

Memorandum



CITY OF DALLAS

DATE April 8, 2016

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

SUBJECT Consumer Health Update - Proposed Amendments to Chapter 17 – Food Establishments

On Monday, February 22, 2016, Code Compliance briefed the Quality of Life & Environment Committee with proposed amendments to Chapter 17 – Food Establishments. The amendments include State of Texas changes to the Texas Food Establishment Regulations (TFER) that were effective October 11, 2015 and staff recommended changes. The new Texas Food Establishment Rules were revised to more closely align with the U.S. Food and Drug Administration (FDA) 2013 Model Food Code. The new rules expanded definitions and added new requirements.

The purpose of the staff recommended changes is to prevent contamination of food items, increase accessibility to equipment for cleaning and ensure compliance with State insurance requirements. The recommendation includes a "grandfather status" provision and new rules recommended by staff will only apply to new facilities or extensive remodel to existing facility.

Chapter 17, Article X states "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) expenditure 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."*

The following attachments are included for review:

- Appendix A – Draft copy of the proposed ordinance that will be presented to City Council on May 11, 2016 for adoption;
- Appendix B – Executive summary of changes to TFER purpose & definition; and
- Appendix C – Summary of staff recommended changes and stakeholder feedback.

An agenda item for the proposed amendments will be scheduled for Council consideration on Wednesday, May 11, 2016.

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

A handwritten signature in black ink that reads "Joey Zapata".

Joey Zapata
Assistant City Manager

Attachment

Proposed Amendments to Chapter 17 - Food Establishments
April 8, 2016

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

Jill A. Jordan, P.E., Assistant City Manager
Eric D. Campbell, 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

Appendix A - DRAFT ORDINANCE

4-8-16

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 notice requirements for animal-friendly patios at food establishments; requiring Hemlich Maneuver poster display requirements; making conforming changes; providing a penalty not to exceed \$500; 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.

Appendix A - DRAFT ORDINANCE

(a) The 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,” “pushcart,” “regulatory authority,” “roadside food vendor,” and “temporary food establishment” contained in Section 228.2 [~~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

Appendix A - DRAFT ORDINANCE

(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 a produce stand that only offers whole, uncut fresh fruits and vegetables or an establishment that offers only prepackaged foods that are not 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.

Appendix A - DRAFT ORDINANCE

(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) **NON TIME/TEMPERATURE CONTROL FOR SAFETY** means an air-cooled hardboiled egg with the shell intact, or an egg with a shell intact that is not hardboiled, but is pasteurized to destroy all viable Salmonella. A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution. A food that because of its pH or A_w value, or interaction of A_w and pH values, is designated as a NTCS food in Table A and Table B in the Figure in 25 Texas Administrative Code §228.2(144). A food that is designated as Product Assessment Required (PA) in Table A and Table B in the Figure in 25 Texas Administrative Code §228.2(144) and has undergone a PA showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to either

(A) intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients;

(B) extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use;

(C) a combination of intrinsic and extrinsic factors; or

(D) a food that does not support the growth of or toxin formation of pathogenic microorganisms in accordance with one or more of the conditions above in this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

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

(11[0]) **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[1]) **PREMISES** means:

Appendix A - DRAFT ORDINANCE

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

(14[3]) REGULATORY AUTHORITY means the director.

(15[4]) 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[5]) SEAL means to close the junction between surfaces in a way that prevents entry of moisture.

(17[6]) 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;

Appendix A - DRAFT ORDINANCE

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

(19) TIME/TEMPERATURE CONTROL FOR SAFETY means Time/Temperature Control for Safety (TCS) food--(formerly Potentially Hazardous Food (PHF)), A food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation. An animal food that is raw or heat-treated. A plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixture of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation. Except as specified in Tables A and B of the table in Title 25 Texas Administrative Code §228.2(144), a food that because of the interaction of A_w and pH values is designated as Product Assessment Required (PA) in Table A or B of the table in Title 25 Texas Administrative Code §228.2(144).

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:

“(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,

Appendix A - DRAFT ORDINANCE

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 (“Non TCS”)~~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;

(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

Appendix A - DRAFT ORDINANCE

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 (“TCS”)~~[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 TCS ~~[a potentially hazardous food]~~ as that phrase is defined in the Texas Food Establishment Rules, as amended[;] in Title 25, Chapter 228 of the Texas Administrative Code, Subchapter A~~[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;

(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.”

