

ORDINANCE NO. 2940-8-10

AN ORDINANCE OF THE CITY OF ALLEN, TEXAS, REPEALING CITY OF ALLEN ORDINANCE NUMBER 1569-1-98 “ENVIRONMENTAL HEALTH ORDINANCE”, IN ITS ENTIRETY; AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES, CITY OF ALLEN, TEXAS, BY ADDING ARTICLE VIII, “ENVIRONMENTAL HEALTH”; ESTABLISHING A FEE SCHEDULE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED \$2,000.00; PROVIDING A PUBLICATION CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Allen previously enacted Ordinance Number 1569-1-98, “Environmental Health Ordinance”, for the purpose of establishing uniform requirements for food service operations, swimming pools, child care centers and general sanitation and health measures in the interest of public health; and,

WHEREAS, upon review of Ordinance Number 1569-1-98 as well as current state and federal laws and regulations governing these areas of public health concern, City staff recommends repealing Ordinance Number 1569-1-98, in its entirety and enacting a new Environmental Health Code to be codified in the Code of Ordinances of the City of Allen, in order to conform with current state and federal laws and regulations; and,

WHEREAS, the City Council of the City of Allen, Texas determines it is necessary for public health and safety to provide regulations for food and food establishments, bed and breakfast food establishments, child care facilities, and public and semi-public swimming pools within the City of Allen; and,

WHEREAS, the City Council of the City of Allen, after consideration of the recommendations of staff and all matters attendant and related thereto, is of the opinion that the recommended changes are in the best interest of the City and its citizens and will promote the health, safety and welfare of the citizens of Allen and the general public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, TEXAS, THAT:

SECTION 1. Ordinance Number 1569-1-98, Environmental Health Ordinance is hereby repealed in its entirety.

SECTION 2. The Code of Ordinances for the City of Allen, Texas, Chapter 6 “Health and Environment”, is hereby amended by adding Article VIII “Environmental Health”, to read as follows:

“ARTICLE VIII. ENVIRONMENTAL HEALTH

DIVISION 1. GENERAL PROVISIONS

Sec. 6-233. Purpose.

The purpose of this Article is to establish specific requirements for food service operations, bed and breakfast establishments, child care facilities, and public and semi-public swimming pools located within the City of Allen in addition to the requirements contained State and Federal law for the purpose of further protecting the public from health hazards and nuisances.

The Regulatory Authority shall enforce all State, Federal, and or local law and regulation applicable to the above-referenced establishments operating within the City of Allen, as permitted by law.

Sec. 6-234. Definitions.

The following words, terms, and phrases, when used in this Article, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Adulterated food. Food deemed to be adulterated as specified in the Texas Health and Safety Code, Chapter 431, §431.081, as amended.

(2) Approved. Acceptable to the Regulatory Authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

(3) Base of operation. An operating base to which a mobile food establishment vehicle returns as needed for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(4) Bed and breakfast. An establishment with rooms for rent that serves only breakfast to over-night guests. The establishment is not a food establishment, and the owner or manager shall successfully complete an accredited food manager's certification course.

(5) Bed and breakfast food establishment. An establishment that provides food service other than breakfast to its overnight guests. The establishment must meet the rules and regulations applicable to food establishments.

(6) Beverage. A liquid used for drinking, including water.

(7) Child care facility. Any facility licensed by the Texas Department of Family and Protective Services (DFPS) to provide care for less than 24 hours a day for 13 or more children and which prepares or receives food for on-site or off-site consumption. These facilities may be titled Nursery School, Kindergarten, Child Development Center, Day Care Center, Private School, etc.

(8) Cleaned in place (CIP). The circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine. The term does not include the cleaning of equipment such as band saws, slicers or mixers that are subject to in-place manual cleaning without the use of a CIP system.

(9) Code of Federal Regulation (CFR). The compilation of the general and permanent rules published in the Federal Register by the executive department and agencies of the United States federal government.

(10) Commissary. A catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

(11) Common dining area. A central location in a group residence where people gather to eat at mealtime. The term does not apply to a kitchenette or dining area located within a resident's private living quarters.

(12) Confirmed disease outbreak. A food-borne illness outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates food as the source of the illness.

(13) Consumer. A person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant and does not offer the food for resale.

(14) Corrosion-resistant material. A material that maintains acceptable surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions and other conditions of the use environment.

(15) Critical control point. A point or procedure in a system used by an establishment to guide sanitary food preparation and handling where loss of control can cause a dangerous health risk.

(16) Critical item. A provision of a system used by an establishment to guide sanitary food preparation and handling that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, injury or environmental health hazard.

(17) Critical limit. The maximum or minimum value to which a physical, biological or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

(18) Dry storage area. A room or area designated for the storage of non-hazardous packaged or contained bulk food items, and/or dry goods such as single-service items.

(19) Easily cleaned. A characteristic of a surface that allows effective removal of soil by normal cleaning methods as dependent on the material, design, construction and installation of the surface, and the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose and use.

(20) Employee. The permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement or other person working in a food establishment.

(21) Equipment. An article that is used in the operation of a food establishment, such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, steam table, temperature measuring device for ambient air, vending machine, ware-washing machine, and similar items other than utensils.

(22) Fish. Fish means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals), other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. Fish includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

(23) Food. A raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption or chewing gum.

(24) Food-borne disease outbreak. The occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

(25) Food-contact surface. A surface of equipment or a utensil with which food normally comes into contact; or a surface of equipment or a utensil from which food may drain, drip, or splash into a food or onto a surface normally in contact with food.

(26) Food establishment. An operation that stores, prepares, packages, serves, or otherwise provides food for human consumption regardless of whether there is a charge for the food, including, but not limited to, the

following: a restaurant; retail food store; food bank, grocery store pre-packaged non-PHF, produce stand, satellite or catered feeding location; catering operation; market; school; child care facility; and/or remote catered operations; that either 1) relinquishes possession of food to a consumer directly, or indirectly, through a delivery service such as home delivery of grocery orders; restaurant take-out orders; or, 2) provides food for on or off premises consumption. The term does not include: a kitchen in a private home if only non-PHF is prepared for sale or service at a function, such as a religious or charitable organization's bake sale; bed and breakfast as defined in this Article; or a private home that receives catered or home-delivered food.

(27) Food processing plant. A commercial operation that manufacturers, packages, labels or stores food for human consumption and does not provide food directly to a consumer. The term does not include a food establishment as previously defined.

(28) Food service employee. An individual working with unpackaged food, food equipment or utensils or food contact surfaces.

(29) Game animal. An animal, the products of which are food, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine, poultry, or fish as defined under paragraph 22 of this section. Game animal includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat and non-aquatic reptiles such as land snakes, but does not include ratites such as ostrich, emu, and rhea.

(30) Hazard. A biological, chemical or physical property that may cause a consumer health risk.

(31) Hazard analysis critical control point (HACCP). A systematic approach to the identification, evaluation and control of food safety hazards.

(32) HACCP plan. A written document that delineates the formal procedures for following the HACCP principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

(33) Hermetically sealed container. A container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

(34) Highly susceptible population. A group of people who are more likely than other populations to experience food-borne disease because they are immune-compromised or older adults; residents or temporarily stay in a facility that provides health care or assisted living services, such as a hospital, nursing home, adult day care, or senior center; or preschool age children in a facility that provides custodial care, such as a child care center.

(35) Imminent health hazard. A significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury.

(36) Kitchenware. All multi-use utensils other than tableware.

(37) Law. Federal, state, and local statutes, ordinances, and regulations.

(38) Licensed childcare home. A home licensed by the State of Texas that regularly provides care in the care giver's own residence for not more than six (6) children under fourteen (14) years of age and that provides care after school hours for not more than six (6) additional elementary school children; but the total number of children, including the care giver's own, does not exceed twelve (12) at any given time.

(39) Linens. Fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments, including cloth gloves.

(40) Mobile food establishment. A self-propelled vehicle-mounted food establishment designed to be readily moveable that is equipped with food preparation equipment. This includes vehicles in which food is prepared on site. Said vehicles must meet regulations applicable to fixed food establishments.

(41) Molluscan shellfish. Any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

(42) Packaged. Food that is bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. The term does not include a wrapper, carry-out box, or other nondurable container used to contain food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

(43) Permit. The document issued by the Regulatory Authority that authorizes a person to operate a food establishment.

(44) Person in charge. The individual present in a food establishment who is responsible for the operation at the time of inspection.

(45) Personal care items. Items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance. The term includes such items as medicines, first-aid supplies, and other cosmetic and/or toiletry items.

(46) Personal items. Articles belonging to employees.

(47) Plumbing Code. The most recent version of the International Plumbing Code as adopted pursuant to Section 3.01 and amended by Section 3.06 of the Allen Land Development Code.

(48) Poisonous or toxic materials. Substances that are not intended for ingestion including cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes and other chemicals; pesticides and rodenticides; and substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health.

(49) Potable. Suitable or safe for drinking.

(50) Potable water. Water that is fit for drinking.

(51) Potentially hazardous food (PHF). A food that requires time and temperature control for safety (TCS) to limit pathogen growth or toxin production which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean, or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term includes fresh shell eggs, which are raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth. This term does not include: an air-cooled hard-boiled egg with shell intact, or a shell egg that is not hard-boiled, but has been treated to destroy all viable Salmonellae; a food, in an unopened commercially hermetically sealed container, that is shelf stable; a food for which a product assessment, including laboratory evidence, demonstrates that time and temperature control for safety is not required and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or a food that does not support the growth of microorganisms as specified even though the food may contain an infectious or toxic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

(52) Poultry. Any domesticated bird (chickens, turkeys, ducks, geese, or guineas), whether live or dead, and any migratory waterfowl or game bird, such as pheasant, partridge, quail, grouse, or guinea, or pigeon or squab, whether live or dead. Poultry does not include ratites.

(53) Premises. The physical facility, its contents, and the contiguous land or property under the control of the permit holder; or 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 such as a health care facility, hotel, motel, school, recreational camp, or prison.

(54) Pushcart. A non-self-propelled mobile food unit limited to serving only prepackaged, non-PHF or prepackaged ice cream. A pushcart is classified as a mobile food unit.

(55) Ready-to-eat food. Food that is in a form that is edible without additional preparation to achieve food safety, including raw or partially cooked animal foods. The term includes raw, washed, cut fruits and vegetables; whole, raw fruits and vegetables; all PHF that is cooked to the temperature and time required for the specified food. The term also includes plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shell, if naturally present, are removed; substances derived from plants such as spices, seasonings, and sugar; bakery item such as bread, cakes, pies, fillings or icing for which further cooking is not required for food safety; and the following products that are produced with United States Department of Agriculture guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks.

