a)(1) through (3) and Subsections 228.146(b) and Subsection 228.147(e) [~~Subsections (c)(3), (f)(2), and (g)(3) of Section 229.166~~] are not adopted.”

SECTION 13. That Subsection (c), “Hand Washing, Lavatory, Water Temperature, and Flow,” of Section 17-5.2, “Additional Requirements,” of Article V, “Water, Plumbing, and Waste” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

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

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(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.

(4) For extensively remodelled food establishments, a handwashing lavatory must be located within 25 linear feet of a food preparation area.

SECTION 14. That Section 17-5.2, “Additional Requirements,” of Article V, “Water, Plumbing, and Waste” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended by adding a new Subsection (e), “Grease Traps/Interceptors,” to read as follows:

“(e) Grease traps/interceptors. For extensively remodelled food establishments, and unless otherwise approved by the director, a food establishment must locate grease traps/interceptors outside the food establishment so that they are easily accessible for cleaning. Grease traps/interceptors located inside the food establishment with the director’s approval must have a liquid-tight lid flush attached to the floor that prevents contamination of food or equipment.

SECTION 15. That Section 17-6.1, “Adoption of Section 229.167, Texas Food Establishment Rules,” of Article VI, “Physical Facilities,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“**SEC. 17-6.1. ADOPTION OF SUBCHAPTER F [~~SECTION 229.167~~], TEXAS FOOD ESTABLISHMENT RULES.**

Subchapter F [~~Section 229.167~~] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Sections 228.172 and 228.173 [~~Subsections (b) and (c) of Section 229.167~~] are not adopted.”

SECTION 16. That Subsection (b), “Outdoor Areas, Surface Characteristics,” of Section 17-6.2, “Additional Requirements,” of Article VI, “Physical Facilities,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“(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 Subsections 228.155(a) through (c) [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.”

SECTION 17. That Section 17-6.2, “Additional Requirements,” of Article VI, “Physical Facilities,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended by adding Subsection (d), “Location of certain equipment,” and Subsection (e), “Auxiliary Equipment,” to read as follows:

“(d) Location of certain equipment. For extensively remodelled food establishments, a food establishment must:

(1) locate equipment used for a work surface on which food is prepared (e.g., a meat or vegetable cutting block or bakers table) within five feet of a floor drain so that it may be properly cleaned;

(2) maintain unobstructed aisles between equipment of a width sufficient to permit passage without a likelihood of causing adulteration of food;

(3) position all readily movable storage equipment, including pallets, racks, and dollies, to provide accessibility to working areas;

(4) locate an ice machine, if any, inside a food service or food preparation area; and

(5) not locate equipment, including ice makers and ice storage equipment, under exposed or unprotected sewer lines or water lines, open stairwells, or near other sources of contamination, excluding automatic fire protection sprinkler heads.

(e) Auxiliary equipment for extensively remodelled food establishments.

(1) Except as otherwise provided in this subsection, a food establishment may not locate non-food service equipment (e.g., water heaters, laundry machines, remote connected refrigerator compressors, or air conditioners) inside a food preparation area unless otherwise authorized or required by law.

(2) If a water heater is authorized or required to be located inside a food handling area, it must be enclosed with walls or partitions constructed of rigid, smooth, non-absorbent, easily-cleanable materials.

(3) If a food establishment uses mechanical laundry equipment, the food establishment must locate the equipment in a separate room with self-closing, solid doors that fit tightly at each entrance.”

SECTION 18. That Section 17-7.1, “Adoption of Section 229.168, Texas Food Establishment Rules,” of Article VII, “Poisonous or Toxic Materials,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“SEC. 17-7.1. ADOPTION OF SUBCHAPTER G [~~SECTION 229.168~~], TEXAS FOOD ESTABLISHMENT RULES.

Subchapter G [~~Section 229.168~~] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.”

SECTION 19. That Section 17-8.1, “Adoption of Section 229.169, Texas Food Establishment Rules,” of Article VIII, “Mobile Food Establishments,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“SEC. 17-8.1. ADOPTION OF SECTION 228.221 [~~229.169~~], TEXAS FOOD ESTABLISHMENT RULES.

Section 228.221 [~~229.169~~] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Subsections 228.221(a), (b), and (c)(2), [~~Section~~] are not adopted.”