Appendix A - DRAFT ORDINANCE

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 CHAPTER 28, SUBCHAPTER B [~~SECTION 229.163~~], TEXAS FOOD ESTABLISHMENT RULES.

Chapter 228, 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 Section 228.38, Subsection (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 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 TCS [~~potentially hazardous~~] food and the prevention of foodborne illness;

Appendix A - DRAFT ORDINANCE

(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 TCS [~~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 TCS [~~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;

Appendix A - DRAFT ORDINANCE

(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:

(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-TCS [~~non-potentially hazardous~~] beverages, and a temporary food

Appendix A - DRAFT ORDINANCE

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 five [two] years after the date of issuance. The expiration date on the city-issued manager certificate cannot exceed the expiration date on the certificate issued by the 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

Appendix A - DRAFT ORDINANCE

(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 \$20 per year for a maximum of five years 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.

Appendix A - DRAFT ORDINANCE

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 CHAPTER 228, SUBCHAPTER C [SECTION 229.164], TEXAS FOOD ESTABLISHMENT RULES.

Chapter 228, 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:

(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.

Appendix A - DRAFT ORDINANCE

(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 (“TCS”) ~~[potentially hazardous food]~~. A food establishment that serves, sells, or distributes TCS ~~[potentially hazardous]~~ food outside the premises of a fixed facility must maintain the food at a safe temperature.

(e) Outdoor bars.

Appendix A - DRAFT ORDINANCE

- (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.

Appendix A - DRAFT ORDINANCE

(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:

Appendix A - DRAFT ORDINANCE

“SEC. 17-4.1. ADOPTION OF CHAPTER 28, SUBSECTION D[SECTION 229.165], TEXAS FOOD ESTABLISHMENT RULES.

Chapter 228, 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 Sections 228.101(a) and 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 CHAPTER 228, SUBCHAPTER E[SECTION 229.166], TEXAS FOOD ESTABLISHMENT RULES.

Chapter 228, 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 Subsection (a) of Section 228.143, Subsections (b)(1), (2), and (3) of Section 228.146, and Subsection (e) of Section 228.147[~~Subsections (e)(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:

Appendix A - DRAFT ORDINANCE

“(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. A hand wash sink shall be installed within 25 linear feet of a food preparation area.

(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.”

SECTION 14. That Subsection (e), “Grease traps/interceptors” 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 added to read as follows:

“(e) Grease traps/interceptors. A food establishment shall locate grease traps/interceptors outside the food establishment so that they are easily accessible for cleaning, unless otherwise approved by the director. Grease traps/interceptors located inside the food establishment with the director’s approval must provide a liquid-tight lid flush to the floor in a manner in which no contamination of food or equipment is possible.

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 CHAPTER 228, SUBCHAPTER F[~~SECTION 229.167~~], TEXAS FOOD ESTABLISHMENT RULES.

Chapter 228, 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.

Appendix A - DRAFT ORDINANCE

(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 228.152, Subsections (a)-(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 Subsection (d), “Location of certain equipment” and Subsection (e), “Auxiliary Equipment” of Section 17-6.2, “Additional Requirements,” of Article VI, “Physical Facilities” of Chapter 17, “Food Establishments,” of the Dallas City Code is added to read as follows:

“(d) Location of certain equipment. The food establishment must:

(1) locate equipment that is used as a work surface on which food is prepared (e.g., a meat or vegetable cutting block or bakers table) near a floor drain so that it can be properly cleaned;

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

(3) position all readily movable storage equipment (including, but not limited to, pallets, racks, and dollies) to provide accessibility to working areas;

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

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

Appendix A - DRAFT ORDINANCE

(e) Auxiliary equipment.

(1) A food establishment shall not locate equipment that is not food service equipment (e.g., water heaters, laundry machines, remote connected refrigerator compressors, or air conditioners) inside a food preparation area unless installation inside that area is 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 establishment must locate the equipment in a separate room, each entrance of which is equipped with a self-closing, solid door that fits tightly.”

SECTION 18. That Section 17-7.1, “Adoption of Section 229.168,” 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 CHAPTER 228, SUBCHAPTER G[SECTION ~~229.168~~], TEXAS FOOD ESTABLISHMENT RULES.

Chapter 228, 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,” 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 (a), (b), and (c)(2) of Section 228.221[~~229.169~~] are not adopted.”