(56) Refuse. Solid waste not carried by water through the sewage system.

(57) Regulatory Authority. The Environmental Health Manager or Chief Building Official of the City of Allen, depending on the context, or their designated representative.

(58) Safe Material. An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food; an additive that is used as specified in Chapter 431 of the Texas Health and Safety Code, as amended; or other materials that are not additives and that are used in conformity with applicable regulations of the federal Food and Drug Administration.

(59) Sanitization. The application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, yield a 99.999% reduction of representative disease microorganisms of public health importance.

(60) Sealed. Free of cracks or other openings that allow the entry or passage of moisture.

(61) Seasonal food establishment. A food establishment that operates at a fixed location for a period greater than fourteen (14) consecutive days, but less than forty-five (45) consecutive days in conjunction with a single event or celebration.

(62) Sewage. Liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(63) Single-service articles. Cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended for one-time, one-person use, after which they are intended for discard.

(64) Single-use articles. Tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

(65) Slacking. The process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of minus ten (-10) degrees Fahrenheit to twenty-five (25) degrees Fahrenheit in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.

(66) Smooth. A food contact surface free of pits and inclusions, a non-food contact surface of equipment having a stainless steel surface; and a floor, wall or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

(67) Sound condition. Free from defect, decay or damage; healthy.

(68) Sufficient size. As much as is needed; adequate to contain all materials.

(69) TAC. Texas Administrative Code.

(70) Temporary food establishment. A food establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.

(71) Temporary event. Temporary events are defined as, but not limited to traveling fairs, carnivals, multicultural celebrations, special interest fundraisers, restaurant food shows, grand openings, customer appreciation days, athletic competition and other transitory gatherings.

(72) TCS. Time and temperature controlled for safety.

(73) TFER. Texas Food Establishment Rules, located in the 25 TAC, Sections 229.161 – 229.171, and Sections 229.173 – 229.175, as amended.

(74) Utensil. Any implement used in the storage, preparation, transportation, or service of food.

(75) Vending machine. A self-service device that, upon insertion of a coin, paper currency, token, card, key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

(76) Vending machine location. The room, enclosure, space or area where one or more vending machines are installed and operated and includes the storage and servicing areas on the premises that are used to service and maintain the vending machines.

(77) Warewashing. The cleaning and sanitizing of food contact surfaces of equipment and utensils.

(78) Wholesome. In good, sound condition; free from contamination or adulteration, healthy.

DIVISION 2. FOOD CARE

Sec. 6-235. Food Supplies.

(a) General. Food shall be safe, unadulterated, and wholesome. Food shall be obtained from sources that comply with all laws relating to food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

(1) Food establishment or manufacturers' dating information on food may not be concealed or altered.

(2) Food prepared in a private home may not be sold as retail or wholesale for human consumption.

(3) Potentially hazardous foods/time and temperature control for safety (PHF/TCS) can only be sold from a permitted food establishment.

(b) Special requirements.

(1) Fluid milk and fluid milk products used, served, or commercially sold shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.

(2) Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they are received until they are used. Each container of unshucked shell stock (oysters, clams, or mussels) shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quantity of shell stock and an interstate certification number issued by the state or foreign shellfish control agency.

(i) Shellstock tags shall remain attached to the container in which they are received until the container is empty and shall be maintained at facility for 90 calendar days from the date the container is emptied by using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served.

(ii) If shellstock are removed from their tagged or labeled container preserve, source identification by using a record keeping system and ensuring that shellstock from one tagged or labeled container is not commingled with shellstock from another container with different shellfish certification numbers, different harvest dates or different growing areas as identified on the tag or label.

(3) Only clean whole eggs, with shell intact and without cracks or checks or pasteurized liquid, frozen, or dry eggs or pasteurized dry egg products shall be used, except that hard boiled, peeled eggs, commercially prepared and packaged, may be used. Shell eggs that have not been specifically treated to destroy all viable Salmonella shall be labeled to include safe handling instructions as specified in law, including 21 CFR §101.17(h), as amended.

(4) Prepackaged juice shall be obtained from a processor with a HACCP system as specified in 21 CFR Part 120, as amended, be obtained pasteurized or otherwise treated to attain a 99.999% reduction of the most resistant microorganism of public health significance as specified in 21 CFR §120.24, as amended, or bear a warning label as specified in 21 CFR §101.17(g), as amended.

(5) Donation of Foods. Foods which are considered distressed, such as foods which have been subjected to fire, flooding, excessive heat, smoke, radiation or other environmental contamination or prolonged storage shall not be directly donated for consumption by the consumer. Foods may be sold or donated to a licensed food salvage establishment under TFER §229.164 (v), as amended.

(i) Foods which have been previously served to a consumer may not be donated.

(ii) Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption, shall be labeled to include safe handling instructions as specified in law, including 9 CFR §317.2(l) and 9 CFR §381.125(b), as amended.

(iii) A potentially hazardous food/time and temperature control for safety (PFH/TCS) may be donated if:

(a) The food has been kept at one hundred thirty five (135) degrees Fahrenheit during hot holding and service and subsequently refrigerated to meet the time and temperature requirements under this Article.

(b) The donor can substantiate that the food recipient has the facilities to meet transportation, storage and reheating requirements.

(c) The temperature of the food is at or below forty one (41) degrees Fahrenheit at the time of donation and is protected from contamination.

(c) Game animals. Game animals must be from a source approved by the Regulatory Authority and must be commercially processed. No game animal may be received for sale or service if it is listed in 50 CFR Part 17 and/or TFER §229.164(b)(7)(B), as amended. Approved sources include:

(1) As allowed by law, commercially raised indigenous game animals;

(2) Indigenous game animals harvested under the authority of the Texas Parks and Wildlife Department, which are wholesome at the time of delivery to a commercial processor.

(d) Fish.

(1) Fish that are received for sale or service shall be commercially and legally caught or harvested; or approved for sale or service.

(2) Molluscan shellfish that are recreationally caught may not be received for sale or service. Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. Molluscan shellfish received in the interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

(e) Wild mushrooms. Mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert in accordance with TFER §229.164(b)(6)(A), as amended.

(f) Bottled water. Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR Part 129 (Processing and Bottling of Bottled Drinking Water), as amended.

Sec. 6-236. Food Protection.

(a) General. Food shall be protected from potential contamination at all times, including while being stored, prepared, displayed, served or transported. Potential contamination to food includes but is not limited to: dust, insects, rodents, unclean equipment and utensils, unnecessary handling by the use of sanitary disposable gloves, coughs and sneezes, flooding, drainage, and overhead dripping from condensation.

(b) Emergency occurrences. In the event of an emergency situation, such as a fire, flood, extended power outage of thirty (30) minutes or longer, or similar event which might result in the contamination of food, or which might prevent potentially hazardous foods/time and temperature control for safety (PHF/TCS) from being held at required temperatures, the person in charge shall immediately contact the Regulatory Authority.

Upon receiving notice of an emergency situation, the Regulatory Authority shall take whatever action that it deems necessary to protect the public health.

(c) Specialized processing methods. A food establishment shall obtain a variance as specified in TFER §229.171(c)(relating to compliance and enforcement), as amended, before smoking or curing food; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food non-potentially hazardous; using a reduced oxygen method of packaging food, except as specified in this subsection where a barrier to *Clostridium botulinum* in addition to refrigeration exists; or preparing food by another method that is determined by the Regulatory Authority to require a variance. A food establishment that packages food using a reduced oxygen packaging method shall have a HACCP Plan that contains information in accordance with the TFER.

(d) Protection from unapproved additives.

(1) A food shall be protected from contamination that may result from the addition of:

- (i) Unsafe or unapproved food or color additives; and
- (ii) Unsafe or unapproved levels of approved and color additives.

(2) A food employee may not apply sulfating agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1 or serve or sell food specified in paragraph (1) above that is treated with sulfating agents before receipt by the food establishment, except that grapes need not meet this subparagraph.

(e) Treating juice. Juice packaged in a food establishment shall be:

(1) Treated under a HACCP plan as specified in TFER §229.171(d)(2)(B)-(D), as amended, to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; or

(2) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance:

- (i) As specified under TFER §229.164(r)(1)(A)-(B), as amended; and
- (ii) As specified in 21 CFR §101.17(g), as amended, with the phrase, “WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with a weakened immune system.”

Sec. 6-237. Food Storage.

(a) General.

(1) Food, whether raw or prepared, if removed from the container or package in which it was obtained shall be stored in a clean covered container intended for food storage except during necessary periods of preparation or service. Container covers shall be impervious and non-absorbent except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.

(2) Containers of food shall be stored a minimum of six (6) inches above the floor in the manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area except that:

(i) Metal pressurized beverage containers, and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture; and

(ii) Containers may be stored on dollies or racks, provided such equipment is easily moveable.

(3) Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.

(4) Food shall be protected from cross contamination by separating raw animal food during storage, preparation, holding and display from:

(i) raw, ready-to-eat food including other raw animal food such as fish, sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables and,

(ii) Cooked, ready-to-eat food.

(5) Except when combined as ingredients, raw animal foods of different types shall be separated from each other during storage, preparation, holding and display by:

(i) using separate equipment for each type; or

(ii) arranging each type of food in equipment so that cross contamination of one type with another is prevented; and

(iii) preparing each type of food at different times or in separate areas.

(6) Packaged food may not be stored in direct contact with ice or water if the food is subject to entry of water because of the nature of its packaging, wrapping or container or its position in the ice or water. Unpackaged food may not be stored in direct contact with undrained ice with the exception of whole, raw fruits and vegetables; cut, raw vegetables and tofu may be immersed in ice or water. Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while awaiting preparation, display, service or sale.

(7) Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar or flour not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name.

(8) Proper separation and identification of employee's personal food and items must be stored in a manner that will prevent contamination of items intended for public consumption.

(b) Refrigerated storage.

(1) Conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of all PHF/TCS at required temperatures during storage.

(2) Each mechanically refrigerated facility storing PHF/TCS shall be provided with a numerically scaled indicating thermometer, accurate to +/- 3 degrees Fahrenheit, located to measure the air

temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to +/- 3 degrees Fahrenheit, may be used in lieu of indicating thermometers.

(3) PHF/TCS requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of forty-one (41) degrees Fahrenheit or below. PHF/TCS of large volume or prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed four (4) hours. PHF/TCS to be displayed for sale or service or transported shall be pre-chilled and held at a temperature of forty one (41) degrees Fahrenheit or below.

(4) PHF/TCS shall be at a temperature of forty one (41) degrees Fahrenheit when received.

