

TEXAS FOOD ESTABLISHMENT RULES AMENDMENTS

2015 Texas Food Establishment Rules Amendments

Section 228.2, relating to definitions, is amended by amending the following definitions to read as follows:

Accredited program. Food manager certification program or food handling training course that has been evaluated and listed by the department and conforms to standards set by the department.

Central Preparation Facility. A facility that is an approved and permitted retail food establishment at which food is prepared, stored, and wrapped; and the Mobile Food Unit is supplied with fresh water and ice; and emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food-contact surfaces or items not capable of being immersed in the Mobile Food Unit utensil-washing sink. Use of a private residence as a central preparation facility is prohibited. Any food establishment used as a central preparation facility shall:

- (A) Be permitted and inspected by a local regulatory authority or the department of state health services;
- (B) Be constructed in a manner approved by the regulatory authority; and
- (C) Meet all applicable zoning, health, building, and fire codes.

Food establishment. A food establishment means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption as follows:

- (A) A restaurant, 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, vending location (machine), self-service food market, conveyance used to transport people, institution, or food bank;
- (B) An establishment that 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;
- (C) Includes an element of the operation such as a transportation vehicle or a central preparation vehicle facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premise; and regardless of whether there is a charge for the food; and
- (D) Food establishment does not include an establishment that is a cottage food industry, an area where cottage food is prepared, sold or offered for human

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consumption, a Bed and Breakfast Limited facility as defined in this chapter, or a private home that receives catered or home-delivered food.

Mobile Food Unit. A vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks, trailers, mobile food preparation vehicles, and push carts) and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A Mobile Food Unit does not mean a stand or a booth.

Regulatory authority. The Director of Health of the City or his or her designated representative.

Temporary food establishment. A food establishment that operates at a fixed location for a period of time of not more than five (5) consecutive days in conjunction with a specific event.

Section 228.2, relating to definitions, is further amended by adding the following definitions:

Approved source. A food processing establishment where the conditions and methods of preparation and/or packaging are subject to official regulation or inspection by federal, state or local health authorities and where all federal, state and local regulations are complied with.

Catering truck. Any mobile food unit from which approved, prepackaged foods are sold or conveyed in such a manner that no direct food contact results.

Concession facility. A food service establishment located within a building or permanent structure equipped with electricity, public water supply, and sanitary sewer and which is operated in association with sports and athletic or similar recreational activities on a seasonal basis.

Condiments. Spices, salt, pepper, sugar, catsup, mustard, mayonnaise, sauces, nondairy creamers and other similar items added by the consumer to food.

Cottage food production operation. An individual, operating out of the individual's home,

- (A) Who produces at the individual's home, a baked good that is not a time/temperature controlled for safety food (TCS), as defined by Texas Health and Safety Code Section 437.0196; candy; coated and uncoated nuts; unroasted nut butters; fruit butters; a canned jam or jelly; a fruit pie; dehydrated fruit or vegetables, including dried beans; popcorn and popcorn snacks; cereal, including granola; dry mix; vinegar; pickles; mustard; roasted coffee or dry tea; or a dried herb or dried herb mix;
- (B) Has an annual gross income of \$50,000.00 or less from the sale of food;

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- (C) Sells the foods produced under subsection (A) only directly to consumers at the individual's home, a farmers' market, a farm stand, or a municipal, county, or nonprofit fair, festival, or event; and
- (D) Delivers products to the consumer at the point of sale or another location designated by the consumer.

Food cart. A mobile food unit which is not motorized and which is propelled only by the operator, and which is designed and intended for the sale of certain prepackaged foods and precooked linked products, and which is serviced from another location.

Heavy food preparation. Any area in which foods are prepared by utilizing a grill, griddle, deep-fat fryer, commercial-type oven, or any similar food preparation equipment; or any area subject to flooding or wet cleaning procedures due to the cutting or processing of meat, poultry, fish, or pork. Heavy food preparation includes, but is not limited to, cafeterias, fast-food restaurants, full-service restaurants, pizza preparation, donut preparation, and meat and fish markets.

Hot water. Water at or above a temperature of 100 degrees Fahrenheit.

Ice cream truck. A type of Catering Truck in which prepackaged ice cream, ice milk, frozen dairy products are carried for purposes of retail sale on the streets of the City.

Light food preparation. Any area in which foods are prepared without the use of fryers, grills or other similar equipment. Light food preparation is usually limited to the preparation of hot dogs, sandwiches, salads or other similar exposed foods and fountain-type cold drinks.

Mobile food preparation vehicle. A mobile food unit upon which food is cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution.

No food preparation. Any area in which foods are provided pre-wrapped, from an approved source, with microwave or convection-type ovens or self-contained frying devices. No food preparation is usually limited to prepackaged sandwiches or similar food, candies and containerized cold drinks.

Perishable. Any food of such type or in such condition as may spoil.

Precooked linked products. Certain products containing any combination of beef, pork, poultry and vegetable protein, wrapped in a shell or membrane, cut into individual links, and thoroughly cooked. Such products may be reheated prior to serving but do not require further cooking.

Regulatory authority. Is either, depending on the context, the Director of Health of the City, or his or her designee, or the appropriate official of Dallas County authorized to inspect and permit Mobile food service establishments under Chapter 437A of the Texas Health & Safety Code. In the context of permitting Mobile food service establishments, the appropriate official of Dallas County authorized to inspect and permit Mobile food service

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establishment shall be the Regulatory authority, or its designee. In all other contexts herein, the Regulatory authority shall be the Director of Health of the City or his or her designated representative.

Section 228.2, relating to definitions, is further amended by deleting the definition of “roadside vendor.”

Section 228.33(a) is amended to read as follows:

At least one employee that has supervisory and management responsibility and the authority to direct and control food preparation and service shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program, and who has a valid and current food manager registration issued by the regulatory authority. A food establishment that employs ten (10) or more persons shall operate with a registered food service manager on duty at all times of operation.

Section 228.33(b) is amended to read as follows:

- (1) The food establishment shall, within ten (10) days of the effective date of termination or permanent transfer of any previously registered food service manager, employ another registered food service manager or employ a person currently attending an approved manager certification course.
- (2) Registration. The health authority shall issue a food service manager certificate of registration to any person who submits the required application, pays the required fee, and provides evidence of being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program.
 - (A) Persons successfully completing the accredited program shall be given a written document certifying their completion of the course by the course provider to be registered with the regulatory authority.
- (3) Term, evidence of and transfer of registration.
 - (A) Unless otherwise revoked by the health authority, a food service manager registration expires on the same expiration date listed on the approved food service manager certificate of registration.
 - (B) A food service manager certificate of registration is not transferable.
 - (C) The food service manager certificate of registration issued by the regulatory authority shall be posted in clear view of customers.
- (4) Renewal. A food service manager registration may be renewed for a subsequent three-year period if the applicant:

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- (A) Submits an application for renewal before the expiration of the current food service manager registration;
 - (B) Pays to the City the required fee; and
 - (C) Provides evidence that within the six (6) months prior to submitting the application for renewal he or she has attended an accredited food service manager certification or recertification course.
- (5) Denial of registration or renewal; revocation of registration. The regulatory authority may refuse to issue or renew a food service manager registration or may revoke a food service manager registration if the applicant or holder:
- (A) Has been convicted of interfering with the lawful inspection of a food establishment;
 - (B) Makes a false statement of material fact in the application for registration or renewal of registration;
 - (C) Was employed as a food service manager of an establishment where the establishment's food service permit was suspended two (2) or more times within a twenty-four-month period or where the establishment's food service permit was revoked; or
 - (D) Attended a course that has been determined by the regulatory authority to not meet the requirements of an accredited program.
- (6) Appeal of denial or revocation. The decision of the regulatory authority to deny issuance or renewal of a food service manager registration, or to revoke a food service manager registration, may be appealed by filing a notice of appeal with the regulatory authority within ten (10) days of the denial or revocation. A hearing before the City Council will be provided at the earliest sitting.
- (7) Fee. The fee for obtaining or renewing a food service manager registration shall be thirty dollars (\$30.00). The fees for obtaining or renewing a food service manager registration and replacing a lost, stolen, or damaged certificate of registration shall be in the amount designated in the Master Fee and Rate Schedule, Article VII, Section 10.85, of Chapter 10.