SECTION 20. That Subsections (b) “Categories of mobile food establishments,” (c) “Vehicles,” (g) “Central preparation facility or commissary,” Paragraph 1, Subparagraph (A) of Subsection (h) “Operating requirements for mobile food establishments,” and Paragraph 4,

Appendix A - DRAFT ORDINANCE

Subparagraph (m) 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:

“(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 TCS [~~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.

(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;

Appendix A - DRAFT ORDINANCE

(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) provide vehicle liability insurance that is valid for at least the preceding six months before scheduling a permitting inspection~~[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 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;

Appendix A - DRAFT ORDINANCE

(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).

(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. Push carts must be stored inside 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.

(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. It is the responsibility of the permit holder to ensure that the driver of the vehicle has a current license issued by the State of Texas.

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

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

(M) The vehicle must be equipped with mechanical refrigeration equipment if TCS~~[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.”

Appendix A - DRAFT ORDINANCE

SECTION 21. 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. ADOPTION OF CHAPTER 228, SUBCHAPTER H
[SECTION 229.170], TEXAS FOOD ESTABLISHMENT RULES.”**

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

SECTION 22. 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:

(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

Appendix A - DRAFT ORDINANCE

(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 TCS [~~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 for safety (TCS) menu items within a permitted booth, unless otherwise approved by the director;

(~~2~~[1]) prepare, serve, sell, or distribute any food not approved in advance by the director;

(~~3~~[2]) prepare TCS [~~potentially hazardous~~] food, except that an establishment may prepare TCS 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 TCS [~~potentially hazardous~~] food that is:

Appendix A - DRAFT ORDINANCE

- (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.

Appendix A - DRAFT ORDINANCE

(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 offers fixed structures as temporary booths, or as otherwise approved by the director

(1[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

Appendix A - DRAFT ORDINANCE

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;

Appendix A - DRAFT ORDINANCE

- (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 23. 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 CHAPTER 228, SUBCHAPTER I
[SECTION 229.171], TEXAS FOOD ESTABLISHMENT RULES.”**

Chapter 228, 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 24. 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 (TCS) [~~potentially hazardous~~] food; and

(B) the weekly gross income of which does not exceed \$100.”

Appendix A - DRAFT ORDINANCE

SECTION 25. 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. Payments are applied to oldest outstanding balance first.”

SECTION 26. 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 Section 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);

(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 Texas Food Establishment Rules, [as authorized in] Subchapter I, Section 228.243, Subsections (a)-(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.

Appendix A - DRAFT ORDINANCE

(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, Section 228.243, Subsection (b) [~~Section 229.171(e)(2)~~] of the Texas Food Establishment Rules. A food establishment granted a variance shall comply with Subchapter I, Section 228.243, Subsection (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, Section 228.186, Subsection (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, Section 228.186, Subsection (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.

Appendix A - DRAFT ORDINANCE

(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 patio so that it is easily visible to the public. The sign must state: "DOG FRIENDLY PATIO - DOG ACCESS ONLY THROUGH OUTDOOR PATIO." The sign shall be no smaller than 9-1/2 long by 12 inches wide. The sign must be printed in English and Spanish with the lettering at least 36 inches high in contrasting colors, 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 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.

(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.

Appendix A - DRAFT ORDINANCE

(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.

(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.

(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.”

Appendix A - DRAFT ORDINANCE

SECTION 27. 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) Purpose. The purpose of this section is to establish that the Heimlich Maneuver poster is required in food establishments within the City limits of the City of Dallas. This section also establishes the requirements for the signs depicting the Heimlich Maneuver for dislodging an obstruction from a choking person.

(b) Placement. All food establishments at which space for eating is designed or designated shall post the sign in a place conspicuous to employees or customers.

(c) Specifications: The sign shall meet the following requirements:

(1) the sign shall be printed on white paper and shall be no smaller than 11 inches wide by 17 inches long;

(2) the sign shall be printed in English and Spanish and in at least two conspicuous contrasting colors. Major title and figure blocks shall be in contrasting color to remaining copy blocks;

(3) major headings shall be a minimum Bengat Bold 72 point or equivalent;

(4) subheadings shall be a minimum Bengat Bold Italic 60 point or equivalent;

(5) remaining subheadings shall be a minimum Bengat Bold 24 point or equivalent; and

(6) body copy shall be Helios Bold 14 point or equivalent.”