(5) Raw shell eggs, molluscan shellfish and milk shall be received in refrigerated equipment that maintains an ambient air temperature of forty-five (45) degrees Fahrenheit or less.

(6) Frozen foods shall be kept frozen and shall be stored at a temperature of zero (0) degrees Fahrenheit or below.

(7) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.

(8) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.

(c) Date marking.

(1) Prepared on premise ready-to-eat PHF/TCS held refrigerated for more than twenty-four (24) hours in a food establishment shall be clearly marked using calendar dates, days of the week, color coded marks, or other effective means to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified below. The day of preparation shall be counted as day 1, forty-one (41) degrees Fahrenheit or less for a maximum of seven (7) days; in countertop, under-counter and open-top refrigeration units located in the food preparation area and were in use prior to October 6, 2003, as specified in this Article.

(2) Commercially processed ready-to-eat food prepared and packaged by a food processing plant shall be clearly marked using calendar dates, days of the week, color-coded marks, or other effective means, at the time the original container is opened in a food establishment and if the food is held for more than twenty-four (24) hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in this chapter. The day the original container is opened in the food establishment shall be counted as day one; and the day or date marked by the food establishment may not exceed a manufacturers' use-by date if the manufacturer determined the use-by date based on food safety.

(3) A refrigerated, ready-to-eat PHF/TCS that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine, may be marked as specified in this subsection or by an alternative method acceptable to the Regulatory Authority.

(4) Alternative date marking systems must receive prior approval from the Regulatory Authority.

(5) Subsection (c)(2) of this Section does not apply to the following cheeses that are maintained under refrigeration as specified in this Article:

(i) hard cheeses manufactured as specified in 21 CFR §133.150, as amended, and with moisture content not exceeding thirty-nine percent (39%), such as cheddar, gruyere, parmesan, reggiano and romano;

(ii) semi-soft cheeses manufactured as specified in 21 CFR §133.187, as amended, and with a moisture content of more than thirty-nine percent (39%) but less than fifty percent (50%), such as blue, edam, gorgonzola, gouda, and Monterey jack; or

(iii) pasteurized process cheeses manufactured as specified in 21 CFR §133.169, as amended, and labeled as containing an acidifying agent.

(6) Subsection (c)(2) of this Section does not apply to the following when the face has been cut, but the remaining portion is whole and intact:

(i) fermented sausages produced in a federally inspected food processing plant that are not labeled “Keep Refrigerated” and which retain the original casing on the product;

(ii) shelf stable, dry, fermented sausages; and

(iii) shelf stable salt-cured products such as prosciutto and Parma (ham) produced in a federally inspected food processing plant that are not labeled “Keep Refrigerated.”

(7) Subsection (c)(2) of this Section does not apply to cultured dairy products as defined in 21 CFR Part 131, as amended, including yogurt, sour cream, and buttermilk, that are maintained under refrigeration as specified in this Article.

(8) Subsection (c)(2) of this Section does not apply to preserved fish products, such as pickled herring, and dried or salted cod and other acidified fish products defined in 21 CFR §114, Acidified Foods, as amended.

(9) A refrigerated, ready-to-eat PHF/TCS ingredient or a portion of a refrigerated, ready-to-eat PHF/TCS that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest prepared or first-prepared ingredient.

(d) Hot Storage.

(1) Conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing PHF/TCS shall be provided with a numerically scaled indicating thermometer, accurate to +/- three (3) degrees Fahrenheit, located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording thermometers, accurate to +/- three (3) degrees Fahrenheit, may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bain-maries, steam tables, steam kettles, heat lamps, cal-rod units or insulated food transport carriers, a product thermometer must be available and used to check internal food temperature.

(2) The internal temperature of PHF/TCS requiring hot storage shall be one hundred thirty five (135) degrees Fahrenheit or above except during necessary periods of preparation. PHF/TCS to be transported shall be held at a temperature of one hundred and thirty-five (135) degrees Fahrenheit or above unless maintained in accordance with Subsection (b)(2) of this Section.

Sec. 6-238. Food Preparation.

(a) Food handling. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross contamination.

(b) Food service employees may not use a utensil more than once to taste food that is to be sold or served.

(c) Food service employees shall prepare ready-to-eat foods using suitable utensils, such as tissue, spatulas, tongs, single use gloves or dispensing equipment.

(1) Food service employees shall wash their hands in a proper manner with soap and water.

(2) Limitations of glove use. Hands must be washed prior to use of gloves. If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose and discarded when damaged or soiled, or when interruptions occur in the operation. Slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified by these rules, such as frozen food or a primal cut of meat. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves are covered with a smooth, durable and non-absorbent glove or a single-use glove. Cloth gloves may not be used in direct contact with food, unless the food is subsequently cooked as required in this Article such as frozen food or a primal cut of meat.

(d) Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served. Fruits and vegetables may be washed by using chemical as specified under TFER §229.168(f)(2), as amended.

(e) Cooking PHF/TCS. PHF/TCS requiring cooking shall be cooked to heat all parts of the food to a temperature of at least one hundred and thirty five (135) degrees Fahrenheit, except that:

(1) Poultry, poultry stuffing, stuffed meat, stuffed fish, stuffed pasta, stuffed ratites, stuffing containing meat, wild game animals and exotic animals, shall be cooked to heat all parts of the food to at least one hundred sixty-five (165) degrees Fahrenheit, with no interruption of the cooking process.

(2) Pork and any food containing pork shall be cooked to heat all parts of the food to at least one hundred and fifty (150) degrees Fahrenheit.

(3) Rare roast beef shall be cooked to an internal temperature of at least one hundred thirty (130) degrees Fahrenheit, and rare beef steak shall be cooked to a temperature of one hundred thirty (130) degrees Fahrenheit, unless otherwise ordered by the immediate consumer.

(4) Reconstructed and/or ground beef products shall be cooked to an internal temperature of at least one hundred and fifty-five (155) degrees Fahrenheit for a minimum of fifteen (15) seconds, unless otherwise ordered by the immediate consumer.

(5) Plant food cooking for hot holding. Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of one hundred and thirty-five (135) degrees Fahrenheit.

(6) Consumers shall be informed by brochures, deli case menu advisories, label statements, table tents, placards, or other effective written means of the potential hazards of consuming raw animal food such as raw marinated fish; raw molluscan shellfish; steak tartar; partially cooked food such as lightly cooked fish, rare meat and soft cooked eggs that to ensure its safety.

(7) Food establishments which serve or sell an animal food such as beef, eggs, fish, lamb, pork, poultry, or shellfish which is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a

disclosure and reminder, using brochures, deli case or menu advisories, label statements, table tents, placards or other effective written means.

(i) Disclosure shall include a description of the animal-derived foods, such as “oysters on the half shell (raw oysters)”, “raw-egg Caesar salad” and “hamburgers (can be cooked to order)” or identification of the animal derived foods by asterisking them to a footnote that states that the items are served raw or under cooked or contain (or may contain) raw or under cooked ingredients.

(ii) Reminder shall include asterisking the animal-derived food requiring disclosure to a footnote that states that written information about the safety of these items is available upon request and includes one or both of the applicable statements below:

(a) Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of food-borne illness; and/or

(b) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of food-borne illness, especially if you have certain medical conditions.

(f) Parasite destruction. Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked or marinated-partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of minus four (-4) degrees Fahrenheit or below for one hundred and sixty-eight (168) hours (seven days) in a freezer (or minus thirty-one (-31) degrees Fahrenheit or below for fifteen (15) hours in a blast freezer. Records must be maintained for ninety (90) calendar days beyond the time of service or sale of the fish. If the fish are tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *thunnus obesus* (Bigeye tuna) or *Thunnus thynnus* (Bluefin, Northern), the fish may be served or sold in raw, raw-marinated or partially cooked ready-to-eat form without freezing. If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified may substitute for the records specified above.

(g) Dry milk and dry milk products. Reconstituted dry milk products may be used in instant desserts and whipped products or for cooking and baking purposes.

(h) Liquid, frozen, milk, dry eggs and egg products.

(1) Frozen milk products, such as ice cream, liquid, frozen, dry eggs and egg products shall be obtained pasteurized. Pasteurized liquid, frozen or dry eggs shall be substituted for raw eggs in preparation of: Caesar salad, hollandaise sauce or bernaise sauce, mayonnaise, meringue, eggnog, ice cream and egg fortified beverages.

(2) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in 21 CFR Part 133, as amended.

(3) Shell eggs that are broken, combined in a container, and not cooked immediately, are prohibited.

(i) Reheating. PHF/TCS that have been cooked and then refrigerated, shall be reheated rapidly to one hundred and sixty-five (165) degrees Fahrenheit or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bain-maries, warmers, and similar hot food holding facilities are prohibited for the rapid reheating of PHF/TCS.

(1) Preparation for immediate service. Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as roast beef sandwich au jus, may be served at any temperature.

(2) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food Regulatory Authority that has jurisdiction over the plant, shall be heated to a temperature of at least one hundred and thirty-five (135) degrees Fahrenheit for hot holding.

(j) Cooling. PHF/TCS that have been cooked and are required to be cooled shall be rapidly cooled to forty-one (41) degrees Fahrenheit or below within four (4) hours of preparation. PHF/TCS shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container. Raw shell eggs shall be received as specified in this Article and immediately placed in refrigerated equipment that maintains an ambient air temperature of forty-one (41) degrees Fahrenheit or less.

(k) Product thermometers. Metal stem type numerically scaled indicating thermometers, accurate to +/- two (2) degrees Fahrenheit, shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all (PHF/TCS).

(l) Thawing PHF/TCS. PHF/TCS shall be thawed:

(1) Under refrigeration that maintains the food temperature at forty-one (41) degrees Fahrenheit or less as specified in this chapter;

(2) Completely submerged under running water:

(i) at a water temperature of seventy (70) degrees Fahrenheit or below; and

(ii) with sufficient water velocity to agitate and float off loose particles in an overflow; and

(iii) for a period of time that does not allow thawed portions of ready-to-eat food to rise above forty-one (41) degrees Fahrenheit of this chapter; and

(iv) for a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified in this chapter to above forty-one (41) degrees Fahrenheit, for more than four (4) hours including the time the food is exposed to the running water and the time needed for preparation for cooking; or the time it takes under refrigeration to lower the food temperature to forty-one (41) degrees Fahrenheit;

(3) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of the continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

(4) As part of the conventional cooking process. If the food that is frozen is cooked as specified in this chapter, or using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

(m) Slacking. Frozen PHF/TCS that is slacked to moderate the temperature shall be held under refrigeration that maintains the food temperature at forty-one (41) degrees Fahrenheit or less or at any temperature if the food remains frozen.