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SECTION 20. That Subsection (b), “Categories of Mobile Food Establishments,” of Section 17-8.2, “Additional Requirements,” of Article VIII, “Mobile Food Establishments,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“(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 time/temperature control for safety [~~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 manufactured, converted, or retrofitted for use as a mobile food preparation vehicle by a person regularly in the business of manufacturing, converting, or retrofitting motorized vehicles as mobile food preparation vehicles for sale or compensation.

(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.”

SECTION 21. That Subparagraph (E) of Paragraph (1) of Subsection (c), “Vehicles,” of Section 17-8.2, “Additional Requirements,” of Article VIII, “Mobile Food Establishments,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“(E) keep proof of minimum vehicle insurance that is issued in at least six month increments[~~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~~];”

SECTION 22. That Subsection (g), “Central Preparation Facility or Commissary,” of Section 17-8.2, “Additional Requirements,” of Article VIII, “Mobile Food Establishments,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“(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. Pushcarts must be stored wholly within the the commissary location when not in operation.

(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.”

SECTION 23. That Subparagraph (A) of Paragraph (1), “General Operating Requirements,” of Subsection (h), “Operating requirements for Mobile Food Establishments,” of Section 17-8.2, “Additional Requirements,” of Article VIII, “Mobile Food Establishments,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“(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~~]. The permit holder must ensure that their vehicle drivers have a valid driver’s license.”

SECTION 24. That Subparagraph (M) of Paragraph (4), “General Service,” of Subsection (i), “Structural requirements for Mobile Food Preparation Vehicles and General Service Mobile Food Establishments,” of Section 17-8.2, “Additional Requirements,” of Article VIII, “Mobile Food Establishments,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“(M) The vehicle must be equipped with mechanical refrigeration equipment if time/temperature control for safety [~~potentially hazardous~~] food is stored, prepared, or served on the vehicle. The mechanical refrigeration equipment must have at least 15 cubic feet of usable storage space and be capable of ensuring proper food temperature control during transportation and operation.”

SECTION 25. That Section 17-9.1, “Adoption of Section 229.170, Texas Food Establishment Rules,” of Article IX, “Temporary Food Establishments and Catering Services,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“SEC. 17-9.1. ELECTION NOT TO ADOPT~~[ION—OF]~~ SECTION 228.222~~[229.170]~~, TEXAS FOOD ESTABLISHMENT RULES.

Section 228.222 ~~[229.170]~~ of the Texas Food Establishment Rules is not adopted.”

SECTION 26. That Section 17-9.2, “Requirements for Temporary Food Establishments,” of Article IX, “Temporary Food Establishments and Catering Services,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“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 the:

(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

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(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 time/temperature control for safety ~~[potentially hazardous]~~ food and the weekly gross income of which does not exceed \$100.

(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), (ii), (iii), (iv), (v), or (vii) of this chapter.

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

(1) upon expiration of a special event permit, plaza event permit, neighborhood farmers market 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), (ii), (iii), (iv), or (vii) 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 more than four time/temperature control for safety menu items within a permitted booth, unless otherwise approved by the director;

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

(3~~2~~) prepare time/temperature control for safety ~~[potentially hazardous]~~ food, except that an establishment may prepare time/temperature control for safety ~~[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 time/temperature control for safety ~~[potentially hazardous]~~ food that is:

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- (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) 135° F. (57° C.) or above using mechanical holding units in each booth [~~booth~~] 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;
- (4[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;
- (5[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);
- (6[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;
- (7[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
- (8[7]) use water from a source that is not approved as safe by the director.

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

(1) limit the booth size to a maximum 15x 15 square foot space, unless the event planner provides fixed structures as temporary booths, or as otherwise approved by the director

(2) 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.

(3[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.

(4[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.

(5[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.

(6[5]) Comply with federal, state, and local regulations and requirements relating to liquid waste disposal.

(7[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.

(8[7]) Use only equipment approved by the director if time/temperature control for safety [~~potentially hazardous~~] foods will be served by the establishment.

(9[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.”

SECTION 27. That Section 17-10.1, “Adoption of Section 229.171, Texas Food Establishment Rules,” of Article X, “Compliance and Enforcement,” of the Dallas City Code is amended to read as follows:

“SEC. 17-10.1. ADOPTION OF SUBCHAPTER I [~~SECTION 229.171~~], TEXAS FOOD ESTABLISHMENT RULES.

Subchapter I [~~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 § 228.251(f) [~~229.171(j)(6)~~] is not adopted.”