SECTION 28. 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 CHAPTER 228, SUBCHAPTER H [SECTION 229.174], TEXAS FOOD ESTABLISHMENT RULES.”

Appendix A - DRAFT ORDINANCE

Chapter 228, Subchapter H [~~Section 229.174~~] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.”

SECTION 29. 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 CHAPTER 228, SUBCHAPTER H
[SECTION 229.175], TEXAS FOOD ESTABLISHMENT RULES.”**

Chapter 228, Subchapter H [~~Section 229.175~~] of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference.”

SECTION 30. 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
RULE 225**

Chapter 228, Subchapter H, Rule 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 31. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 32. That Chapter 43 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 33. 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.

Appendix A - DRAFT ORDINANCE

SECTION 34. That this ordinance shall take effect on April 1, 2016, and it is accordingly so ordained.

APPROVED AS TO FORM:

WARREN M.S. ERNST, City Attorney

By _____
Assistant City Attorney

Passed _____

SUMMARY OF CHANGES TO TFER PURPOSE & DEFINITIONS

General:

- Changed Chapter citations from §229 to §228.
- Changed format of definitions to reflect current rulemaking standards
- Updated agency information
- Updated definitions required by State statutes
- As per FDA, eliminated references to PHFs and included Time/Temp Control for Safety (TCS) food where applicable.
- Transition to Priority Item Violation and Priority Foundation Violation from Critical Violation. All terms will appear together.
- Transition from Non-Critical Violation to Core Item Violation. All terms will appear together

Subchapter A. General Provisions

§228.1 Purpose.

Changed purpose to include reference to State statutes and FDA.

§228.2 Definitions.

- (1) Added FDA definition of “Accredited program”
 - (5) Added definition of “Asymptomatic”
 - (7) Added definition of “Balut”
 - (8) Added definition of “Bare hand contact”
 - (9), (10) & (11) Separated definitions of different Bed and Breakfast types.
 - (15) Added Definition “Central Preparation Facility”
- Eliminated definition of “child care center”.

(18) Added definition of “Clostridium botulinum”.

Deleted definition of “Cottage food”.

(20) Added definition of “Color Additive”.

(24) Added definition of “Conditional Employee”.

(27) Added definition of “Controlled atmosphere packaging”.

(28) Added definition of “Cook chill packaging”.

(29) Added definition for “Core Items”.

(31) Added definition of “Counter-mounted equipment”.

(34) Changed definition of “Cut leafy greens” to include "this does not include the harvest cut. See (75) – definition of “Leafy greens”.

As per FDA deleted definition of “Enterohemorrhagic Escherichia coli”.

(43) Added definition of “Egg product”.

(47) Changed the definition of Event to include the terms: civic, political, public or educational and changed wording to include “would” grant permission to clarify the term events.

Eliminated the definition “farmer’s market”.

(52) Amended the definition of food establishment to include micro-markets. (See definition (149) referring to vending machines.)

(53) Added definition of “Food Additive”.

(57)(a) Changed definitions of food establishment to include terms: location, machine, micro-Market

(59) Added definition of “Food Protection Manager Certification”.

(65) Changed the definition of “Handwashing sink” to limit use for handwashing only.

(67) Added definition of “Health Practitioner”.

(75) Added definition of “leafy greens”.

(76) Added definition for “License”.

- (77) Added definition for “License holder”.
- (79) Added definition for “Listeria monocytogenes”.
- (81) Added definition of “Major Food Allergen”.
- (82) Changed definition of “Meat” to remove reference to “wild game animals and to include reference to definition of “game animals”.
- (83) Added definition of “Mechanically tenderized”.
- (85) Added definition for “Mobile Food Unit”
- (86) Added definition of “Modified atmosphere packaging”.
- (87) Added definition of “Molluscan shellfish”.
- (88) Added definition of “Non-continuous cooking”.
- (89) Included definition of Non-Time/Temperature control for safety food (NTCS)
- (95) Added PIC to definition of “Person in charge”.
- (99) Added definition of “Plumbing code”
- Eliminated definition of “Potentially hazardous foods”.
- (106) Added definition of “Priority item”
- (107) Added definition for “Priority Foundation Item”
- (109) Added a definition of “Psychrotrophic organisms”.
- (111) Added “is readily movable by one or two people and this type of mobile unit requires the support of central preparation facility” for “pushcart”.
- (112) Added definition for “ratite”.
- (118) Added Definition for “Re-Service”
- (123) Included roadside food vendor as a mobile food establishment.
- (128) Changed definition of “Service animal” to ADA definition.
- (133) Added acronym “STEC”

- (139) Added a definition of “Sous vide packaging”.
- (140) Added a definition of “Specialized processing method”.
- (144) Added Definition of Time/ Temperature control.
- (147) Added definition of “Vacuum packaging”.
- (149) Changed definition of “Vending machine” and exclude vending machines with NTCS and pre-packaged NTCS foods.