(n) Microwave Cooking. Raw animal foods cooked or reheated in the microwave oven shall be:

(1) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(2) Covered to retain surface moisture;

(3) Heated to a temperature of at least one hundred and sixty-five (165) degrees Fahrenheit in all parts of the food; and

(4) Allowed to stand covered for two (2) minutes after cooking to obtain temperature equilibrium.

(o) Highly susceptible populations. Food establishments that serve highly susceptible populations must comply with all rules in accordance with TFER §229.164(u), as amended, and Federal Food and Drug Administration's Food Code, Section 3-801.11, as amended.

(p) Outdoor grilling. Outdoor grilling by all permitted food establishments on a permanent basis must comply with food establishment standards as required in this Article. Outdoor grilling at temporary events must be approved and permitted by the City of Allen Environmental Health Department in accordance with temporary guidelines in Section 6-276 (b)(4). Outdoor grilling for personal and residential use is permitted and outside the scope of this regulation.

Sec. 6-239. Food Display and Service.

(a) PHF/TCS. PHF/TCS shall be kept at an internal temperature of forty-one (41) degrees Fahrenheit or below or at an internal temperature of one hundred and thirty-five (135) degrees Fahrenheit or above during storage, preparation, display, service and transport, except that rare roast beef shall be held for service at a temperature of at least one hundred and thirty (130) degrees Fahrenheit.

(b) Time as a public health control. If time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of PHF/TCS before cooking, or for ready-to-eat PHF/TCS that is displayed or held for service for immediate consumption:

(1) The food shall be marked, labeled, tagged or otherwise unmistakably identified to indicate the time which is four hours past the point when the food was removed from temperature control;

(2) The food shall be cooked and served, served if a ready-to-eat food or discarded within four hours of the time at which the food was removed from temperature control;

(3) The food in unmarked containers or packages or marked to exceed a four hour time limit shall be discarded; and

(4) Written procedures shall be maintained in the food establishment and made available to the Regulatory Authority upon request, to ensure compliance.

(c) Milk and cream dispensing.

(1) Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one (1) pint in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where it is necessary to provide individual servings under special institutional circumstances, milk and milk products may be poured from a commercially filled container provided such a procedure is authorized by the Regulatory Authority. Where a bulk dispenser for milk and milk products is not available and portions of less than one-half-pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container.

(2) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one (1) inch protruding from the chilled dispensing head.

(3) Cream or half and half shall be provided in an individual service container, protected pour-type pitcher or drawn from a refrigerated dispenser designed for such service.

(d) Nondairy products dispensing. Nondairy cream shall be provided in an individual service container, protected pour-type pitcher or drawn from a refrigerated dispenser designed for such service.

(e) Condiment dispensing.

(1) Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers or from containers protected in accordance with Subsection (h) of this Section.

(2) Condiments provided for table or counter service shall be individually portioned, except that ketchup and other sauces may be served in the original container or pour type dispenser. Sugar for consumer usage shall be provided in individual packages or in pouring-type dispensers.

(f) Ice dispensing. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-self-dispensing utensils or through automatic service ice dispensing equipment. Ice dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.

(g) Dispensing utensils. To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:

(1) Stored in the food with the dispensing utensil handle extended out of the food; or

(2) Stored clean and dry; or

(3) Stored in running water; or

(4) Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts; or

(5) In a container of water if the water is maintained at a temperature of at least one hundred and thirty-five (135) degrees Fahrenheit and the container is cleaned at a frequency specified under TFER §229.165(n)(1)(D)(vii), as amended.

(h) Re-service. Once served to a consumer, portions of left-over food shall not be served again except that packaged food, other than PHF/TCS, that is still packaged and is still in sound condition may be served.

(i) Display equipment. Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleaned counter, serving line or salad bar protector devices, display cases or by other effective means. The minimum height requirement for sneeze guards is eighteen (18) inches unless otherwise specified by the Regulatory Authority. Enough hot or cold food facilities shall be available to maintain the required temperatures of PHF/TCS on display.

(j) Reuse of tableware. Reuse of soiled tableware by self-service consumers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt from this requirement.

(k) Unpackaged, raw animal food such as beef, lamb, pork, poultry and fish may not be offered for consumer self-service. This does not apply to consumer self-service or ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish, or ready-to-cook individual portions for immediate

cooking and consumption on the premises such as consumer cooked meats or consumer selected ingredients for Mongolian barbeque type facilities; or raw, frozen, shell-on shrimp or lobster.

(1) A card, sign or other effective means of notification shall be displayed to notify consumers that clean tableware is to be used upon return to self-service areas such as salad bars and buffets.

(2) Consumers self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.

(3) A person may sell unpackaged food that is not potentially hazardous that is displayed, and sold in bulk from a self-service container if:

(i) The self-service container has tight-fitting lid that is securely attached to the container; and

(ii) The container, lid and any utensil are constructed of nontoxic materials that provide for easy cleaning and proper repair.

(iii) The lid of a gravity feed type container shall be kept closed except when the container is being serviced or refilled.

(iv) The lid of a scoop utensil type container shall be kept closed except during customer service. The container must have a utensil, equipped with a handle, to be used in dispersing the food.

(4) The seller shall:

(i) Keep the container, lid, and any utensil sanitary to prevent spoilage and insect infestation; and

(ii) Post in the immediate display area a conspicuous sign that instructs the customer on the proper procedure for dispensing the food.

Sec. 6-240. Food Transportation.

During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of this Article relating to food protection and food storage.

Sec. 6-241. HACCP Plan Requirements.

(a) If a HACCP plan is required by the Regulatory Authority. Before engaging in an activity that requires a HACCP plan, a food establishment shall submit to the Regulatory Authority for approval a properly prepared HACCP plan as specified under Subsection (b) of this Section and the relevant provisions of these rules if a variance is required. A food establishment shall have a properly prepared HACCP plan as specified in TFER §229.161--229.175, as amended.

(b) Contents of a HACCP plan. For a food establishment that is required under Subsection (a) of this Section to have a HACCP plan, the plan and specifications shall indicate:

(1) A categorization of the types of PHF/TCS that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the Regulatory Authority;

(2) A flow diagram by specific food and category type identifying critical control points and providing information on the following:

(i) Ingredients, materials, and equipment used in the preparation of the food; and

(ii) Formulation or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

(3) Food employee and supervisory training plan for the person(s) in charge and food employee(s) pertaining to public health and the safety and integrity of food;

(4) A statement of standard operating procedures for the plan under consideration including and clearly identifying:

(i) Each critical control point;

(ii) The critical limits for each critical control point;

(iii) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person-in-charge;

(iv) The method and frequency for the person-in-charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;

(v) Action to be taken by the person-in-charge if the critical limits for each critical control point are not met; and

(vi) Records to be maintained by the person-in-charge to demonstrate that the HACCP plan is properly operated and managed; and

(5) Additional scientific data or other information, as requested by the Regulatory Authority, supporting the determination that food safety is not compromised by the proposal.

DIVISION 3. PERSONNEL

Sec. 6-242. Employee Health.

(a) No person while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound or an acute respiratory infection, shall work in a food establishment in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.

(b) There shall be a certified food manager on duty at all times at each permitted food establishment. Certification must be obtained by passing an examination approved by the Texas Department of State Health Services and the Regulatory Authority.

(c) All food employees shall be required to successfully complete a food handler class taught by an accredited institution or other approved course within sixty (60) days of hire. Food handler cards shall be good for a period of two (2) years from the date of issue.

(d) Food employees experiencing persistent sneezing, coughing or a runny nose that causes discharges from the eyes, nose or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrap single-service or single-use articles.

(e) The owner or person-in-charge shall require food employees to provide information about their health and activities as they relate to diseases that are transmissible through food. The person-in-charge shall notify the Regulatory Authority that a food employee is diagnosed with an illness due to Norovirus, Salmonella typhi, Shigella spp., Shiga toxin-producing Escherichia coli or Hepatitis A virus.

Sec. 6-243. Personal Hygiene.

(a) Food employees shall clean their hands and exposed portions of their arms (or surrogate prosthetic devices for hand or arms) for at least (twenty) 20 seconds, using a cleaning compound in a lavatory that is properly equipped. Food employees shall use the following cleaning procedure:

(1) Vigorous friction on the surface of the lathered fingers, finger tips, areas between the fingers, hands and arms (or vigorous rubbing the surrogate prosthetic devices for hands or arms) for at least ten to fifteen (10 to 15) seconds followed by;

(2) Thorough rinsing under clean, running water, and;

(3) Immediately follow the cleaning procedure with drying of cleaned hands and arms (or surrogate prosthetic devices);

(4) Food employees shall pay particular attention to the areas underneath the fingernails during cleaning procedures.

(b) Food employees shall keep their fingernails clean, trimmed, unpainted, filed and maintained so the edges and surfaces are not rough.

(c) A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to at least one hundred (100) mg/L chlorine.

(d) A chemical hand sanitizing solution used as a hand dip shall have active antimicrobial ingredients that are listed as safe and effective for application to human skin in accordance with TFER §229.163(j), as amended.

Sec. 6-244. Clothing.

(a) The outer clothing of all employees shall be clean.

(b) Except as provided under Subsection (c) of this Section, food employees shall wear hair restraints such as hats, hair coverings or nets, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(c) This section does not apply to food employees such as facility management, counter-staff who only serve beverages and wrapped or packaged foods, hostesses and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(d) Employees shall remove all jewelry from the arms and hands, which cannot be adequately sanitized during periods when food is being prepared. This does not apply to a plain ring such as a band-style-wedding ring.

Sec. 6-245. Employee Practices.

(a) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination of other food, equipment, utensils, or other items needing protection.

(b) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in equipment washing or utensil washing or food preparation areas.

(c) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

(d) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food establishment.

Sec. 6-246 to 6-250. Reserved.

DIVISION 4. EQUIPMENT AND UTENSILS

Sec. 6-251. Materials.

(a) General. Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Equipment, utensils, and single service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

(b) Lead. Pewter alloys containing lead in excess of 0.05 percent may not be used as food contact surfaces. Solder and flux containing lead in excess of 0.2 percent may not be used as a food contact surface.

(c) Solder. If solder is used, it shall be composed of safe materials and be corrosion resistant and comply with the Plumbing Code.

(d) Wood. Hard maple or equivalently nonabsorbent materials that meet the general requirements set forth in subsection (a) of this Section may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used as specified in TFER §229.165(a)(9), as amended, for single-service articles, such as chopsticks, stirrers, or ice cream spoons. The use of wood as a food-contact surface under other circumstances must be approved by the Regulatory Authority.