Section 228.33(c) is deleted in its entirety.

Section 228.33(d) is amended to read as follows:

A food establishment shall not continue to employ a person as a food handler who does not possess a valid certificate of satisfactory completion of an approved food handler training course within forty-five (45) days after his or her employment as food handler. Persons possessing a valid food service manager registration shall be exempt from this requirement.

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Section 228.33(e) is amended to read as follows:

The food establishment shall maintain on premises a certificate of completion of the food handler training course for each food employee.

Section 228.34 is amended by adding a new section 228.34(16)–(17) to read as follows:

- (16) In the event of an emergency occurrence, such as a flood, fire, water outage, power outage or sewage backup, which might result in contamination of food, or which might prevent time/temperature control for safety foods (TCS) from being held at required temperatures, the person in charge shall immediately contact the regulatory authority; and
- (17) Each time that a food employee is restricted and/or excluded from the food establishment, the person in charge shall immediately contact the regulatory authority.

Section 228.35 is amended by adding new sections (g)–(h) to read as follows:

- (g) No person, while infected with a communicable disease that can be transmitted by food, or who is a carrier of organisms that can cause a communicable disease transmissible by food, or who is afflicted with a boil, an infected wound or an acute respiratory infection, may work in a food establishment in any capacity in which he or she may contaminate food or food-contact surfaces with pathogenic organisms or transmit disease to other persons.
- (h) The regulatory authority may require food employees to receive prophylactic vaccination against acute gastrointestinal illnesses, as those vaccines are developed and made readily available.

Section 228.42(a)(2) is amended to read as follows:

A food employee may drink from a nonspillable, closed beverage container if the container is handled in such a manner as to prevent contamination of the employee's hands, the container, exposed food, clean equipment, clean utensils, clean linens, and any unwrapped single-service and single-use articles.

Section 228.66(a) is amended to read as follows:

Food shall be protected from potential contamination at all times, including while being stored, prepared, displayed, served, or transported.

Section 228.68(b)(6) is amended to read as follows:

In a container of water if the water is maintained at a temperature of at least 57 degrees Celsius (135 degrees Fahrenheit) or at or below 5 degrees Celsius (41 degrees Fahrenheit) and the container is cleaned at a frequency specified under 228.114(a)(4)(G) of this title.

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Section 228.70(c)(1)(C) is amended to read as follows:

Raw, frozen, shell-on shrimp, lobster, crab, or crawfish.

Section 228.75(i)(1) is amended to read as follows:

Except as specified under paragraph (4) of this subsection if time without temperature control is used as the public health control for a working supply of time/temperature controlled for safety food before cooking, or for ready-to-eat time/temperature controlled for safety food that is displayed or held for sale or service. A written variance from the regulatory authority as specified in 228.243 must be obtained prior to a food establishment using time as a public health control. Written procedures shall be prepared in advance, maintained in the food establishment and made available to the regulatory authority upon request that specify:

- (A) Methods of compliance with paragraphs (2)(A)–(C) or (3)(A)–(E) of this subsection; and
- (B) Methods of compliance with subsection (d) of this section for food that is prepared, cooked, and refrigerated before time is used as a public health control.

Section 228.105(a) is amended by adding a new Section 228.105(a)(3) to read as follows:

Metal stem-type thermometers or electronic digital thermometers, numerically scaled from 0° to 220° Fahrenheit, shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding or refrigeration temperatures of all time/temperature controlled for safety (TCS) foods.

Section 228.107(b)(1) is amended to read as follows:

Except as specified in paragraph (3) of this subsection, a freestanding sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils. In all new establishments or establishments with ownership change that have food contact equipment and utensils, a freestanding sink with at least three compartments shall be provided.

Section 228.107 (b)(3)(E)–(F) is deleted in its entirety.

Section 228.107(b) is amended by adding a new Section 228.107(b)(5) to read as follows:

A freestanding, stainless steel, four-compartment sink shall be required in bar areas if all barware is not sanitized in a commercial dishwasher.

Section 228.108(e) is amended to read as follows:

A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided and readily available for use.

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Section 228.116 is amended to read as follows:

Equipment, food-contact surfaces, and utensils shall be sanitized. Commercial dishwashing machines shall be used if reusable tableware is provided for customers, except that the regulatory authority may allow for manual sanitizing of barware in establishments with only limited reusable barware usage. Cleaning and sanitizing may be accomplished by spray-type or immersion dishwashing machines or by any other type of machine or device if the device thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair.

Section 228.120(d) is amended to read as follows:

Wet wiping cloths shall be laundered daily and clean cloths shall be used with a fresh solution of cleanser or sanitizer.

Section 228.122(a)(2) is amended to read as follows:

May not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry, provided the cloths are used for no other purpose.

Section 228.147(a)(1) is amended to read as follows:

The regulatory authority shall determine the number of handwash sinks that shall be sufficient for the convenient use of all food handlers and ware washers. Handwashing sinks shall be installed in food preparation areas. Additional handwash sinks shall be installed in service areas and/or warewashing areas, if direct access to the handwash sink in the food preparation area is blocked by a wall or equipment or not conveniently located for service area employee utilization. Handwash sinks in food preparation, service, and warewashing areas shall be free standing and equipped with at least four inch wing-style handles.

Section 228.147(c)(1) is amended to read as follows:

At least one service sink or one curbed cleaning facility equipped with a floor drain and hot and cold running water shall be provided and conveniently located for the cleaning of mops and similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

Section 228.147 is amended by adding a new Section 228.147(e)(3) to read as follows:

Each backflow prevention device required by this subsection shall be tested annually by a certified backflow prevention assembly tester registered with the City as provided by section 51.76 of the Garland Code of Ordinances. Documentation that the backflow prevention device, required by this subsection, is adequately installed and in proper working order shall be made available at all times for inspection by the regulatory authority.

Section 228.147 is amended by adding a new Section 228.147(f) to read as follows:

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All sinks in the food preparation areas, service areas, and warewashing areas of a food establishment shall be equipped with hot and cold running water.

Section 228.148(a) is amended to read as follows:

Handwashing facilities. A freestanding or wall-mounted handwashing facility shall be located:

Section 228.150(d) is amended to read as follows:

Grease interceptors or traps are required when any foods are prepared using a grill, griddle, deep-fat fryer, commercial-type ovens or any similar food preparation equipment. The capacity of any required grease interceptor/trap shall be determined by the regulatory authority. Grease interceptors or traps shall be located outside the establishment and easily accessible for cleaning.

Section 228.150 is amended by adding a new Section 228.150(h) to read as follows:

All establishments which utilize a commercial dish machine and produce markets within grocery stores shall install an approved commercial garbage grinder in the preparation or dishwashing area; provided, the regulatory authority may require garbage grinders to be installed in other establishments, if the lack of such equipment contributes to nuisance conditions.

Section 228.152(d)(2) is amended to read as follows:

Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles. Plastic bags or wet strength paper bags shall be securely tied and closed before disposal. Garbage and refuse bags shall be placed in dumpsters or commercial containers in an unbroken condition.

Section 228.152(f)(1) is amended to read as follows:

Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulate.

Section 228.152 is amended by adding a new Section 228.152(r) to read as follows:

Receptacles by doors. A waste receptacle shall be placed in close proximity to the door exiting from a toilet room when a handle or knob on the exit door must be grasped by the toilet room occupant.