Subchapter B - Management and Personnel

§228.33 Certified Food Protection Manager and Food Handler Requirements

- Added new requirements for Certified Food Protection Manager that requires a CFM on site for each licensed establishment.
- Added a new requirement that all food employees shall successfully complete a food handler training course, accredited by the department, within 60 days of employment. Takes effect on September 1, 2016.
- Added requirements for the “original” certified food protection manager certificate being posted conspicuous to customer’s location.
- Added requirement for food handler certificates to be located on site.

§228.35 Responsibilities and Reporting Symptoms and Diagnosis

- This section was significantly revised to reflect the requirements for Conditions of Exclusions and Restrictions in accordance with the 2013 FDA Model Food Code by grouping together are responsibilities and requirements.
- Responsibility of Permit Holder, Person in Charge, and Conditional Employees now in 6 diagnosed illnesses. Norovirus, Hepatitis A, Shigella, STEC, and Salmonella typhi, now includes nontyphoidal Salmonella.

§228.36 Conditions of Exclusions and Restrictions

- This section was significantly revised to reflect the requirements for Conditions of Exclusions and Restrictions in accordance with the 2013 FDA Model Food Code.

§228.37 Managing Exclusions and Restrictions

- This section was significantly revised to reflect the requirements for Managing Exclusions and Restrictions in accordance with the 2013 FDA Model Food Code.

§228.38 Hands and Arms

- Provision added for the use of a disposable paper towel or similar clean barrier when touching surfaces such as manually operated faucets.
- Inclusion of “surrogate prosthetic devices” for hands and arms.
- Hand antiseptics must now meet specific requirement for use.
- Inclusion of using a “clean barrier” to touch surfaces after proper handwashing.

§228.45 Contamination Events

- Added new Section “Contaminations Events” for the clean-up of vomit and diarrheal events in a food establishment.

Subchapter C - Food

§228.62 Approved Sources

- Inclusion of “wild mushrooms” for sale or service by a food establishment.

§228.63 Specifications for Receiving

- Examples of evidence of previous temperature abuse provided.

§228.64 Molluscan Shellfish, Original Container and Records

- Shellstock tags must now be labeled with date the last shellstock from the container was served and maintain 90 days from that date.

§228.65 Preventing contamination by employees

- Added the requirement that the permit holder must obtain prior approval from the regulatory authority before conducting bare hand contact activities with ready-to-eat foods.

§228.66 Preventing food and ingredient contamination

- Frozen, commercially processed and packaged raw animal foods may now be stored or displayed with or above frozen, commercially processed and packaged ready-to-eat food.

§228.68 Preventing contamination from equipment, utensils, and linens.

- Single use disposable sanitizer wipes may now be used if done in accordance with EPA approved manufacturer's label use instructions. These may not be used in lieu of wash, rinse, and sanitizing.
- Take-home food establishment containers may now be reused if they are constructed for reuse, provided by the food establishment, returned to the food establishment after use, visually inspected by the food establishment before reuse and properly washed, rinsed, and sanitized before refilling.
- Take home containers for beverages may be refilled if it is a non-TCS food, the container is durable for cleaning at home or in food establishment, and is filled by the owner only if a system exists that allows a contamination free refill.

§228.71 Cooking

- Non-continuous cooking now only requires a re-heat, not to 165°F as previously required for all reheats, but only to the required cooking temperature for that particular food.

§228.72 Freezing

- Freezing for parasite destruction includes a new provision allowing storage for destruction at -20°F or below for a minimum of 24 hours.
- If specific fish, listed in (a)(2)(C) of this section, are raised and fed for service or sold as raw, raw-marinated, partially cooked, or marinated-partially cooked fish in ready-to-eat form, a written agreement or statement from the supplier or aquaculturist shall be provided and maintained for 90 days.