SECTION 28. That Paragraph (2) of Subsection (i), “Temporary Food Service Fee,” of Section 17-10.2, “Additional Requirements,” of Article X, “Compliance and Enforcement,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

- “(2) Section 17-10.2(i)(1) does not apply to a temporary food service establishment that:
 - (A) does not serve time/temperature control for safety [~~potentially hazardous~~] food; and
 - (B) the weekly gross income of which does not exceed \$100.”

SECTION 29. That Paragraph (8) of Subsection (c), “Permits,” of Section 17-10.2, “Additional Requirements,” of Article X, “Compliance and Enforcement,” of Chapter 17, “Food Establishments,” of the Dallas City Code is deleted to read as follows:

~~“(8) Extensive remodeling. For purposes of this chapter, “extensive remodeling” means the expenditure of at least \$25,000 [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.]”~~

SECTION 30. That Subsection (k), “Payment of Fee,” of Section 17-10.2, “Additional Requirements,” of Article X, “Compliance and Enforcement,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“(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. Fee payments will be applied to oldest outstanding balance first, if any.”

SECTION 31. That Subsection (s), “Variances,” of Section 17-10.2, “Additional Requirements,” of Article X, “Compliance and Enforcement,” of Chapter 17, “Food Establishments,” of the Dallas City Code is amended to read as follows:

“(s) Variances.

(1) A food establishment may apply to the director for a variance modifying or waiving the requirements of the Texas Food Establishment Rules or the requirements of this chapter. The food establishment shall apply for the variance on a form provided by the director and shall include in the application all of the information required by Subsection 229.171(c)(2) of the Texas Food Establishment Rules. The application must be accompanied by a nonrefundable application fee of:

(A) \$127 for a variance to allow dogs to be present in the outdoor patio area of a food establishment under Subsection (s)(7);

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(B) \$95 for a variance to allow the preparation, cooking, and service of raw poultry, raw seafood, and non-fast-cooked food items on a mobile food preparation vehicle under Subsection (s)(8); and

(C) \$100 for all other variances applied for under this subsection.

(2) The director may grant a variance by modifying or waiving the requirements of ~~[the as authorized in]~~ Subchapter I, Subsections 228.243(a) through (c), [Section 229.171(e)] of the Texas Food Establishment Rules or the requirements of this chapter if, in the opinion of the director, a health hazard or nuisance will not result from the variance.

(3) If a variance is granted, the director shall retain in its records for the food establishment the information provided by the applicant under Subchapter I, Subsection 228.243(b), [Section (229.171(e)(2))] of the Texas Food Establishment Rules. A food establishment granted a variance shall comply with Subchapter I, Subsection 228.243)(c), [Section 229.171(e)(3)] of the Texas Food Establishment Rules and any conditions or standards for the variance established by the director or this chapter.

(4) A variance granted under this section is nontransferable. The variance expires two years after the date it is granted by the director, unless it is sooner revoked by the director or terminated by the food establishment. A variance may be renewed through the application process set forth in Paragraph (1) of this subsection.

(5) The director shall deny or revoke a variance under this section if:

(A) the food establishment made a false statement as to a material matter on or in connection with the request for the variance or on or in connection with the permit application for the food establishment;

(B) the food establishment does not hold a valid permit issued under this chapter;

(C) the director determines that a health hazard or nuisance will result or has resulted from the variance;

(D) the food establishment failed to pay a fee required under this chapter at the time it was due; or

(E) the food establishment is in violation of any term or condition of the variance as established by the director, this chapter, or state law.

(6) If the director denies or revokes a variance, the director shall notify the applicant in writing by personal service or regular United States mail. The notice must include the reasons for the denial or revocation and a statement informing the applicant of the right to appeal the decision in accordance with Subsection (q) of this section.

(7) If, pursuant to this section, the director grants a variance to Subchapter F, Subsection 228.186(o), [Section 229.167(p)(15)] of the Texas Food Establishment Rules (which prohibits animals on the premises of a food establishment) to allow dogs to be present in the outdoor patio area of a food establishment, then the food establishment shall comply with the following conditions and standards in addition to any other conditions and standards established by the director for the variance:

(A) Except as allowed under Subchapter F, Subsection 228.186(o), [Section 229.167(p)(15)] of the Texas Food Establishment Rules, no dog may be present inside the food establishment or on any playground area of the food establishment.

(B) A separate entrance must be provided from the outside of the food establishment to the outdoor patio so that a dog will have direct access to the patio without entering the interior of the food establishment or any playground area of the food establishment. A dog on an outdoor patio may not be allowed within seven feet of any entrance to the interior of the food establishment, except when necessary to enter or exit the patio.