Section 228.153(a) is amended to read as follows:

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Refuse shall be disposed of by an approved commercial service at a frequency that will minimize the development of odor, the attraction of insects and rodents, and other nuisance conditions. The regulatory authority shall have the authority to mandate the frequency of refuse removal if nuisance conditions exist. Recyclables and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

Section 228.153 is amended by adding a new Section 228.153(c) to read as follows:

When a food establishment shares a dumpster or commercial container with one or more other businesses, the person in charge of the food establishment shall be responsible for correcting any violations of this subsection.

Section 228.170 is added to read as follows:

- (a) Any person desiring to operate a food establishment shall submit plans in accordance with this subchapter. All food establishment shall be constructed of materials which facilitate cleaning, minimize deterioration and prevent vermin harborage. Food establishments shall be maintained in accordance with this chapter.
- (b) When a food establishment is constructed, extensively remodeled, had a change in ownership, significantly altered its menu as determined by the regulatory authority, or when an existing structure is converted for use as a food establishment, properly prepared plans and specification for such construction, remodeling or alteration shall be submitted to the regulatory authority for approval before such work is begun showing the layout, arrangement and construction materials of work areas and the location, size, and types of fixed equipment and facilities.
- (c) The regulatory authority will establish construction standards for each food establishment classification for guidance in the plan review process.

Section 228.171 is amended to read as follows:

- (a) Floor surfaces shall meet the following requirements:
 - (1) Food preparation areas and toilet rooms for food establishments involved in heavy preparation shall incorporate quarry tile, ceramic tile or an equivalent floor covering as approved by the regulatory authority. The floor and wall junctures shall be sealed and coved with coving material approved by the regulatory authority.
 - (2) Food preparation areas and toilet rooms for food establishments involved in light food preparation shall incorporate a commercial-grade sheet vinyl, vinyl composition tile or an equivalent floor covering as approved by the regulatory authority. The floor and wall junctures shall be sealed and coved with coving material approved by the regulatory authority.

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- (3) Food preparation areas and toilet rooms for food establishments not involved in the preparation of food shall incorporate sealed concrete, vinyl composition tile or an equivalent as approved by the regulatory authority. The floor and wall junctures shall be sealed and coved with coving material approved by the regulatory authority.
 - (4) Time/temperature control for safety (TCS) foods that are no longer sealed in a commercially packaged container shall be stored in walk-in coolers with quarry tile flooring or an equivalent material as approved by the regulatory authority. Food establishments storing only commercially prepackaged foods in walk-in coolers shall install in the cooler sealed concrete or an equivalent material as approved by the regulatory authority. Walk-in freezers shall be sealed concrete or an equivalent material as approved by the regulatory authority.
 - (5) All food establishments including food warehouses, with dry storage areas not exposed to excessive moisture shall install sealed concrete, vinyl composition tile or an equivalent material as approved by the regulatory authority. A more moisture-resistant flooring may be required if the dry storage area is subject to moisture.
 - (6) Floors shall be smooth, durable, and nonabsorbent, and shall be maintained in a condition that facilitates thorough and rapid cleaning. Floors shall be free of cracks, chips, holes, and deterioration. The regulatory authority shall require repair or replacement of any floor which fails to meet the requirements of this section.
- (b) Floor drains shall meet the following requirements:
- (1) Floor drains shall be required in food preparation, utensil wash, bar, and service areas of food establishments involved in heavy food preparation, provided floor drains may be waived in existing food service establishments that change ownership. Floors shall be graded to drain.
 - (2) Floor drains shall be required in toilet areas of food establishments involved in heavy and light food preparation, including child-care facilities. Floor drains may be waived in existing food service establishments that change ownership. Floors shall be graded to drain.
- (c) Wall surfaces shall meet the following requirements:
- (1) Food establishments involved in heavy and light preparation shall install wall surfaces of fiberglass reinforced plastic (FRP), ceramic tile, certain types of bricks sealed with light-colored epoxy paint or equivalent materials as approved by the regulatory authority in all food preparation, tableware and utensil washing and service areas. Wall surfaces shall extend eight (8) feet in height or to the ceiling if the ceiling height is less than eight (8) feet.

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- (2) The regulatory authority shall require durable and easily cleanable wall surfaces in areas exposed to excessive splash in establishments not involved in food preparation.
 - (3) Food establishments involved in heavy and light preparation shall install wall surfaces of fiberglass reinforced plastic (FRP), ceramic tile, certain types of bricks sealed with light-colored epoxy paint or equivalent materials as approved by the regulatory authority in toilet rooms. Wall surfaces shall extend four (4) feet in height with the remainder consisting of any light-colored, smooth, washable material.
 - (4) Wall surfaces in toilet facilities of establishments that are not involved in food preparation shall be of any smooth, light-colored, washable material as approved by the regulatory authority.
 - (5) Wall surfaces in walk-in coolers and walk-in freezers shall be smooth, easily cleanable, and capable of withstanding effects of low temperature and moisture.
 - (6) Wall surfaces for dry storage areas shall be smooth, light-colored, and washable.
 - (7) Walls shall be smooth, durable, and nonabsorbent, and shall be maintained in a condition that facilitates thorough and rapid cleaning and shall be free of cracks, chips, holes, and deterioration. The regulatory authority shall require repair or replacement of any wall which fails to meet the requirements of this section.
- (d) Ceiling surfaces shall meet the following requirements:
- (1) Ceilings shall be of light color, smooth, relatively nonabsorbent, durable and easily cleanable. Ceiling materials may be washable drop-in panels, vinyl-coated panels, taped and bedded sheetrock with light-colored epoxy or enamel paint, or an equivalent material as approved by the regulatory authority.
 - (2) Fibrous acoustical drop-in panels shall be prohibited in all food preparation, tableware and utensil washing area, service area, dry storage, toilet rooms, mop sink area, and any area that is subject to moisture.

Section 228.172(a) is amended to read as follows:

The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions. These surfaces shall be graded to prevent pooling of water, kept free of litter, and maintained in good repair.

Section 228.173(d) is amended to read as follows:

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Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, food service (including salad bar areas), equipment washing, and utensil washing areas where it would be exposed to large amounts of grease and water, in food storage areas, and in toilet room areas where urinals or toilet fixtures are located. If carpeting is installed as a floor covering in areas other than those specified in this section, it shall be securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another approved method; and installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or equivalent means.

Section 228.173(e) is amended to read as follows:

Mats and duckboards shall be designed to be removable and be constructed of nonabsorbent, grease-resistant, materials and of such size, design and construction as to facilitate cleaning. Duckboards shall not be used as storage racks.

Section 228.174(c) is amended by adding a new Section 228.174(c)(3):

Take-out windows and non-overhead-type receiving doors shall have automatically activated air curtains or other approved mechanical insect control devices. Screen doors shall be self-closing and screens for windows, doors, skylights, transoms, intake and exhaust air ducts and other openings to the outside shall be tight fitting and free of breaks. Screening material shall not be less than sixteen (16) mesh to the inch.

Section 228.174(d) is amended to read as follows:

Except where a toilet room door is located outside a food establishment and does not open into the food establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room door located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door. Toilet room doors shall be kept closed except during cleaning or maintenance. Toilet rooms shall have exhaust fans.

Sections 228.174 (e)(3)–(e)(5) are deleted in their entirety.

Section 228.174(k) is deleted in its entirety.

Section 228.174(l) is deleted in its entirety.

Section 228.174 is amended by adding a new Section 228.174(m) to read as follows:

Only persons employed by the food establishment or performing tasks essential to the operation of the food establishment shall be allowed to pass through the food preparation, food service, or utensil washing areas.

Section 228.174 is amended by adding a new Section 228.174(n) to read as follows:

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Areas of the establishment in which a preparation cooling table or a residential-style refrigerator are operated shall be mechanically cooled to a maximum ambient room temperature of 86°F. Areas of the establishment in which a commercial-style storage refrigerator or a storage freezer are operated, which are not opened continuously. Shall be mechanically cooled to a maximum ambient room temperature of 100°F.