§228.75 Temperature and time control

- More requirements were added for “time as a public health control” for cold foods. Cold foods may now be held without temperature control for up to 6 hours or up to 70°F if removed from refrigeration at 41°F, documented and monitored.

§228.77 Clostridium botulinum and Listeria monocytogenes controls

- This section was significantly revised to reflect the requirements for Clostridium botulinum and Listeria monocytogenes control in accordance with the 2013 FDA Model Food Code
- Reduced oxygen packaging (ROP) previously had one category (double barrier) and is now divided into three categories; double barrier, single barrier (cook-chill and sous vide)

and 48 hour ROP. All categories would have previously required a HACCP plan but now 48 hour ROP does not.

§228.79 Labeling

- Added new requirements for food labeling for major food allergens to be in the ingredients unless stated in the common name.

Subchapter D. Equipment, Utensils, and Linens

§228.105 Accuracy of temperature measuring devices, food.

- Pressure measuring devices for mechanical warewashing equipment are now required to register in the range indicated on the manufacturer's data plate instead of previous being required to register in a range of 15-25.

§228.111 Equipment, maintenance and operation.

- Added requirements for sanitizing chemicals, constituted on site at the food establishment, meeting the concentration requirements of this section.

§228.112 Utensils and temperature and pressure measuring devices.

- Food temperature measuring devices now must be calibrated in accordance with manufacturer's specifications.

§228.125 Preventing Contamination

- Exposed, unused tableware must now be changed between customers or washed, rinsed and sanitized if used.
- Added language for usage of chemically treated towelettes: "If approved by the regulatory authority, when no food exposure exists and handwashing sinks are not conveniently available, such as in some Mobile Food Units or temporary food establishments or at some vending machine locations, employees may use chemically treated towelettes for handwashing."

Subchapter E. Water, Plumbing, and Waste.

§228.146. Plumbing design, construction, and installation.

- Changed the requirement for plumbing systems from according to law to according to the plumbing code (see definitions section).

§228.147. Plumbing, numbers and capacities.

- Added a restriction that states toilets, urinals, and showers cannot be used as a service sink.

§228.149 Plumbing operations and maintenance.

- Mobile food establishment inlet tanks must now be labeled as "Potable Water".

Subchapter F. Physical Facilities.

§228.173 Floors, walls and ceilings.

- Added words “anti-slip floor coverings” requirements in food establishments.

§228.174. Functionality.

- Added section for toilet room exceptions that do not require a tight-fitting and self-closing door if located outside a food establishment or such as a shopping mall.
- Outdoor servicing areas will now require overhead protection.

§228.175. Handwashing sinks.

- New provisions allowing for automatic hand washing facilities if approved by the regulatory authority.
- For mobile food operations and temporary food operations, if approved by the regulatory authority, when food exposure is limited, employees may use chemically treated towelettes for handwashing.
- Hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures are now allowed.

§228.177 Lighting, intensity.

- Minimum light intensity requirements were changed for walk-in refrigeration units, dry storage areas, buffets, salad bars, reach-in and under counter refrigerators, area for ware washing, equipment storage and toilet rooms.

§228.186 Premises, building, systems, room, fixtures, equipment, devices, and materials.

- New language requiring plumbing fixtures such as handwashing sinks, toilets, and urinals to be cleaned as often as necessary to keep them clean.
- New language requiring the presence of insects, rodents, and other pests be controlled to eliminate their presence

Subchapter G. Poisonous or Toxic Materials.

§228.206 Chemicals.

- Chemicals used to wash or peel raw, whole vegetables must be approved additive and now include Ozone as an approved antimicrobial agent.

§228.210 First aid supplies. Availability.

- Added section requiring a first aid kit in food establishments.

Subchapter H. Requirements Applicable to Certain Establishments.

§228.221. Mobile Food Units, Requirements

- Added a paragraph requiring Mobile Food Units (MFU) to demonstrate they are readily moveable at license renewal.
- During the initial permitting of a mobile food establishment they must provide documentation of a Certified Food Protection Manager Certification, an approved central preparation facility, if needed, a copy of the last central preparation facility inspection report, a servicing area authorization, and a menu.
- MFU's must demonstrate equipment for cooling and heating food, and holding cold and hot food are sufficient in number and capacity to provide food temperatures.
- Mobile food establishment outlet tanks must now be labeled as "Waste Water".
- Toilet rooms shall be conveniently located and accessible to employees during all hours of operation.
- Removed requirement for a signed letter of authorization to “may” require, allowing the regulatory authority the ability to require signed letters of authorization.