(C) A sign must be posted at the front entrance of the food establishment and on the outdoor patio so that it is easily visible to the public. The sign must state: "DOG FRIENDLY PATIO - DOG ACCESS ONLY THROUGH OUTDOOR PATIO. FOR COMPLAINTS RELATED TO THE DOG FRIENDLY PATIO, CALL 311." Signs must be:

(i) no smaller than 9-1/2 long by 12 inches wide;

(ii) printed in English and Spanish with bolded lettering at least 36 inches high in contrasting colors; and

(iii) displayed in a landscape orientation.

(D) Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio from the interior of the food establishment.

(E) No food preparation, including mixing drinks or serving ice, may be performed in the outdoor patio area, except that a beverage glass may be filled on the patio from a pitcher or other container that has been filled or otherwise prepared inside the food establishment.

(F) The outdoor patio must be continuously maintained free of visible dog hair, dog dander, and other dog-related waste or debris. The outdoor patio must be hosed down or mopped with animal friendly chemicals at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), or, if a food establishment has continuous food or beverage service without designated shifts, then every six hours that the establishment is open for business, except that cleaning under this subparagraph is not required if no dog has been present on the outdoor patio since the last cleaning. Waste created from a dog's bodily functions must be cleaned up with animal friendly chemicals within five minutes after

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each occurrence. All dog waste must be disposed of outside of the food establishment in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept outside of the food establishment. A food establishment shall maintain a log of the cleaning schedule of the dog friendly patio and make the log available to the director for inspection upon request.

(G) While on duty, wait staff or other food handlers at the food establishment may not pet or have contact with any dog.

(H) A dog must be kept on a leash and remain in the control of the customer while in the outdoor patio area. The dog must be wearing a collar or harness with a current rabies tag attached to it.

(I) A dog is not allowed on a seat, table, countertop, or similar surface in the outdoor patio area.

(J) A dog is not allowed to have contact with any dishes or utensils used for food service or preparation at the food establishment.

(K) A dog may not be given any food (including, but not limited to, dog kibble, biscuits, and edible treats) while in the outdoor patio area, but may be given water in a disposable container.

(L) On an outdoor patio, the food establishment must create and maintain a separate dog-free area with a minimum of seven feet of separation from the dog-friendly patio area. The food establishment is responsible for informing its patrons of the dog-free area and must enforce the seven-foot spacing during its hours of operation.

(8) If, pursuant to this section, the director grants a variance to Section 17-8.2(h)(2)(C) of this chapter (which allows only fast-cooked food items to be prepared on a mobile food preparation vehicle and prohibits raw poultry or raw seafood from being prepared or cooked on the vehicle) to allow raw poultry, raw seafood, and non-fast-cooked food items to be prepared, cooked, and served from a mobile food preparation vehicle, then the food establishment shall comply with the following conditions and standards in addition to any other conditions and standards established by the director for the variance:

(A) The applicant must submit to the director detailed plans regarding the preparation, cooking, and service of the raw poultry, raw seafood, and non-fast-cooked food items on the mobile food preparation vehicle. The plans must include all of the following information:

(i) A description of the raw poultry, raw seafood, and non-fast-cooked food items and how they will be prepared, cooked, and served.

(ii) Details of how the raw poultry, raw seafood, and non-fast-cooked food items will be stored on the vehicle.

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(iii) Any other information or documentation the director deems necessary to determine whether or not a health hazard or nuisance will result from granting the variance.

(B) The food establishment must not have committed more than a total of three violations of this chapter or the Texas Food Establishment Rules within the preceding 12-month period that involved any mobile food preparation vehicle or fixed food facility operated by the food establishment, regardless of whether such violations were committed by an owner, officer, operator, manager, other person in charge, or employee of the food establishment.

(C) The food establishment must not have had any confirmed foodborne illnesses at any of its locations within the preceding 24 months.

(D) The food establishment must not have scored less than 80 on two separate graded food inspections within the preceding 24 months.

(E) Cutting of raw poultry or raw seafood is prohibited on a mobile food preparation vehicle, except for seafood intended to be consumed raw.

(9) An owner, officer, manager, or other person in charge of a food establishment commits an offense if he, either personally or through an employee or agent, violates, allows a violation of, or fails to comply with a term or condition of a variance granted under this section.”