Section 228.175 is amended by adding a new Section 228.175(g) to read as follows:

A toilet room in which the door exiting from the toilet room is equipped with a handle or knob that must be grasped by the toilet room occupant shall be provided with dispensed, individual, disposable towels. Approved toe hooks may be installed on these doors in lieu of providing the individual towels.

Section 228.178 is amended to read as follows:

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create air pollution. Food establishments located within 300 feet of a residentially zoned area may be required to extend or install roof-mounted ventilation systems to a discharge height of seven (7) feet above the effective building height of the food establishment. Specific stack height requirements shall be based on the type and location of the food establishment. The regulatory authority may require more extensive emission controls as needed to prevent air pollution.

Sec. 228.186 is amended by adding a new Section 228.186(o)(4) to read as follows:

Notwithstanding anything to the contrary herein, a food establishment with an outdoor patio may permit dogs to be present in the outdoor patio of the food establishment if the food establishment obtains from the regulatory authority a variance waiving the prohibition against permitting the presence of a dog on the premises of the food establishment and complies with the following conditions and standards:

- (A) Except as allowed under 228.186(o)(2) of the Texas Food Establishment Rules, no dog may be present in the interior of the food establishment or on any playground area designated for children on the premises of the food establishment.
- (B) The term “outdoor patio” means an outdoor service area that is:
 - (i) under the exclusive ownership or control of a food establishment;
 - (ii) attached or adjacent to the food establishment; and
 - (iii) separated from the public areas with a barrier.

A public sidewalk is not considered an “outdoor patio” for the purposes of this variance.

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- (C) A separate entrance must be provided from the outside of the food establishment to the outdoor patio so that a dog has direct access to the outdoor patio without entering the interior of the food establishment or any playground area of the food establishment. A dog 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 outdoor patio.
- (D) An approved sign shall be posted at the front or each entrance of the food establishment and at each outdoor patio entrance so that it is easily visible to the public. The sign must state in at least 1-1/2-inch type: "DOG FRIENDLY PATIO: DOG ACCESS TO OUTDOOR PATIO ONLY" and "To report a dog incident, please call Garland Animal Services - (972)205-3570."
- (E) Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio from the interior of the food establishment and must be kept closed when not in use.
- (F) No food preparation may be performed in the outdoor patio area, except that a beverage glass may be filled on the outdoor patio from a pitcher or other container that has been filled or otherwise prepared inside the food establishment.
- (G) The outdoor patio must be maintained to be free of visible dog hair, dog dander, and other dog-related waste or debris. The outdoor patio must be hosed down or mopped with a product approved under the Rules at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), and not less frequently than every 12 hours, except that cleaning under this subsection is not required if no dog has been present on the outdoor patio since the last cleaning.
- (H) All table and chair surfaces must be easily cleanable material and cleaned and sanitized with a product approved under the Rules. Spilled food and drink must be removed from the floor or ground within five minutes of the spill.
- (I) Waste resulting from a dog's bodily functions must be cleaned up with a product approved under the Rules within five minutes of each occurrence of the emission of such waste. All dog waste must be disposed of outside of the food establishment and outside of any outdoor patio in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept outside of the food establishment.
- (J) While on duty, wait staff or other food handlers at the food establishment may not pet or have contact with any dog.
- (K) A dog must be kept on a leash, or in a secure bag or container specifically designed to carry and provide continuous restraint of the dog while providing

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adequate ventilation for the dog, and must remain under continuous physical control of the owner or other responsible adult while in the outdoor patio.

- (L) A dog is not allowed on a seat, table, countertop, or similar surface in the outdoor patio.
- (M) A dog is not allowed to be tied as a means of restraint other than by a hand-held leash.
- (N) A dog may not have contact with any dishes or utensils used for food service or preparation at the food establishment. A dog may be given water in a disposable container.
- (O) The food establishment shall notify and maintain written procedures to notify the Animal Services division of any local rabies control incident as required by section 22.07 of the Garland Code of Ordinances, or any other incident in which two or more dogs are involved in any altercation where they physically come into contact with each other, regardless of whether any of the animals are injured.
- (P) The flooring of the outdoor patio where dogs are permitted must be constructed of nonporous, approved material and have no covering that would inhibit thorough cleaning.
- (Q) A food establishment shall not permit dogs to be present in the outdoor patio of the food establishment if:
 - (i) The regulatory authority determines that a health hazard or nuisance will or has resulted; or
 - (ii) The food establishment is in violation of this title or state law.
- (R) Variance required.
 - (i) Except as allowed herein, any food establishment that allows dogs on its premises without a variance is in violation of this ordinance. The owner or operator of a food establishment with an outdoor patio may apply to the regulatory authority for a variance waiving the prohibition against dogs on the premises of the food establishment. The variance application must be on a form provided by the regulatory authority and must be submitted with a nonrefundable, preoperational inspection fee in the amount designated in the Master Fee and Rate Schedule, Article VII, Section 10.85, of Chapter 10.
 - (ii) An inspection must be performed by the regulatory authority to ensure that the food establishment complies with the conditions and standards set forth in this title.

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- (iii) A variance granted under this title is nontransferable. The variance shall expire two (2) years after the date it is granted by the regulatory authority unless it is sooner revoked by the regulatory authority or terminated by the food establishment. A variance may be renewed through the application process set forth in subsection (i) of this section.
- (iv) The regulatory authority shall deny or revoke a variance if:
 - (a) The proposed patio does not meet the definition of outdoor patio;
 - (b) The application for the variance contains a false statement;
 - (c) The food establishment does not hold a valid permit issued under this ordinance;
 - (d) The regulatory authority determines that a health hazard or nuisance will result or has resulted from the variance;
 - (e) The food establishment failed to pay a required fee at the time it was due under this ordinance; or
 - (f) The food establishment is in violation of any term or condition of the variance as established by the regulatory authority, this title, or state law.
- (v) If the regulatory authority denies or revokes a variance, the regulatory authority shall notify the applicant in writing. The notice must include the reasons for the denial or revocation.
- (vi) A food establishment for which a variance under this subsection is denied or revoked may appeal by requesting a hearing within ten days after service of the notice of the denial or revocation. Such request must be in writing, must specify the reasons why the variance should not be denied or revoked, and must be filed with the regulatory authority. A hearing must be conducted by the regulatory authority within fifteen days from receipt of the appeal.

Section 228.186 is amended by adding a new Section 228.186(p) to read as follows:

Food-contact surfaces shall be stainless steel with the exception of certain approved polymer cutting boards. Customer service counters, food packaging areas, takeout windows, and similar areas shall be surfaced with a material that is smooth, nonabsorbent, durable, and easily cleanable as approved by the regulatory authority. Cabinets, tables, or other similar equipment made of wood, particle board, or formica shall not be allowed in areas subject to moisture.

Section 228.186 is amended by adding a new Section 228.186(q) to read as follows:

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Shelving racks in walk-in coolers and walk-in freezers shall be stainless steel, epoxy-coated, noncorrosive metal or equivalent as approved by the regulatory authority. Shelving in dry storage areas shall be light-colored, epoxy- or enamel-painted wood if the storage area is not subject to moisture. Alternative shelving may be required if the storage area becomes subject to moisture.

Section 228.186 is amended by adding a new Section 228.186(r) to read as follows:

Equipment shall be maintained in a condition that facilitates thorough and rapid cleaning and in working order. The regulatory authority may require certain equipment to be approved by the National Sanitation Foundation (NSF) for its intended use, and shall require repair or replacement of any equipment which fails to meet the requirements of this section.

Section 228.205 is amended to read as follows:

A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food. A food container may not be used to store, transport, or dispense poisonous or toxic materials.