(e) Plastics. Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in Subsection (a) of this Section, are permitted for repeated use.

(f) Mollusk and crustacean shell. Mollusk and crustacean shells may be used only once as a serving container. Further reuse of such shells for food service is prohibited.

(g) Single-service. Reuse of single-service articles is prohibited.

Sec. 6-252. Design and Fabrication.

(a) General. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, peeling, pitting, chipping and crazing.

(b) Equipment in new or extensively remodeled establishments shall be National Sanitation Foundation or equivalent approval. Any other equipment is subject to approval by the Regulatory Authority. The Regulatory Authority may direct the replacement of equipment and utensils if they constitute a public health

hazard or nuisance or no longer comply with the following criteria upon which the facilities and equipment are acceptable:

(1) Food contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits and similar imperfections, and free of difficult to clean internal corners and crevices.

(2) Cast iron may be used as a food contact surface only if the surface is heated, such as in grills, griddle tops and skillets.

(3) Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems such threads shall be minimized.

(4) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip or be forced into food or onto food-contact surfaces.

(5) Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces. Lubricants with incidental food contact shall meet the requirements specified in 21 CFR §178.3570, as amended, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip or be forced into food or onto food-contact surfaces.

(6) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice, provided that such tubing is fabricated from safe materials, is grommeted at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

(7) Sinks and drain boards shall be self-draining.

(c) Accessibility. Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

(1) Without being disassembled; or

(2) By disassembling without the use of tools; or

(3) By easy disassembling with the use of only simple tools such as a mallet, a screwdriver or an open-end wrench.

(d) In-place cleaning. Equipment intended for in-place cleaning shall be so designed and fabricated that:

(1) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

(2) Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

(3) The system is self-draining or capable of being completely evacuated.

(4) Clean in Place (CIP) equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food contact surfaces throughout the fixed system are being effectively cleaned.

(e) Pressure-spray cleaning. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches and connections.

(f) Thermometers. Indicating thermometers required for immersion into food or cooking media shall be of metal stem type construction, numerically scaled and accurate to +/- two (2) degrees Fahrenheit.

(g) Nonfood-contact surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, nonabsorbent, corrosion-resistant, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

(h) Ventilation hoods design. Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings and from dripping into food or onto food contact surfaces.

(1) Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place. All ventilation hoods and related equipment must be installed accordance with the International Mechanical Code.

(2) Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

(i) Existing equipment. Equipment which was installed in a food establishment prior to the effective date of this Article, and which does not fully meet all of the design and fabrication requirements of this Section, shall be deemed acceptable in that establishment as long as there is no change of ownership, in good repair and capable of being maintained in a sanitary condition and the food-contact surfaces are nontoxic. Replacement equipment and new equipment acquired after the effective date of this Article shall meet the requirements of this chapter.

Sec. 6-253. Equipment Installation and Location.

(a) General. Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.

(b) Table mounted equipment.

(1) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four (4) inch clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(2) Equipment is portable within the meaning of Section 6-253 (b)(1) if:

(i) It is small and light enough to be moved easily by one (1) person; and

(ii) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

(c) Floor-mounted equipment. Floor mounted equipment, unless readily moveable, shall be:

(1) Sealed to the floor; or

(2) Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance; or

(3) Elevated on legs to provide at least a six-inch clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a four-inch clearance between the floor equipment if no part of the floor under the mixer is more than six (6) inches from cleaning access.

(d) Equipment is easily movable if:

(1) It is mounted on wheels or casters; and

(2) It has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

(3) Unless sufficient space is provided for easy cleaning between and behind each unit of floor-mounted equipment, the space between it and adjoining equipment units, and between it and adjacent walls, shall be closed; or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls.

(e) Aisles and working spaces. Aisles and working spaces between units of equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

DIVISION 5. CLEANING, SANITATION AND STORAGE OF EQUIPMENT AND UTENSILS

Sec. 6-254. Equipment and Utensil Cleaning and Sanitization.

(a) Cleaning frequency.

(1) Tableware shall be washed, rinsed and sanitized after each use.

(2) The food contact surfaces of equipment shall be kept free of food debris and other oil accumulations. Equipment food contact surfaces and utensils shall be clean to sight and touch.

(3) Equipment food contact surfaces and utensils shall be cleaned and sanitized: before each use with a different type of raw animal food such as beef, fish, lamb, pork or poultry; each time there is a change from working with raw foods to working with ready-to-eat foods; between uses with raw fruits or vegetables and with potentially hazardous food; before using or storing a food temperature measuring device; and at any time during the operation when contamination may have occurred.

(4) The food contact surfaces of cooking and baking equipment, similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day (or at a frequency to preclude accumulation of soil residues). Except that this shall not apply to hot oil cooking equipment and oil filtering equipment.

(5) The food contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

(6) The Regulatory Authority approves cleaning schedules based on consideration of:

(i) characteristics of equipment and its use;

(ii) the type of food involved;

(iii) the amount of food residue accumulation, the temperature at which the food is maintained during the operation, and the potential for rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease.

(7) Nonfood contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulations of dust, dirt, food particles, and other debris.

(b) Wiping cloths.

(1) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.

(2) Moist cloths for wiping used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in an approved sanitizing solution and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.

(3) Moist cloths used for cleaning nonfood-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and rinsed as specified in (b)(2) of this Section, and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.

(4) Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of food debris and visible soil.

(5) Working containers of sanitizing solution for storage of in-use wiping cloths may be placed above the floor and used in a manner to prevent contamination of food, equipment, utensils, linens, single-service or single-use articles.

(6) Scouring type pads may only be used for scraping and scouring soiled dishware.

(c) Manual cleaning and sanitizing.

(1) A three (3) compartment sink shall be used for washing, rinsing and sanitizing of utensils and equipment done manually. Existing establishments not having a three (3) compartment sink that can demonstrate an acceptable procedure for washing, rinsing and sanitizing utensils and equipment may be exempted from this requirement by the Regulatory Authority. Sinks shall be large enough to permit the complete immersion of the utensils and equipment and each compartment sink shall be supplied with hot and cold potable running water. Suitable equipment shall be made available if washing, rinsing and sanitizing cannot be accomplished by immersion. Two (2) compartment sinks are not acceptable.

(2) Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(3) Equipment and utensils shall be pre-flushed or pre-scraped and, when necessary, pre-soaked to remove gross food particles and soil.

(4) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

(i) Sinks shall be cleaned prior to use; and

(ii) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean; and

(iii) Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and

(iv) Equipment and utensils shall be sanitized in the third compartment according to one (1) of the methods included in Subsection (5) (i)-(v) of this Section.

(5) The food-contact surfaces of all equipment and utensils shall be sanitized by:

(i) Immersion for at least thirty (30) seconds in clean, hot water at a temperature of at least one hundred and seventy-one (171) degrees Fahrenheit; or

(ii) Immersion for at least sixty (60) seconds in a clean solution containing at least fifty (50) mg/L of available chlorine as a hypochlorite and a temperature of at least seventy-five (75) degrees Fahrenheit or

(iii) Immersion for at least sixty (60) seconds in a clean solution containing at least twelve and one-half (12.5) mg/L of available iodine and have a pH not higher than five (5) and at a temperature of at least seventy-five (75) degrees Fahrenheit; or

(iv) Immersion in a solution of quaternary ammonia shall have a minimum temperature of seventy-five (75) degrees Fahrenheit; have a concentration of two hundred (200) mg/L or as indicated by the manufacturer use directions included in the labeling and used in water with five hundred (500) mg/L hardness or less or in water having a hardness no greater than specified by the manufacturer label.

(v) If immersion in a clean solution containing any other solution of chlorine, quaternary ammonia or iodine is used, the permit holder shall demonstrate to the Regulatory Authority that the solution achieves sanitization.

(vi) If a chemical sanitizer other than chlorine, iodine, quaternary ammonium compound is used, it shall meet the requirements as specified in 21 CFR §178.1010, as amended. Sanitizing Solutions are approved by the Regulatory Authority and applied in accordance with the manufacturers use directions included in the labeling.

(vii) Treatment with steam, free from harmful materials or additives in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

(viii) Rinsing. Spraying or swabbing with a chemical sanitizing solution at least twice the strength required for that particular sanitizing solution under (v) and (vi) of this Subsection, in the case of equipment too large to sanitize by immersion.

(6) When hot water is used for sanitizing, the following facilities shall be provided and used:

(i) An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of one hundred and seventy-one (171) degrees Fahrenheit; and

(ii) A numerically scaled indicating thermometer, accurate to +/- three (3) degrees Fahrenheit, convenient to the sink for frequent checks of water temperature; and

(iii) Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

(7) When chemicals are used for sanitization, a test kit or other device that accurately measures the milligrams per liter concentration of the solution shall be provided, available, and used.

(d) Mechanical cleaning and sanitizing.

(1) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machines or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agents, dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.

(2) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than fifteen (15) nor more than twenty-five (25) pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A one-fourth (1/4) inch IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

(3) Machine or water line mounted numerically scaled indicating thermometers accurate to +/- three (3) degrees Fahrenheit, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(4) Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.

(5) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily moveable dish tables for the storage of soiled utensils or the use of easily moveable dish tables for the storage of clean utensils following sanitization.

(6) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a prewash cycle is a part of dishwashing machine operation. Equipment and utensils shall be placed in racks, trays or baskets, or on conveyors, in a way that food contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

(7) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used, provided that:

(i) The temperature of the wash water shall not be less than one hundred and twenty (120) degrees Fahrenheit; and

(ii) The wash water shall be kept clean; and

(iii) Chemicals added for sanitization purposes shall be automatically dispensed; and

(iv) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with the manufacturers' specifications for time and concentration or an exposure time of at least seven (7) seconds for a chlorine solution of fifty (50) mg/L that has a pH of ten (10) or less and a temperature of at least one hundred (100) degrees Fahrenheit or a pH of eight (8) or less and a temperature of at least seventy-five (75) degrees Fahrenheit. An exposure time of thirty (30) seconds is required for other chemical sanitizing solutions, and

(v) The chemical sanitizing rinse water temperature shall not be less than seventy-five (75) degrees Fahrenheit nor less than the temperature specified by the machine's manufacturer, and

(vi) Chemical sanitizers used shall be approved and a test kit or device that accurately measures the milligrams per liter concentration of the solution shall be available and used.