SECTION 32. That Section 17-11.2, “Additional Requirements,” of Article XI, “Heimlich maneuver poster,” of the Dallas City Code is amended to read as follows:

“SEC. 17-11.2. ADDITIONAL REQUIREMENTS.

~~[Reserved.]~~

(a) General. All food establishments that provide dining areas shall post the Heimlich maneuver sign in a place conspicuous to employees and customers.

(b) Specifications: The sign shall:

(1) be no smaller than 11 inches wide by 17 inches long;

(2) be printed in English and Spanish and in at least two conspicuous contrasting colors on a white background;

(3) provide major title and figure blocks in contrasting color to remaining copy blocks;

(4) provide major headings with a minimum bold 72 point font;

- (5) provide initial subheadings with a minimum bold italic 60 point font;
- (6) provide secondary subheadings with a minimum bold 24 point font; and
- (7) provide a body copy in bold 14 point font.”

SECTION 33. That Section 17-12.1, “Adoption of Section 229.174, Texas Food Establishment Rules,” of Article XII, “Bed and Breakfast Extended Establishments,” of the Dallas City Code is amended to read as follows:

“SEC. 17-12.1. ADOPTION OF SECTION 228.223 [~~229.174~~], TEXAS FOOD ESTABLISHMENT RULES.

Section 228.223 [~~229.174~~] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.”

SECTION 34. That Section 17-13.1, “Adoption of Section 229.175 Texas Food Establishment Rules,” of Article XIII, “Outfitter Operations,” of the Dallas City Code is amended to read as follows:

“SEC. 17-13.1. ADOPTION OF SECTION 228.224 [~~229.175~~], TEXAS FOOD ESTABLISHMENT RULES.

Section 228.224 [~~229.175~~] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.”

SECTION 35. That Article XIV, “Self Service Food Market,” of the Dallas City Code is added to read as follows:

“ARTICLE XIV.

SELF SERVICE FOOD MARKET.

SEC. 17-14.1. ADOPTION OF CHAPTER 228, SUBCHAPTER H, SECTION 225

Section 228.225 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.

SEC. 17-14.2. ADDITIONAL REQUIREMENTS.

Reserved.”

SECTION 36. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 37. That Chapter 17 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 38. 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 39. That this ordinance shall take effect on July 1, 2016, except that the requirements in Section 17-10.2(s)(7)(C) take effect September 1, 2016, and it is accordingly so ordained.

APPROVED AS TO FORM:

Christopher D. Bowers, Interim City Attorney

By _____
Assistant City Attorney

Passed _____

Appendix B – Summary of Staff Recommended Changes & Stakeholder Feedback

Article	Title	Proposed Change	Purpose	Stakeholder Feedback
II.	Management & Personnel.	Change the expiration date of the Certified Food Service Manager from two years to five years after date of issuance.	Provide consistency with other providers.	<i>None.</i>
V.	Water, Plumbing and Waste.	A hand wash sink shall be installed within 25 linear feet of a food preparation area.	Encourage frequent hand washing.	<i>None.</i>
V.	Water, Plumbing and Waste.	A food establishment shall locate grease traps / interceptors so that they are easily accessible for cleaning and outside the food establishment area. Exception provided to food locations inside an office building.	Increase accessibility for cleaning.	<i>None.</i>
VI.	Physical Facilities.	Locate equipment that is used as a work surface within 5 feet of a floor drain for proper cleaning.	Increase accessibility for cleaning.	<i>None.</i>
VI.	Physical Facilities.	Maintain unobstructed aisles between equipment of a width to permit passage without causing contamination of food.	Prevent contamination from “bumping” into food & utensils due to lack of space.	<i>None.</i>
VI.	Physical Facilities.	Locate auxiliary equipment (water heater, laundry machine, air conditioner, etc.) that is not food service related outside the food preparation areas unless authorized by law.	Prevent contamination from dust producing equipment.	<i>None.</i>
VI.	Physical Facilities.	Position all readily movable storage equipment outside the food preparation area.	Increase accessibility for cleaning.	<i>None.</i>
VI.	Physical Facilities.	Locate equipment such as an ice maker and ice storage equipment inside a food service or food preparation area.	Prevent contamination from exposed or unprotected water lines.	<i>None.</i>