Section 228.221 is deleted in its entirety.

Section 228.222(a) is amended to read as follows:

General. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food establishment, may prohibit the sale of some or all time/temperature control for safety (TCS) foods, and when no health hazard will result, such as a children's neighborhood beverage stands, may waive or modify requirements of these rules. The regulatory authority may waive certain requirements in this Subsection for temporary food establishments in which only prepackaged TCS foods are conveyed. A temporary food establishment shall comply with the requirements of this article except as otherwise provided in this section.

Section 228.222(a)(1) is amended to read as follows:

Foods that are not prepared on site or that require extensive preparation or cooking must be prepared at a licensed food establishment. All food products shall be made with ingredients from approved sources.

Section 228.222(a) is amended by adding a new Section 228.222(a)(3) to read as follows:

TCS foods may be prepared and sold from approved food trailers and permanent structures on a temporary basis provided that the floors, walls, and ceilings of trailers shall meet or exceed structural requirements as detailed in Subchapter F of this article. Permanent facilities, such as churches and retail stores, utilized as a temporary food establishment shall meet structural requirements as approved by the regulatory authority. NTCS foods and certain precooked linked products may be conveyed on a temporary basis from food trailers, permanent structures, and open-air booths. Other NTCS foods shall be approved or

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prohibited on a case-by-case basis. All baked goods shall be individually wrapped and protected from contamination, unless a handwash station is provided at the point of sale or conveyance.

Section 228.222(d)(3) is amended to read as follows:

Hot and cold holding equipment. Equipment for cooling and heating food, and holding cold or hot food shall be adequate in number and capacity to provide food temperatures as specified under 228.71–228.75 of this title. Mechanical refrigeration capable of maintaining all TCS food products at required temperatures shall be provided in the temporary food establishment. All bulk storage of TCS foods shall be located on site in approved refrigeration equipment. Ice chests shall be allowed for precooked link products and preformed frozen beef patties for events of one-day duration.

Section 228.222(d)(4) is amended to read as follows:

Protection from contamination. Food-contact surfaces of equipment shall be protected from contamination by consumers and other sources. Where necessary to prevent contamination, effective shields for such equipment shall be provided. Stored foods shall be maintained in approved containers with tight-fitting lids to reduce contamination.

Section 228.222(d)(5) is amended to read as follows:

Alternative manual warewashing. A three-compartment sink for washing, rinsing, and sanitizing utensils may be required by the regulatory authority for temporary food establishments involved with preparation of TCS foods. Alternative manual warewashing equipment, such as receptacles that substitute for the compartments of a three-compartment sink, may be used when there are special cleaning needs or constraints and the regulatory authority has approved the use of alternative equipment. Each compartment shall be large enough to immerse the largest piece of equipment that will be used.

Section 228.222(d) is amended by adding a new Section 228.222(d)(6) to read as follows:

Food contact surfaces. All food contact surfaces shall be constructed of stainless steel or other material approved by the regulatory authority and shall be easily cleanable. A sufficient number of cleaned and sanitized utensils and kitchenware shall be provided to safely prepare and serve food during the event.

Section 228.222(f) is amended to read as follows:

Water. Water from an approved source shall be made available in a temporary food establishment for food preparation, handwashing, and for cleaning and sanitizing utensils and equipment. Hot and cold running water under pressure with a water heater volume sufficient to handle daily handwashing and utensil sanitizing demands shall be provided in a temporary food establishment if TCS foods are prepared onsite and conveyed. Water shall come from approved sources which include: commercially bottled water, closed portable water containers, enclosed vehicular water tanks, or piping, tubing, or hoses connected to an approved source.

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Section 228.222 is amended by adding a new Section 228.222(l) to read as follows:

A temporary food establishment permit shall be obtained prior to the preparation, conveyance, or sale of any food product from a temporary food establishment. The permit shall allow conveyance of food from an approved temporary facility at a single location for no more than five (5) consecutive days. A temporary food establishment permit shall be issued only if food is to be sold or conveyed in conjunction with an approved event. Each separate event shall require a separate temporary food establishment permit. An event may occur at a given site only once during a thirty-day period. The Director of Health may grant temporary permits at a given site on a more frequent basis for charitable events and for events held on the site of property owned by the operator of the temporary food establishment. The Director of Health may extend the time a temporary food establishment operates at a single location when the temporary food establishment is operating in conjunction with a special event that is permitted under section 30.214 of this Code [of Ordinances]. An application for a temporary food establishment permit shall be filed at least 48 hours prior to the scheduled event.

Section 228.222 is amended by adding a new Section 228.222(m) to read as follows:

Condiments. All condiments shall be served in single-serving containers or from bottles with manual pump dispensers. No open condiment containers shall be permitted.

Section 228.222 is amended by adding a new Section 228.222(n) to read as follows:

Vent hoods. Ventilation hoods with grease intercepting filters shall be installed in temporary food service facilities if grills or deep fryers of any type are utilized inside a structure.

Section 228.222 is amended by adding a new Section 228.222(o) to read as follows:

Garbage and refuse disposal. Waste receptacle with liners and tight-fitting lids shall be provided, convenient, adequate in number and capacity, and properly maintained to minimize vermin, odors, and litter.

Section 228.222 is amended by adding a new Section 228.222(p) to read as follows:

Toilet facilities. Toilet facilities shall be available and readily accessible, but in no case shall toilet facilities be more than three hundred (300) feet from food preparation areas.

Section 228.222 is amended by adding a new Section 228.222(q) to read as follows:

Produce sales by growers. Owners or lessees of land zoned for agriculture purposes who grow produce on said land may sell such produce upon the lot or lots on which the produce is grown. Produce may be sold by the grower provided a permit is obtained from the regulatory authority. Such permits are good for a one year term and must be renewed on an annual basis.

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Section 228.222 is amended by adding a new Section 228.222(r) to read as follows:

Inspections. The regulatory authority may inspect temporary food establishments at any reasonable time. Prior to a scheduled event, the regulatory authority may require that temporary food establishments be inspected and be in compliance with all applicable sections of this article.

Section 228.222 is amended by adding a new Section 228.222(s) to read as follows:

Personnel practices. Temporary food establishment employees shall abide by all applicable sections of this article with respect to personal hygiene and sanitary food handling practices. Temporary food employees shall be exempt from the manager registration requirement of this article.

Section 228.226 is added and titled Concession Facilities.

- (a) Concession facilities are seasonal and often operate more days per year than temporary food establishments but significantly fewer days per year than permanent food establishments. The degree of regulation of a concession facility shall depend upon the type of foods (TCS or NTCS) conveyed, the volume of food conveyed, and the number of days of operation per year.
- (b) A concession permit shall be obtained from the regulatory authority under the requirements set in 228.247 prior to operation. The person in charge of a concession facility shall ensure that all necessary inspections are arranged prior to opening for the season.
- (c) Unless otherwise provided, concession facilities shall comply with all requirements of this article. The regulatory authority may waive certain requirements, which are deemed unnecessary for protection of public health.
- (d) The regulatory authority may require that a concession facility have at least one person on-site who holds an accredited food handler certification or other higher certification.

Section 228.227 is added and titled Itinerant Vendors and Delivery of Food.

- (a) Application of section. This section is applicable to the sale or conveyance of food by itinerant vendors, persons delivering previously ordered food, and all other similar sales and conveyance of food, other than catering trucks and mobile food preparation vehicles.
- (b) Itinerant sales or conveyance of food.
 - (1) It shall be unlawful for any person to sell or convey time/temperature control for safety (TCS) foods or perishable foods (such as produce) from house to house or place to place in any zone within the City.