(8) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained not less than the temperatures stated below:

(i) Single-tank, stationary-rack, dual-temperature machine:

Wash temperature 150°F (66°C)

Final rinse temperature 180°F (82°C)

(ii) Single-tank, stationary-rack single-temperature machine:

Wash temperature 165°F (74°C)

Final rinse temperature 165°F (74°C)

(iii) Single-tank, conveyor machine:

Wash temperature 160°F (71°C)

Final rinse temperature 180°F (82°C)

(iv) Multi-tank, conveyor machine:

Wash temperature 150°F (66°C)

Pumped rinse temperature 160°F (71°C)

Final rinse temperature 180°F (82°C)

(v) Single-tank, pot, pan, and utensil washer (either stationary or moving rack):

Wash temperature 140°F (60°C)

Final rinse temperature 180°F (82°C)

(9) All dishwashing machines shall be thoroughly cleaned once per day or more often when necessary to maintain them in a satisfactory operating condition.

(10) A warewashing machine that is installed after adoption of this Article shall be equipped to:

(i) Automatically dispense detergents and sanitizers; and

(ii) Incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergent and sanitizers are not delivered to the respective washing and sanitizing cycles.

(e) Drying. After sanitization, all equipment and utensils shall be air-dried. The use of towels is prohibited.

Sec. 6-255. Equipment and Utensil Storage.

(a) Handling. Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the users' mouth.

(b) Storage.

(1) Cleaned and sanitized utensils and equipment shall be stored at least six (6) inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(2) Utensils shall be air dried before being stored or shall be stored in a self-draining position.

(3) Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, whenever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is pre-wrapped, holders for knives, forks and spoons at self-service locations, shall protect these articles from contamination and present the handle of the utensil to the consumer.

(4) If presented, all unprotected, unused, preset tableware shall be collected for washing and sanitizing after the meal period; and after any place at a table or counter is occupied.

(c) Single service articles.

(1) Single-service articles shall be stored at least six (6) inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(2) Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.

(3) Single-service knives, forks, and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks, and spoons are pre-wrapped or pre-packaged, holders shall be provided to protect these items from contamination, and present the handle of the utensil to the consumer.

(d) Prohibited Storage Area. The storage of food, equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.

DIVISION 6. SANITARY FACILITIES AND CONTROLS

Sec. 6-256. Water Supply.

(a) General. Enough potable water for the needs of the food establishment shall be provided from a source constructed and operated according to law.

(b) Transportation. All potable water not provided directly by pipe to the food establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed water system. Both of these systems shall be constructed and operated according to law.

(c) Bottled water. Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

(d) Water under pressure. Water under pressure at the required temperatures shall be provided at all fixtures and equipment that use water.

(e) Hot Water. Hot water generation and distribution systems shall be sufficient to meet peak hot water demands throughout the food establishment. Water under pressure at the required minimum temperature of one hundred (100) degrees Fahrenheit must be provided.

(f) Steam. Steam used in contact with food or food-contact surfaces shall be free from any harmful materials or additives.

Sec. 6-257. Sewage.

All sewage, including liquid waste, shall be disposed of by a public sanitary sewer system. Non-water carried sewage disposal facilities are prohibited, except as otherwise permitted by this Article in relation to temporary food establishments, or as permitted by the Regulatory Authority.

Sec. 6-258. Plumbing.

(a) General. Plumbing shall be sized, installed and maintained in accordance with the Plumbing Code. There shall be no cross-connection between the potable water supply and any non-potable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

(b) Non-potable water system. A non-potable water system is permitted to provide water only for purposes such as air-conditioning and fire protection and only if the system is installed according to law and the non-potable water does not contact, directly or indirectly, food, potable water, equipment, that contacts food, or utensils. The piping of any non-potable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

(c) Backflow.

(1) The potable water system shall be installed to preclude the possibility of backflow. A backflow or back-siphon prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (ASSE) standards for construction, installation, maintenance, inspection and testing for that specific application and type of device.

(2) An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 1-inch (25 millimeters). Air gaps shall comply with American Society of Mechanical Engineer standards.

(3) A backflow prevention device shall be located so that it may be serviced and maintained.

(4) A hose shall not be attached to a faucet unless a backflow prevention device is installed.

(d) Grease traps.

(1) Grease traps shall be required and located to be easily accessible for cleaning.

(2) Grease traps shall be located outside the food preparation area unless otherwise approved by the Regulatory Authority.

(e) Garbage grinders. If used, garbage grinders shall be installed and maintained according to law.

(f) Drains. Except for properly trapped open sinks, there shall be no direct connection between the sewage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. Floor drains must be properly covered with drain grates. When a dishwashing machine is located within five (5) feet of a trapped floor drain, the dishwasher waste outlet may be connected to a properly vented floor drained trap if permitted by the Plumbing Code.

Sec 6-259. Toilet Facilities.

(a) Toilet installation. Toilet facilities shall be installed, shall be the number required in accordance with the Plumbing Code, shall be conveniently located, and shall be accessible to employees at all times. Restrooms must be made available to the public in establishments with on-site consumption.

(b) Toilet design. Toilets and urinals shall be designed to be easily cleanable.

(c) Toilet rooms. Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance.

(d) Toilet fixtures. Toilet fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms shall have at least one (1) covered waste receptacle.

Sec 6-260. Lavatory Facilities.

(a) Lavatory installation. Lavatories shall be at least the number required by law, shall be installed according to law, and shall be located to permit convenient use by all employees in food preparation areas and utensil-washing areas. Lavatories shall be accessible to employees at all times. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.

(b) Handsinks. A separate sink assigned for handwashing providing hot and cold running water tempered through a mixing valve shall be located to be accessible to each food preparation and utensil washing area. A handsink shall be located within twenty-five (25) linear feet of food preparation and utensil washing areas so it is convenient for employees to wash hands. Floor pedals, knee pedals, electronic eye and metered faucets are allowable. A liquid soap dispenser and individual sanitary hand towels are required. Blow dryers are not allowed in food preparation areas.

(c) Lavatory faucets. Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metered faucet used shall be designed to provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.

(d) Lavatory supplies. A supply of hand-cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.

(e) Lavatory maintenance. Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

Sec 6-261. Garbage and Refuse.

(a) Containers.

(1) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof, and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet strength paper bags may be used to line these containers, and they may be used for storage inside the food establishment.

(2) Containers used in food preparation and utensil-washing areas shall be kept covered except when actually in use.

(3) Containers stored outside the establishment, and dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

(4) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulate. The Regulatory Authority may require additional service, dumpsters or larger dumpsters to accommodate the garbage and refuse that accumulates at the food establishment.

(5) Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils or food preparation areas.

(6) Suitable facilities, including hot water and detergent or steam shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage. Power washing and contracted cleaning services shall be performed according to applicable law.

(b) Storage.

(1) Garbage and refuse on the premises shall be stored in a manner to make it inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited.

(2) Cardboard or other packaging materials that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

(3) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof and shall be large enough to store the garbage and refuse containers that accumulate.

(4) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters, and compactor systems located outside shall be stored on or above a smooth surface of nonabsorbent material, such as concrete, or machine-laid asphalt that is kept clean and maintained in good repair.

(c) Disposal. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

Sec 6-262. Insect and Rodent Control.

(a) Effective measures intended to prevent the presence of rodents, flies, cockroaches and other insects on the premises shall be utilized as determined by the Regulatory Authority. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

(b) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device. Insect control devices shall be installed so that the devices are not located over food preparation area; and dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(c) Preventive application for insect and rodent control shall be performed by a certified pest control operator.

(d) Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. 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.

(e) If the opening to the outside is near an exterior trash receptacle, grease-trap or other insect attractant, the Regulatory Authority may require an automatic air curtain above the door to prevent flying insect infestation.

DIVISION 7. CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES

Sec 6-263. Floors.

(a) Floor construction. Floors and floor coverings of all food preparation, food service, food storage, and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth durable material such as terrazzo, ceramic or quarry tile, or the equivalent as approved by the Regulatory Authority and shall be maintained in good repair. A coved base tile must also be used in these areas. Sealed concrete and VCT (vinyl composite tile) are not acceptable as a floor surface for areas mentioned above.

(b) Sealed concrete may be used in walk-in freezer units maintaining a temperature of zero (0) degrees Fahrenheit or below. Nothing in this Section shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

(c) Floor carpeting. A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to grease, moisture, flushing, or spray cleaning methods. If carpeting is installed as a floor covering in areas other than those specified above, it shall be: securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and install tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and the edges of the carpet secured by metal stripping or some other means.

(d) Prohibited floor covering. The use of cardboard, sawdust, wood shavings, peanut hulls, or similar materials as a floor covering is prohibited.

(e) Floor drains. Proper installed, trapped floor drains shall be provided in floors that are water flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Properly trapped floor drains are required in all restrooms unless deemed not necessary by the Regulatory Authority. Such floor drains shall be constructed of stainless steel, terrazzo, ceramic or quarry tile or similar material and shall be graded to drain.

(f) Mats and duckboards. Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.

(g) Floor junctures. In all new or extensively remodeled establishments utilizing stainless steel, terrazzo, ceramic or quarry tile or similar materials, and where water flush cleaning methods are used, the junctures between walls and floors shall be of the same material and coved.

(h) Utility line installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

Sec 6-264. Walls and Ceilings.

(a) Maintenance. Walls and ceilings, including doors, windows, skylights and similar closures, shall be clean and maintained in good repair.

(b) Construction. The walls, including non-supporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, dry storage areas, food storage areas, equipment-washing and utensil washing areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent and easily cleanable such as FRP (fiberglass reinforced paneling), stainless steel ceramic, quarry or terrazzo tile or equivalent approved by the Regulatory Authority. Walls located adjacent to cooking equipment that utilizes high heat require stainless steel sheeting or equivalent as approved by the Regulatory Authority.

(c) Exposed construction. Studs, joists, and rafters shall not be exposed in those areas listed in Subsection (b) of this Section. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

(d) Utility line installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in Subsection (b) of Section.

(e) Attachments. Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to the walls and ceilings shall be easily cleanable and shall be maintained in good repair.

(f) Covering material installation. Wall and ceiling materials shall be attached and sealed so as to be easily cleanable.

Sec 6-265. Cleaning of Physical Facilities.

(a) General. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Cleanings of floors and walls, except emergency cleaning of floors, shall be done during periods when least amount of food is exposed, such as after closing or between meals. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning or the use of dust arresting sweep compounds with brooms.

(b) Utility facility. In new or extensively remodeled establishments at least one (1) utility sink or curbed cleaning facility with a floor drain shall be installed and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of lavatories, utensil-washing or equipment-washing or food preparation sinks for this purpose is prohibited.

Sec. 6-266. Lighting.

(a) General. At least fifty (50) foot candles of light shall be provided to all working surfaces and at least thirty (30) foot candles of light shall be provided to all other surfaces and equipment in food preparation, utensil-washing, and handwashing areas, and in toilet rooms. At least twenty (20) foot candles of light at a

distance of thirty (30) inches from the floor shall be provided in all other areas, except that this requirement applies to dining areas only during cleaning operations.