§228.222. Temporary Food Establishments.

- Foods that are not prepared on site or that require extensive preparation or cooking must be prepared at a licensed food establishment.
- Temporary establishments may be required by the regulatory authority to have at least one person on site that has an accredited food handler certification.
- Added “tarps” as an example of suitable materials.

§228.223. Bed and Breakfast.

- Title of Section changed from Bed and Breakfast Extended Establishments to Bed and Breakfast.
- Added a Certified Food Manager requirement for Bed and Breakfast Limited Establishments.

§228.225 Micro Markets. - New Section Name change to Self Service Food Market

- New section added for Self-Service Food Markets (Micro Markets) and Requirements.
- Added requirement for providing video surveillance tapes for a period of fourteen (14) calendar days.

Subchapter I. Compliance

§228.244. Facility and Operating Plans

- Added new paragraphs that deal with plan review and the context of plans and specifications. The wording in these sections were changed from shall to may.

§228.249 Inspection Frequency performance-based and risk-based.

- Added new language changing to risk based inspection intervals to allow a risk-based inspection interval other than every 6 months as long as specific provisions are met.
- New language requiring the regulatory authority to periodically inspect temporary food establishments.

§228.251 Report of Findings.

- Critical items changed to “critical violations/priority items, priority foundation and /core/ non-critical items.” Updated to use of priority items, priority foundation items and core items by removing “critical violations and non-critical items”.

§228.253 Priority Item/Priority Foundation Item/Critical violations, time frame for correction.

- New requirement for permit holder to correct violations within 72 hours for priority items. Language changed to reflect three (3) days instead of 72 hours to be consistent throughout the document.

- New requirement for permit holder to correct violations within 10 days for priority foundation items.

§228.254 Core Items violations, time frame for correction.

- New requirement for permit holder to correct violation within 90 days or the next inspections (whichever comes first).

§229.173. Heimlich maneuver Poster. - Section Removed. (TFER 2006)

Subchapter J. Private Water Systems - New Subchapter provisions about Private Water Wells.

- The Texas Food Establishment rules contain no provisions to ensure safe drinking water systems at Food Establishments utilizing private, non-regulated water wells.
- Food Establishments with private water wells not regulated by the Texas Commission on Environmental Quality may need to upgrade their systems to meet new water supply regulations. This may include installing an automatic chlorinator and periodically testing the water quality (every months bacteriological testing estimated to be \$10/month/operating month and \$100/every three years for a chemical analysis).

Appendix C – 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	Provides 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 near a floor drain for proper cleaning and not in the food pre areas.	Increases 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.	Prevents contamination from “bumping” into food & utensils due to lack of space.	<i>None.</i>
VI.	Physical Facilities.	Not all allow auxiliary equipment (water heater, laundry machine, air conditioner, etc.) that is not food service related inside the food preparation areas unless authorized by law.	Prevents contamination from dust producing equipment.	<i>None.</i>
VI.	Physical Facilities.	Position all readily movable storage equipment to provide accessibility to working areas	Increases 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.	Prevents contamination from exposed or unprotected water lines.	<i>None.</i>

Appendix C – 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 current license issued by the State of Texas.	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.	Prevents 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.	Prevents potential contamination of food items due to TCS violations and prevents contamination due to lack of space.	<i>Increase booth size to 20 x 20 and/or allow exemptions for convention and trade shows.</i> Staff does not recommend this change. The variance process allows exceptions.
X.	Compliance and Enforcement.	Increase the size of the “Dog Friendly Patio” sign to no smaller than 9-1/2 x 12. The sign must be printed in English and Spanish and posted at the front entrance and on the patio. Effective immediately.	Increase customer awareness.	<i>N/A.</i>

Appendix C – Summary of Staff Recommended Changes & Stakeholder Feedback

Proposed changes apply to new facilities or extensive remodel of at least \$10,000 or an amount equal to at least 10 percent of the assessed value of the facility.

Stakeholder feedback: Increase the threshold from \$10,000 to \$50,000.

Staff recommends keeping the threshold at \$10,000. Increasing the threshold may result in no changes to aging existing facilities. This would include no upgrades in plumbing and electric installations.

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