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- (2) Any person who sells or conveys non-time/temperature control for safety (NTCS) foods, commercially prepackaged foods from house to house or place to place within the City shall obtain a permit from the regulatory authority.
 - (3) Any person desiring to sell or convey from house to house or place to place NTCS foods which are not commercially prepackaged shall apply for a permit. The regulatory authority shall approve or deny the application based on the type of NTCS food intended for sale or conveyance.
 - (4) Any foods sold or conveyed from house to house or place to place shall meet all applicable requirements of this article including but not limited to approved source, temperature control, labeling, and protection from contamination.
 - (5) Any person who sells or conveys food from house to house or place to place shall comply with all provisions of this Code [of Ordinances] relating to itinerant vendors including, without limitation, article V and article IX of chapter 26.
- (c) Delivery of food.
- (1) This section pertains to persons who deliver food which has been ordered by individuals or businesses in the City from an itinerant vendor, through United States mail, by telephone or other means of communication.
 - (2) Any person who delivers food previously ordered to the person who placed the order shall comply with all applicable sections of this article including but not limited to approved source, temperature control, labeling, and protection from contamination.
 - (3) Vehicles used for the delivery of food previously ordered to the person who placed the order shall meet the following minimum criteria:
 - (A) The vehicle shall comply with all state rules for motor vehicles.
 - (B) The vehicle shall be equipped and maintained to adequately store food during transportation to prevent contamination, adulteration or damage to the food or to containers in which the food is stored.
 - (C) The vehicle shall be maintained in a clean and sanitary condition.
 - (4) Any person who delivers food previously ordered to the person who placed the order shall not be required to obtain a permit from the regulatory authority; provided, that:
 - (A) The regulatory authority shall have the authority to inspect the vehicle, food products, and any invoices and bills of lading at any reasonable time and shall have all authorities defined in Subchapter I.

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- (B) The person delivering food shall comply with all applicable sections of this article.
- (5) Any person who solicits orders for food from house to house or place to place shall comply with all provisions of Chapter 26 of this Code [of Ordinances].

Section 228.228 is added and titled Food Carts.

- (a) General. This section shall apply to the sale and conveyance of food from food carts.
- (b) Permit. Food carts operating within the City shall have a valid food service permit, if required, of the proper classification issued by the Dallas County regulatory authority, or its designee. Permits shall be attached to the Food cart and be prominently displayed within view of the public.
- (c) Construction. Food carts shall meet all construction and operation requirements of the National Sanitation Foundation (NSF) Standard 59 for food carts and shall be approved by the regulatory authority.
- (d) Food items.
 - (1) Sale of prepackaged foods. Prepackaged foods may be sold from food carts provided that they are commercially packaged, from an approved source, wholesome, unadulterated, and properly labeled.
 - (2) The sale of food prepared at the food cart is prohibited in a residential district.
- (e) Condiments. All condiments shall be served in single-serving containers or from approved, commercially filled, dispenser-type containers.
- (f) Food handling.
 - (1) Food carts approved only for the sale of prepackaged food shall not be utilized for nonprepackaged food service or preparation.
 - (2) Food carts approved for the preparation or service of food shall be equipped with an integral handwash sink, which has hot and cold running water. A supply of soap and paper towels shall be maintained on the cart at all times.
 - (3) The handling of food shall be minimized through the use of tongs, forks, or similar utensils.
 - (4) All foods shall be served on single service articles. No bare hand contact with ready-to-eat foods shall be allowed.
 - (5) Food carts serving hot TCS food shall be equipped with fuel-fired or electric hot-holding devices capable of maintaining foods at one hundred thirty-five (135) degrees Fahrenheit or above. Food carts serving or storing cold TCS

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foods shall have insulated storage compartments capable of maintaining refrigerated foods at forty-one (41) degrees Fahrenheit or less and frozen foods at zero (0) degrees Fahrenheit or less. All foods shall be from an approved source, unadulterated and shall be maintained at required temperatures.

- (6) All food contact surfaces on food carts shall be stainless steel, polymer cutting boards, or equivalent as approved by the regulatory authority.
- (7) TCS foods which have been heated or kept refrigerated on a food cart shall, if not sold in one day, be discarded at the end of each day, provided that unopened canned foods and properly maintained frozen foods may be returned to the central preparation facility for reuse.
- (8) All food carts shall be provided with accurate thermometers in each cold-holding and hot-holding compartment. The food cart operator shall possess an accurate, probe-type thermometer for monitoring food temperatures as required by 228.105(a)(3).
- (g) Waste retention. All liquid wastes resulting from the operation of a food cart shall be collected and stored in an integral waste holding tank and disposed of in a sanitary sewer. Sizing and capacity of waste holding tank must meet NSF Standard 59 requirements.
- (h) Solid waste. The permit holder shall provide a plastic waste receptacle with integral lid for collection of all solid waste produced by the food cart. Plastic waste receptacle liners shall be used at all times.
- (i) Storage and equipment. All foods sold or conveyed from a food cart shall be stored or displayed only within or on the food cart. Additional equipment, other than the operator's chair, shall be prohibited.
- (j) Central Preparation Facility. All food carts shall operate from a base of operation, such as a central food preparation or other fixed food establishment permitted by a local regulatory authority. The base of operation shall meet all the requirements of this article, including 228.229. The permit holder shall remove the food cart from its point of use daily and transport it to the base of operation for all supplies and for all cleaning and servicing operations. The central preparation facility or other fixed food establishment used as a base of operation shall be constructed and operated in compliance with this article. All food carts shall be stored at the central preparation facility when not in use.
- (k) Cleaning and sanitizing.
 - (1) Food carts serving TCS foods shall be cleaned and sanitized daily at the base of operation. Carts selling prepackaged or NTCS foods shall be washed and rinsed daily at the base of operation.

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- (2) Food carts shall be maintained in a clean, sanitary condition at all times of operation and while stored at the base of operation.
- (l) Personnel.
 - (1) All persons operating food carts where food is prepared or non-prepackaged food is served shall possess valid food handler certificates.
 - (2) Food cart operators shall comply with all personal hygiene and related employee responsibilities required by this article.
 - (3) Food carts shall be located within 300 feet of approved restroom facilities. Operators shall have written permission from the restroom owner or person-in-charge to utilize the restroom facilities.
- (m) [Reserved.]
- (n) Approved location. Food carts shall be operated only:
 - (1) On private property, with written permission from the property owner; and
 - (2) With permission from the Director of Parks if vending within a City park, and from the Director of Health if vending within City parking facilities, on public property maintained by the City (other than a public sidewalk), within or immediately adjacent to the downtown square, or within a public facility maintained by the City.
- (o) Prohibitions. No person may convey food from a food cart in any area zoned residential or upon any private property or adjoining streets containing multifamily dwellings.

Section 228.229 is added and titled Catering Trucks.

- (a) Permit. All catering trucks shall have a valid food service permit and such permit shall be prominently displayed to the public on the catering truck at all times.
- (b) Initial Permitting Inspection. Catering trucks desiring to operate within the City of Garland must be inspected by, and permitted through, the Dallas County regulatory authority, or its designee, at a location designated by the Dallas County regulatory authority.
- (c) Permits may be suspended temporarily by the regulatory authority for repeated failure of the permit holder to comply with the requirements of this article. For serious or repeated violations of any of the requirements of this article, or for interference with the regulatory authority in the performance of his or her duties, the permit may be permanently revoked after notice and an opportunity for a hearing has been provided by the regulatory authority.