(b) All light fixtures must be maintained clean, operational, and in good repair.

(c) Protective shielding.

(1) Shielding to protect against broken glass falling onto food shall be provided and maintained in good repair for all artificial lighting fixtures located over, by, or within food storage, food preparation, food service, and food display facilities and facilities where utensils and equipment are cleaned and stored.

(2) Infra-red or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed. Teflon coated safety bulbs are permitted.

Sec. 6-267. Ventilation.

(a) General. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated according to law, kept clean, maintained in good repair, vented to the outside and shall not create an unsightly, harmful or unlawful discharge.

(b) Special ventilation.

(1) Intake and exhaust air-ducts shall be maintained to prevent the entrance of dust, dirt and other contaminating materials.

(2) In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside.

(3) Ventilation hoods are required for any cooking, grilling, baking, and frying areas or as required by the latest edition of the International Mechanical Code adopted and amended pursuant to Article III of the Allen Land Development Code.

Sec. 6-268. Dressing Rooms and Locker Room Areas.

(a) Dressing rooms and areas. If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service or for utensil washing or storage.

(b) Locker area. Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

(c) Personal items. Personal items shall not be stored in food storage, food preparation or food service areas.

Sec. 6-269. Poisonous or Toxic Materials.

(a) Materials permitted. Only those poisonous or toxic materials necessary for the maintenance of the establishment, cleaning or sanitizing of equipment and utensils, and the control of insects and rodents shall be present in food establishment.

(b) Labeling of materials. Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents.

(c) Storage of materials.

(1) Poisonous or toxic materials consist of the following three (3) categories:

- (i) Insecticides and rodenticides;
- (ii) Detergents, sanitizers, and related cleaning or drying agents; and
- (iii) Caustics, acids, polishes, and other chemicals.

(2) Each of these categories shall be stored and located to be physically separated from each other. All poisonous or toxic materials shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose. To preclude potential contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils or single-service articles, except that this requirement does not prohibit the convenient availability of detergent or sanitizers at utensil or dishwashing stations.

(d) Use of Materials.

(1) Bactericides, cleaning compounds or other compounds intended for use on food contact surfaces, shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that presents a hazard to employees or other persons.

(2) Poisonous or toxic material shall not be used in a way that contaminates food, equipment or utensils, nor in a way that presents a hazard to employees or other persons, nor in a way other than is not in compliance with the manufacturer's labeling.

(e) Personal medications.

(1) Only those medications that are necessary for the health of employees shall be allowed in the food establishment. This Subsection does not apply to medicines that are stored or displayed for retail sale.

(2) Medicines that are in a food establishment for the employee's use shall be labeled and located to prevent the contamination of food, equipment, utensils, linens and single-service and single-use articles.

(3) Refrigerated Medicines, Storage. Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be stored in a package or container and kept inside a covered, leak proof container that is identified for the storage of medicines; and located so that they are inaccessible to children.

(f) First aid supplies. First aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

Sec. 6-270. Premises.

(a) General.

(1) Food establishments and all parts of the property used in connection with operations of the establishment shall be kept free of litter.

(2) The walking and driving surfaces of all exterior areas of food establishments shall be surfaced with concrete or asphalt or with gravel or similar materials and minimize dust. These surfaces shall be graded to prevent pooling of water and kept free of litter.

(3) Only articles necessary for the operation and maintenance of the food establishment shall be stored on the premises.

(4) The traffic of unnecessary or unauthorized persons through the food preparation and utensil-washing areas is prohibited.

(5) Signs depicting the Heimlich maneuver for dislodging an obstruction from a choking person shall be in all food establishments and shall be in a place conspicuous to employees or customers. The sign must meet all requirements of TFER §229.173(c)(1-6), as amended.

(b) Living areas. Living or sleeping quarters within a food establishment are prohibited.

(c) Laundry facilities.

(1) Laundry facilities in a food establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If such items are laundered on the premises, an electric, gas or steam dryer shall be provided and used.

(2) Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

(d) Linens and clothes storage.

(1) Clean clothes and linens shall be stored in a clean place and protected from contamination until used.

(2) Soiled clothes and linens shall be stored outside the food preparation area in nonabsorbent containers or washable laundry bags until removed for laundering.

(e) Cleaning equipment storage. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment, shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner to facilitate the cleaning of that storage location.

(f) Animals.

(1) Except as specified in Subsection (2) below, live animals shall not be allowed on the premises of a food establishment and in areas immediately adjacent under the control of the food establishment.

(2) Live animals may be allowed in the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles cannot result:

(i) edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems. Livefish tanks are subject to removal by the Regulatory Authority if not maintained in clean sanitizing condition.

(ii) patrol dogs accompanying police or security officers in offices and dining, sales and storage areas;

(iii) in areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, or service animals in training when accompanied by an approved trainer, if a health or safety hazard will not result from the presence or activities of the service animal.

(3) Pets are allowed in the common dining areas of institutional care facilities if:

(i) effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;

(ii) condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

(iii) dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

DIVISION 8. MOBILE FOOD ESTABLISHMENTS

Sec. 6-271. Mobile Food Establishments.

(a) General. Mobile food establishments shall comply with the requirements of 25, TAC §229.169, as amended, and with this Section, except as otherwise provided in Section 6-271(f).

(b) It shall be unlawful for any person to sell any PHF/TCS from or at a mobile food establishment.

(c) When no health hazard will result, the Regulatory Authority may, at its discretion, waive or modify requirements of this Section relating to mobile food establishments.

(d) The owner or person in charge of a mobile food establishment must bring the mobile food establishment to a location to be determined by the Regulatory Authority on an annual basis in order to prove the mobile food establishment is readily moveable

(e) Any owner or person in charge of a mobile food establishment that violates this Section shall bring the mobile food establishment to a location to be determined by the Regulatory Authority for re-inspection.

(f) Restricted Operations. Mobile food establishments that serve only food that is prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of those sections, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of this Article pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at its commissary.

(g) Food prepared in a private residence may not be used or offered for human consumption from a mobile food establishment.

(h) Vehicle identification. Mobile food units shall identify the vehicle with characters three inches high on both exterior sides of the unit stating the name of the mobile food establishment.

(i) Registration. Mobile food units must comply with all state and local laws pertaining to registration of the vehicle.

(j) Temporary Use Permit. In addition to compliance with this Article, the owner or operator of a mobile food establishment must comply with applicable provisions of the Allen Land Development Code regarding the authorized location and times for operation of a mobile food establishment.

Sec. 6-272. Catering and Private Chef Services.

- (a) A catering and private chef service shall comply with the requirements of this Article as the Regulatory Authority determines is necessary to protect public health and safety.
- (b) Catering services must prepare all food items in commercial facility as approved by the Regulatory Authority.
- (c) Private chef services must prepare, cook and serve all food items in the private facility that it will be served, adhering to all sanitary requirements of this Article. Foods prepared by private chef services may not be sold as retail.

DIVISION 9. TEMPORARY FOOD ESTABLISHMENT

Sec. 6-273. General.

- (a) A temporary food establishment shall comply with the requirements of 25 TAC §229.170, as amended, and with this Article except as otherwise provided.
- (b) It shall be unlawful for any person to sell any PHF/TCS from or at a temporary or seasonal food establishment, unless otherwise authorized by this Section.
- (c) When no health hazard will result, the Regulatory Authority may waive or modify the requirements of this Section relating to physical facilities.
- (d) The operation of a temporary food establishment may not exceed fourteen (14) consecutive days per event and must be in conjunction with a special event or celebration as approved by the Regulatory Authority. A limit of eight (8) temporary permits per calendar year per vendor, group or organization will be enforced. Vendors with multiple booths at a single event will be recorded as participating in one (1) event towards the eight (8) maximum allowed per calendar year.
- (e) The operation of a seasonal food establishment is greater than fourteen (14) days but less than thirty (30) consecutive days per event per vendor. Seasonal permits are limited to two (2) per calendar year per vendor per location. Fees for all permits shall be set by Resolution as approved by the City Council of the City and made available for inspection at the City Secretary's Office.
- (f) If the temporary food establishment is outdoors, every food preparation and serving area must have a fire resistant overhead covering that protects the interior of the facility from the weather. Floors must be constructed of concrete, asphalt, tight wood or other similar easily cleaned material, and kept in good repair.
- (g) All food shall be prepared in a permitted food establishment or on the premises. No food or beverage stored or prepared in a private home may be offered for sale, sold or given away from a temporary or seasonal food establishment.
- (h) All food and beverages shall be protected at all times from unnecessary handling and shall be stored, displayed and served so as to be protected from contamination.
- (i) The Regulatory Authority may establish additional structural or operational requirements as necessary to ensure that food is of safe and sanitary quality.
- (j) In addition to compliance with this Article, the owner or operator of a temporary food establishment must comply with applicable provisions of the Allen Land Development Code regarding the authorized location and times for operation of temporary food establishments.

Sec. 6-274. Restricted Operations.

(a) These provisions are applicable whenever a temporary food establishment is permitted, under the provisions of Section 6-273.

(b) PHF/TCS for Temporary Permits Only.

(1) Only those PHF/TCS requiring limited preparation, such as hamburgers and frankfurters that only require seasoning and cooking, shall be prepared or served unless otherwise approved by the Regulatory Authority. PHF/TCS will be limited to three (3) types per food booth. PHF/TCS include meats, eggs, dairy products, rice, beans, potatoes, chili, etc. The preparation or service of other PHF/TCS, including pastries filled with cream or synthetic cream, custards, and similar products, is prohibited. This prohibition does not apply, however, to any PHF/TCS that has been prepared or packaged under conditions meeting the requirements of this Article, is obtained in individual servings, is stored at a temperature of forty (40) degrees Fahrenheit or below, or at a temperature of one hundred and forty (140) degrees Fahrenheit or above, in facilities that meet the requirements of this Article, prepared the same day as the special event and is served directly in the unopened container in which it was packaged.

(2) Raw seafood and poultry shall only be permitted if:

- (i) the product is pre-cut and frozen to go from the freezer to the fryer; or,
- (ii) the product must be pre-cooked.

(3) PHF/TCS allowed to be cooked on-site from a raw state are those which are fast cooking such as:

- (i) pre-formed hamburger patties;
- (ii) beef/chicken fajitas; and
- (iii) pre-cooked sausage and hot dogs.

(4) Outdoor grilling during temporary events must adhere to all City and local laws regarding fire safety and is subject to approval by the Regulatory Authority. Outdoor grilling for personal or residential use is permitted and outside the scope of this regulation.