Appendix B – Summary of Staff Recommended Changes & Stakeholder Feedback

Article	Title	Proposed Change	Purpose	Stakeholder Feedback
VIII.	Mobile Food Establishments.	Vehicle liability insurance requirement prior to scheduling a permit inspection. The permit holder must ensure that the driver of the vehicle has a valid driver's license.	Applicant must provide proof of insurance – places responsibility on the permit holder and expedites the permit process.	<i>None.</i>
VIII.	Mobile Food Establishments.	Push carts must be stored inside the commissary location when not in operation.	Prevent cart owners from storing carts outside – exposed to the elements.	<i>None.</i>
IX.	Temporary Food Establishments & Catering Services.	Limit the number of time/temperature for safety (TCS) menu items within a permitted booth to not more than four.	Prevents vendors from storing or adding excess TCS items without proper heat/cold equipment to service the entire booth.	<i>None.</i>
IX.	Temporary Food Establishments & Catering Services.	Limit the booth size to a maximum of 15 x 15 unless the booth planner offers fixed structures as temporary booths.	Prevent potential contamination of food items due to TCS violations and prevent contamination due to lack of space.	<i>None.</i>

Appendix B – Summary of Staff Recommended Changes & Stakeholder Feedback

Article	Title	Proposed Change	Purpose	Stakeholder Feedback
X.	Compliance and Enforcement.	Require a dog friendly sign on the patio in addition to the existing requirement of posting a sign at the front entrance; require a sign no smaller than 9-1/2 x 12; maintain a log of the cleaning schedule of the dog friendly patio; and maintain a separate dog-free area with a minimum of seven feet of separation from the dog friendly patio area.	Prevent potential contamination of food items and create a dog friendly atmosphere.	<i>None.</i>
<p>Proposed changes apply to new facilities or extensive remodel of at least \$25,000 or an amount equal to at least 10 percent of the assessed value of the facility, whichever is more, for the purposes of repairs or remodeling, but does not include:</p> <ul style="list-style-type: none"> (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 used to store or clean utensils and equipment used in food storage or food preparation. 				

**Stakeholder feedback (Greater Dallas Restaurant Association) in green. Staff recommended changes in black.*

KEY FOCUS AREA: Clean, Healthy Environment
AGENDA DATE: June 22, 2016
COUNCIL DISTRICT(S): All
DEPARTMENT: Code Compliance
CMO: Joey Zapata, 670-3009
MAPSCO: N/A

SUBJECT

An ordinance amending Chapter 17 of the Dallas City Code **(1)** adopting new food establishment rules promulgated by the Texas Department of State Health Services; **(2)** providing additional requirements for certain equipment; **(3)** providing additional requirements for mobile food establishments; **(4)** providing additional requirements for variances for dog friendly patios; **(5)** providing certain Heimlich Maneuver poster display requirements; and **(6)** making conforming changes; and providing a penalty not to exceed \$2,000 - Financing: No cost consideration to the City

BACKGROUND

The proposed ordinance would amend Sections 17-1.1, 17-1.5, 17-1.6, 17-2.1, 17-2.2, 17-3.1, 17-3.2, 17-4.1, 17-4.2, 17-5.1, 17-5.2, 17-6.1, 17-6.2, 17-7.1, 17-8.1, 17-8.2, 17-9.1, 17-9.2, 17-10.1, 17-10.2, 17-11.2, 17-12.1, 17-13.1 and 17-14.1 of the Dallas City Code to: (1) expand Texas Food Establishment Rules (TFER) definitions and add new TFER requirements; (2) require a hand wash sink within 25 linear feet of a food preparation area; (3) locate grease traps outside the food preparation areas; (4) add language to increase accessibility to equipment for cleaning and to prevent contamination from dust producing equipment and/or prevent contamination from exposed or unprotected water lines; (5) require proof of insurance for mobile food establishments and storage location requirements for push carts; (6) limit the booth size for temporary food establishments to 15 x 15 and limit the number of time/temperature for safety (TCS) menu items within a permitted booth to no more than four; (7) provide additional requirements for dog friendly patios at food establishments; and (8) provide a "grandfather status" provision for non-TFER changes.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Briefed to the Quality of Life and Environment Committee on February 22, 2016.

Information about this item was provided to the Quality of Life and Environment Committee on April 11, 2016.

FISCAL INFORMATION

No cost consideration to the City

KEY FOCUS AREA: Clean, Healthy Environment
AGENDA DATE: June 22, 2016
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PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

Briefed to the Quality of Life and Environment Committee on February 22, 2016.

Information about this item was provided to the Quality of Life and Environment Committee on April 11, 2016.

FISCAL INFORMATION

No cost consideration to the City