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- (d) A catering truck may remain at one location no more than one (1) hour per stop, and no more than three (3) total hours at the same location in any twenty-four hour period.
- (e) Food storage areas. All food storage areas in catering trucks shall be maintained free of rust and corrosion, clean and protected from contamination.
- (f) Food items. All foods conveyed from catering trucks shall be prepackaged, single-serving size, and unadulterated. All foods shall be obtained from an approved source. TCS foods shall be wrapped and sealed, labeled as to type of food, location of preparation, and date of preparation. All TCS food shall be disposed of at the end of each day of operation.
- (g) Condiments. All condiments shall be served in single-service containers or approved, commercially filled, dispenser-type containers. Bulk dispensers, bottles or other containers shall not be permitted for conveyance of any condiment.
- (h) Food handling. No direct food handling of any type shall be permitted by catering truck operators or customers. It shall be unlawful for catering truck operators to sell, dispense or convey ice in any manner, except from an approved automatic ice dispenser. Soft drinks and tea shall be conveyed only in prepackaged cans, bottles or cartons. Hot coffee may be conveyed from bulk dispensers into single-service cups. All hot TCS food shall be maintained at one hundred thirty-five (135) degrees Fahrenheit or above in a mechanical warming oven. All cold TCS food shall be maintained at forty-one (41) degrees Fahrenheit or below. Equipment for holding hot and cold foods shall be sufficient in number and capacity to provide food temperatures as specified under Subchapter C of this rule.
- (i) Water Tank. A catering truck water tank inlet shall be:
 - (1) 19.1 mm (3/4 inch) in inner diameter or less; and
 - (2) Provided with a hose connection of a size or type that will prevent use for any other service.
 - (3) Fill hose and water holding tank shall be labeled as "Potable Water."
- (j) Waste retention. If liquid waste results from operation of a catering truck, the waste shall be stored in a permanently installed retention tank that is of at least fifteen (15) percent larger capacity than the water supply tank and sloped to a drain that is one (1) inch in inner diameter or greater, equipped with a shut-off valve. Liquid waste shall not be discharged from the retention tank when the catering truck is in motion. All connections on the vehicle for servicing catering truck waste disposal facilities shall be of a different size or type than those used for supplying potable water to the catering truck. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system. A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner. Sewage and other liquid wastes shall be removed from a catering truck at an approved waste

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servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

- (k) Water and wastewater exemption. A catering truck that conveys food requiring no water for operations and no hand contact with food is exempt from these rules pertaining to water and wastewater if the required cleaning and sanitization equipment exist at its central preparation facility.
- (l) Single service articles. Catering trucks shall provide only single service articles for use by the consumer.
- (m) Central Preparation Facility. All catering trucks shall operate from a central preparation facility or other fixed food service establishment permitted to sell food at the wholesale level and shall report at least daily to this location for all cleaning and servicing operations. The CPF or other fixed establishment used as a base of operation for catering trucks shall be constructed and operated in compliance with the requirements of these rules (pertaining to Physical Facilities - Subchapter F).
- (n) Servicing Area and Operations.
 - (1) Protection.
 - (A) A catering truck servicing area shall include at least overhead protection for any supplying, cleaning, or servicing operation. Those areas used for the loading of water and/or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.
 - (B) Within the servicing area, the location provided for the flushing and drainage of liquid wastes shall be separate from the location provided for potable water servicing and for the loading and unloading of food and related supplies.
 - (C) A servicing area will not be required where only packaged food is placed on the catering truck or where the catering trucks do not contain waste retention tanks.
 - (D) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.
 - (E) Potable water servicing equipment shall be installed in the servicing area according to the Plumbing Code and shall be stored and handled in a way that protects the water and equipment from contamination.
 - (2) Construction exemption. The construction of the walls and ceilings of the servicing area is exempted from the provisions of 228.173(a) of this title (related to Physical Facilities).

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(o) Provisions Related to Ice Cream Trucks.

- (1) Conflict. Generally, an Ice Cream Truck shall be regulated as a Catering Truck. However, the following provisions shall expressly apply to Ice Cream Trucks. In the event of a conflict between this subsection (o) and another ordinance of the City of Garland, to the extent the conflict is related to the operation of Ice Cream Trucks, the provisions of this subsection shall control.
- (2) Initial Permitting Inspection. An Ice Cream Truck shall be permitted, if required, by the Dallas County regulatory authority, or its designee, at a location designated by the authority.
- (3) Operation Locations. Ice Cream Trucks may operate and conduct business within public rights-of-way, including within residential districts, subject to the following:
 - a. An Ice Cream Truck shall comply with all applicable city, county, and state health laws and regulations.
 - b. An Ice Cream Truck vendor shall not vend within 40 feet of any intersection, stop sign, flashing beacon, yield sign, or other traffic-control signal.
 - c. An Ice Cream Truck, when stopping for the purpose of making sales, may only park or stand in the right-of-way, as far as practicable from traffic and shall operate flashers and signals when stopped. In no event shall an Ice Cream Truck vendor stop for the purpose of making sales that prevent passage of other motor vehicles on the right-of-way or impede the flow of vehicular or pedestrian traffic.
 - d. Ice Cream Truck vendors shall only vend on the passenger side of the ice cream truck when stopped, parked, or standing within a public right-of-way.
 - e. An Ice Cream Truck may only operate a horn, sound amplification system, or other sound producing device or music system during authorized vending periods; but not when the truck is stationary.
- (4) Operations Prohibited in the Vicinity of Schools. An Ice Cream Truck may not conduct vending operations or operate a horn, sound, amplification system, other sound producing device or music systems (1) within a school zone that is operational on days in which schools are in session, or (2) within two city blocks or 600 feet, whichever is greater, of the grounds of a public, private, or parochial elementary or secondary school between the hours of 11:00 a.m. and 4:30 p.m. on days when school is in session.
- (5) Times of Operation. An Ice Cream Truck may operate within a public right-of-way between the hours of 11:00 a.m. and 30 minutes before sunset (as defined by the National Oceanic and Atmospheric Administration).

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Section 228.230 is added and titled Mobile Food Preparation Vehicles.

- (a) Permit. Mobile food preparation vehicles shall have a valid permit and such permit shall be prominently displayed to the public on the vehicle at all times.
- (b) Initial Permitting Inspection. Mobile food preparation vehicles desiring to operate within the City of Garland must be inspected by, and permitted through, the Dallas County regulatory authority, or its designee, at a location designated by the Dallas County regulatory authority.

Section 228.247 is amended to read as follows and title changed to Permits:

- (a) Generally. No person shall sell, offer to sell, convey food, or otherwise operate a food establishment within the City without having first obtained a permit issued by the regulatory authority. Permits shall not be transferable from one person to another person or place. A permit issued under this article gives only the person in charge to whom the permit is issued the authority to operate the food establishment identified on the permit. As a lawful condition to the operation of the establishment, the regulatory authority may impose in the permit such additional requirements relating to the operation of the food establishment as the regulatory authority determines necessary to protect the public health and safety.
- (b) Application. A person desiring to operate a food establishment shall make written application for a permit on forms provided by the regulatory authority. Such application shall include: the applicant's full name and post office address and whether such applicant is an individual, corporation, partnership, or other business entity. If the applicant is a partnership, the names of the partners, together with their addresses shall be included. The application shall also include the location and type of the proposed food establishment, the signature of the applicant or applicants, or agents and such other information as may be required by the regulatory authority. If the application is for a temporary food establishment, it shall also include the beginning and ending dates of the proposed operation.
- (c) Permit fees.
 - (1) Permit fees for certain facilities and vendors shall be in the applicable amounts designated in the Master Fee and Rate Schedule, Article VII, Section 10.85, of Chapter 10.
 - (2) No fee shall be charges to any food establishment owned and operated by a governmental agency or institution of purely public charity or church; however, such establishments shall comply with all other requirements of this article.
 - (3) Any permanent, fixed food establishment whose inspection score(s) during the previous fiscal year (October 1–September 30) rank in the highest five (5) percentile (arithmetic average) within its classification (as classified by the regulatory authority), shall be exempt from a permit fee for its next annual

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permit. This provision shall not apply to establishments that began operation or whose ownership or establishment name has changed during the fiscal year in which average scores are calculated.

- (4) A late payment fee in the amount designated in the Master Fee and Rate Schedule, Article VII, Section 10.85, of Chapter 10, shall be charged to any permit holder who fails to pay their annual permit renewal fee within 15 days from the due date listed on the invoice from the Garland Health Department. No renewed permits shall be issued until any outstanding late payment fee is received.
- (d) Duration. Permits granted under the provision of this section, unless otherwise specified, shall remain in force for one year from the date of issuance unless suspended or revoked for cause. Permits shall remain the property of the City.
- (e) Denial of permit. The regulatory authority may deny issuance of a permit to applicants who have not met the standards of this article; intentionally provided false information to the regulatory authority; filed incomplete permit applications; operated a food establishment that has had the permit revoked within the previous three years. Any person who has had their permit application denied, shall, upon written request to the regulatory authority, be afforded a hearing before the City Council as soon as practical, but not later than thirty (30) days from the denial.
- (f) Suspension of permits. Permits may be suspended temporarily by the regulatory authority for repeated failure of the permit holder to comply with the requirements of this article. Whenever a permit holder or operator has failed to correct a violation after receiving two (2) written notices for the violation, the regulatory authority may suspend the permit. The permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the permit holder. Notwithstanding the other provisions of this article, whenever the regulatory authority finds unsanitary or other conditions in the operation of a food service establishment which constitute a substantial hazard to the public health, a written notice may be issued to the permit holder or operator citing such condition, specifying the corrective action to be taken, and specifying the time period within which such action shall be taken. If necessary, such order may state that the permit is immediately suspended and all food service operations are to be immediately discontinued. If the permit is suspended, a "Closed by Order of Garland Health Department" sign shall be placed on the entrance to the food establishment in plain view of the public. No person may remove, cover, alter, deface, or otherwise make unreadable said sign. Any person to whom such an order is issued shall comply immediately therewith, but, upon written request to the regulatory authority, shall be afforded a hearing before the City Council as soon as practical, but not later than thirty (30) days from the denial.
- (g) Reinstatement of suspended permits. Any person whose permit has been suspended may, at any time, make written application for a reinspection for the purpose of reinstating the permit. Within ten (10) days following the receipt of a request, which

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shall include a statement signed by the applicant that in his or her opinion the conditions causing suspension of the permit have been corrected, the regulatory authority shall make a reinspection. If it is discovered upon reinspection that the applicant is complying with the requirements of this article, the permit shall be reinstated.

- (h) Revocation of permits. A permit may be permanently revoked for serious or repeated violations of any of the requirements of this article, for interference with an employee of the regulatory authority in the performance of his or her duties, or for having scored fifty nine or below on three or more unannounced food service inspections within an eighteen month period. Prior to such action, the regulatory authority shall notify the permit holder in writing, stating with reasonable particularity the reasons for which the permit is subject to revocation, and advising that the permit shall be permanently revoked at the end of five days following service of such notice, unless a request for a hearing contesting the decision is filed with the regulatory authority within such five day period. A permit shall be suspended pending its revocation or pending any hearing contesting the proposed revocation.
- (i) Hearings. The hearings provided for in this section shall be conducted by the City Council at a time and place designated by them. The City Council shall make a finding and shall either sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished upon request to the permit holder by the regulatory authority.
- (j) Future operations prohibited. Any person whose food establishment permit has been revoked shall for a period of three years be prohibited from operating, being employed within, or in any way being associated with the operation of any food establishment located:
 - (1) At the address of the food establishment whose permit was revoked; or
 - (2) At any other food establishment within the City.
- (k) Prohibited operations after permit revocation. A person related within the fourth degree by consanguinity or affinity to the holder of a food permit that has been revoked pursuant to subsection (h) may not, for a period of one hundred eighty days from the date of the revocation, apply for a food permit in connection with the establishment for which the food permit was revoked. In this subsection, "person" includes without limitation each member of a partnership or association, each member of a limited liability company and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock.
- (l) Posting of food inspection scores. All food establishments shall post, on a form provided by the regulatory authority, the most recent unannounced inspection score or scores (if two or more scores are available for the food establishment). The form shall be placed on or near the entrance of the food establishment in plain view of the public. No person may remove, cover, alter, deface, or other make unreadable the posted form. The form shall remain posted until a new scoring form is issued by the

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regulatory authority for the food establishment, at which time the new scoring form shall be posted.

Section 228.249 is amended by adding a new Section 228.249(d) to read as follows:

- (d) Frequency. The regulatory authority shall inspect each food establishment located in the City, or its police jurisdiction, and shall make as many inspections and reinspections as are necessary for the enforcement of this article.

Section 228.250(c) is amended to read as follows:

Consent to inspection. Application for and operation of a food establishment inside the City constitutes consent for the regulatory authority to inspect the food establishment to determine compliance with this article. It shall constitute an offense for any person to hinder, physically prevent, interfere with or otherwise obstruct the lawful inspection of a food establishment by the regulatory authority. Such actions may also constitute reason for suspension or revocation of permit. In addition, it shall also constitute an offense if any person willfully provides false information to the regulatory authority as it relates to enforcement of the provisions of this article.

Section 228.250(d) is deleted in its entirety.

Section 228.251 is amended to read as follows:

- (a) Report of inspections. Whenever a routine inspection is made of a food establishment, the findings shall be recorded on the inspection report form approved by the regulatory authority. The original of the inspection report shall be furnished to the owner or person in charge at the completion of the inspection and constitutes a written notice. The inspection report form shall summarize the requirements of these rules and shall set forth a weighted point value for each requirement. The rating score of the establishment shall be the total of the weighted point value for all violations, subtracted from one hundred (100). The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.
- (b) Correction of violations. The routine inspection report and/or the associated notice of violation form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:
 - (1) If an imminent health hazard exists, including, but not limited to, a complete lack of sanitization or refrigeration; or if a sewage backup threatens contamination of food or equipment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the regulatory authority.

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- (2) All violations of three- four- or five-point-weighted items shall be corrected within a time specified by the regulatory authority, but in no event shall such time period exceed forty-eight (48) hours.
- (3) All items weighted less than three points shall be corrected within a time specified by the regulatory authority, but in no event shall such time period be longer than the date of the next routine inspection.
- (4) When the rating score of the establishment is less than sixty (60), the regulatory authority may immediately suspend the permit. If the permit is not immediately suspended, the establishment shall complete corrective action on all identified violations within a maximum of forty-eight (48) hours.
- (5) In the case of temporary food establishments, all violations shall be corrected within a time specified by the regulatory authority, but in no event shall such time period exceed twenty-four (24) hours. If violations are not corrected within the compliance time specified by the regulatory authority, the establishment shall immediately cease food service operations until authorized to resume by the regulatory authority.

Section 228.251(f) is deleted in its entirety.

Section 228.253 is deleted in its entirety.

Section 228.254 is deleted in its entirety.

Section 228.255 is amended to read as follows:

Examination and condemnation of food. Agents of the regulatory authority may examine and collect samples of food as necessary for the enforcement of this article. The regulatory authority shall, upon written notice to the owner or person in charge specifying the reason therefore, destroy or place under detention any food which the regulatory authority has probable cause to believe is adulterated or misbranded. Food which has been detained shall be suitably stored. It shall be unlawful for any person to remove or alter a detention order, notice or tag placed on food by the regulatory authority, and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, used or destroyed without permission of the regulatory authority except on order by a court of competent jurisdiction. After the owner or person in charge has had a hearing as provided for in subsection 228.247(i) of this section, the regulatory authority may vacate the detention order, or may direct the owner or person in charge of the establishment to destroy the food.

Section 228.258 is added to read as follows:

Food service establishments outside jurisdiction of the regulatory authority. Food from food establishments outside the jurisdiction of the regulatory authority of the City may be sold within the City if such food service establishments conform to the provisions of this article or to substantially equivalent provisions. To determine the extent of compliance with

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such provisions, the regulatory authority may accept reports from responsible authorities in other jurisdictions where such food service establishments are located.