(5) Food Temperatures. All food temperature requirements shall be met as contained in this Article.

(c) Seasonal Permits. Seasonal permittees may serve non-potentially hazardous food products to include but are not limited to snowcones, packaged chips, candy, pickles and canned or bottled drinks.

(d) Ice. Ice that is consumed or that contacts food in both temporary and seasonal food establishments shall have been made under conditions meeting the requirements of TFER §229.164(c)(6), as amended. The ice shall be obtained only in chipped, crushed, or cubed form and in a single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.

(e) Equipment.

(1) Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.

(2) Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Where helpful to prevent contamination, effective shields for such equipment shall be provided.

(f) Water. Enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment and for hand washing. A heating facility located on the premises and capable of producing enough hot water for these purposes shall be provided.

(g) Wet storage. The storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.

(h) Waste. All sewage, including liquid waste, shall be disposed of in a public sewage system. All refuse shall be disposed of in a manner approved by the Regulatory Authority.

(i) Handwashing. A convenient hand washing facility shall be available for employee hand washing. This facility shall consist of an insulated container with a spigot that can be turned on to allow potable, clean, warm water to flow for hand washing; a wastewater container; soap; disposable towels; and waste receptacle.

(j) Floors. Floors shall be constructed of concrete, asphalt, tight wood or other similar cleanable material, and kept in good repair.

(k) Walls and ceiling of food preparation areas. Ceilings shall be made of wood, canvas, or other materials that protect the interior of the establishment from the weather. Walls and ceilings of food preparation areas shall be constructed in a way that prevents the entrance of insects and rodents. Doors of food preparation areas shall be solid or screened and shall be self-closing. Screening material used for walls, doors or windows shall be at least sixteen (16) mesh to one (1) inch (16 mesh to 25.4 millimeters); or other effective means.

DIVISION 10. BED AND BREAKFAST FOOD ESTABLISHMENTS

Section 6-275. Requirements.

(a) General. All bed and breakfast food establishments shall comply with the requirements of 25 TAC § 229.174, as amended, and this Section.

(b) Food supplies. Food shall be obtained from approved sources, shall be in sound condition, and be safe for human consumption.

(c) Food preparation and protection.

(1) Food shall be prepared and protected in accordance with this Article.

(2) All food temperature and date marking requirements shall be met in accordance with this Article.

(d) Cleaning and sanitizing.

(1) Manual. A three compartment sink shall be used if washing, rinsing and sanitizing of utensils and equipment is done manually; or a two compartment sink may be utilized if single service tableware is provided, and if an approved detergent sanitizer is used.

(2) Mechanical. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils either by chemical or mechanical sanitization.

(e) Personal hygiene. Employees shall conform to good hygienic practices as required in this Article.

(f) Employee restrooms. A restroom shall be available for use by employees.

(g) Equipment and utensil design and construction. All equipment and utensils shall be constructed of safe materials and maintained in good repair.

(h) Hand sinks.

(1) Location. An accessible and conveniently located hand sink shall be provided in or immediately adjacent to food preparation areas.

(2) Intended use. Hand sink(s) shall be used for no other purpose other than hand washing.

(i) Food contact surfaces. All food contact surfaces, counters, or work surfaces in the establishment shall be smooth, non-absorbent and easily cleaned.

(j) Insect proof/rodent proof.

(1) Food service preparation and storage areas shall be constructed and maintained to prevent the entry of pests and other vermin.

(2) Pesticides and rodenticides shall be applied according to law.

(k) Equipment shall be provided to maintain PHF/TCS at the temperatures required by this Article.

(l) Garbage receptacles. Impervious receptacles shall be provided for storage of garbage and refuse.

(m) Sewage. Sewage shall be disposed through an approved facility that is:

(1) a public sewage treatment plant; or

(2) an individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

(n) Water supply. Hot and cold water under pressure shall be provided and shall be from an approved source.

DIVISION 11. CHILD CARE FACILITIES

Sec. 6-276. Responsibilities.

(a) The Regulatory Authority shall only be responsible for monitoring the health and safety of the food preparation, service and overall kitchen sanitation at child care facilities located within the City. The Regulatory Authority will act as a liaison with applicable State agencies with respect to compliance with state minimum requirements. If State minimum requirements are more stringent than the City's requirements, the facility shall adhere to the State mandated requirements. The director or owner of the child care facility has absolute responsibility for the operation of the child care facility under this Article.

Sec. 6-277. Food Service Requirements.

(a) General Requirements. The child care facility shall conform to all applicable food service rules and construction requirements as required by this Article.

(b) Equipment requirements contained in this Article are applicable in child care facility kitchens with the following additional requirements:

(1) Facilities serving up to (thirty) (30) meals per day should be provided with a three (3) compartment sink or authorized dishwasher. If a dishwasher is used, only a two (2) compartment sink is required. A dishwasher must be provided if reusable tableware is used.

(2) Facilities serving thirty-one to ninety (31-90) total meals per day must be provided with a three (3) compartment sink and/or an approved dishwasher capable of sanitizing multi-use utensils. If only a dishwasher is installed, a minimum of a two compartment sink is required.

(3) Facilities serving ninety-one (91) or more total meals per day must be provided with a three (3) compartment sink and/or an approved dishwasher. If only a dishwasher is to be installed, a minimum of a two compartment sink with a spray unit is required. Commercial refrigeration and cooking equipment is also required.

(4) Facilities serving eight to fifty (8-50) total meals per day should have commercial refrigeration. However, domestic refrigerator and freezer units are adequate for this enrollment capacity.

(5) Facilities serving fifty (50) or more total meals per day must provide commercial refrigeration.

(6) Facilities serving ninety-one (91) or more total meals per day with commercial cooking equipment require proper ventilation and an approved exhaust system.

(7) Preparing foods that require a grill, fryer or similar grease producing equipment will require additional ventilation and grease trap requirements.

(8) All food contact surfaces shall be safe, durable, corrosion resistant, non-absorbent, smooth, easily cleanable, resistant to pitting, chipping, scratching, and decomposition.

(9) All non-food contact surfaces that may be exposed to spillage, splashing and other soiling shall be constructed of smooth, corrosion resistant and non-absorbent material.

(c) Existing facilities. When remodeling or changing ownership, existing child care facilities shall be required to comply with all current applicable codes.

Sec 6-278. Off-Site Food Service.

(a) Any child care facility providing off-site food services must have a permit as a food establishment.

(b) Child care facilities receiving food from off-site food facilities must have adequate provisions for holding and serving hot food and cold food and utensil washing facilities to meet the requirements of this Article.

(c) All PHFs shall be kept at the required temperatures during transportation.

(d) During transportation, all food shall be kept in covered containers or packaged to protect it from contamination as required by this Article.

Sec 6-279. Closing a Child Care Facility.

The Regulatory Authority in conjunction with the Texas Department of Family and Protective Services (DFPS) may close a child care facility and place the children in another facility if violations of this Article and minimum standards set by the DFPS create an immediate danger to the children.

DIVISION 12. LICENSED CHILDCARE HOME

Sec. 6-280. General.

(a) The Regulatory Authority shall only be responsible for monitoring the health and safety of the food preparation, service and overall kitchen sanitation at a licensed childcare home located within the City.

(b) All food service and preparation requirements set forth in Division 11 of this Article shall apply to licensed childcare homes located in the City.

(c) The Regulatory Authority will act as a liaison with applicable State agencies with respect to compliance with state minimum requirements. If State minimum requirements are more stringent than the City's requirements, the facility shall adhere to the State mandated requirements. The director or owner of the licensed childcare home has absolute responsibility for the operation of the licensed childcare home under this Article.

DIVISION 13. INSPECTION AND ENFORCEMENT

Sec. 6-281. Authority.

(a) The provisions of this Article shall be enforced by Regulatory Authority. The Regulatory Authority shall have the authority to issue citations to persons violating the provisions of this Article. It shall be unlawful for any person to interfere with the Regulatory Authority, or its representatives and designees in the performance of their duties as prescribed in this Article.

(b) Variance. A variance from this Article may be granted by the Regulatory Authority in accordance with the provisions set out in TFER §229.171(c)-(d), as amended.

Sec. 6-282. Access.

Agents of the Regulatory Authority, after proper identification, shall be permitted to enter any food establishment or entity subject to this Article at any reasonable time, for the purpose of making inspections to determine compliance with this Article. The agents shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used or to persons employed.

Sec. 6-283. Report of Inspections.

(a) Whenever an inspection is made of a food establishment or entity subject to this Article, the findings shall be recorded on the inspection report form provided by the Regulatory Authority. The original of the inspection report form 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 this Article. The completed form is a public document that shall be made available for public disclosure in accordance with the Texas Public Information Act, as amended.

(b) Additional requirements; preventing health hazards; provision for conditions not addressed.

(1) If necessary to protect against public health hazards or nuisances, the regulatory authority may impose specific requirements in addition to the requirements contained in this Article that are authorized by law.

(2) The Regulatory Authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the permit applicant or permit holder and a copy shall be maintained in the Regulatory Authority's file for the food establishment or entity.

Sec. 6-284. Correction of Violations.

(a) The inspection report 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) A food establishment shall immediately discontinue operations and notify the Regulatory Authority if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent food borne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.

(2) All violation of critical items shall be corrected within a time specified by the Regulatory Authority, which shall not exceed ten (10) days.

(3) All non-critical items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection, which shall not exceed ninety (90) days.

(4) If the Regulatory Authority shall determine, at its discretion, that an excessive amount of imminent health hazards exist at an establishment, the establishment shall cease operations immediately. The establishment shall remain closed until authorized to re-open by the Regulatory Authority.

(5) In the case of temporary food establishments, all violations shall be corrected immediately.

Sec. 6-285. Examination and Condemnation of Food.

(a) The Regulatory Authority may examine and collect samples of food as often as necessary for the enforcement of this Article.

(b) Hold Order. The Regulatory Authority shall, upon written notice to the owner or person-in-charge specifying the reason, condemn, denature or destroy or place under detention any food, which it has probable cause to believe, is unapproved, adulterated or misbranded. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on food by the Regulatory Authority, and neither food nor the containers shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without the permission of the Regulatory Authority.

(c) After the owner or person-in-charge has been afforded a hearing as provided for in Section 6-287 of this Article and on the basis of evidence produced at such hearing, or on the basis of examination in the event a written request is not received within ten (10) days the Regulatory Authority may cancel the hold order or may oversee the disposal of the food placed under the hold-order or direct the owner or person-in-charge to bring it into compliance with the provisions of this Article.

Sec. 6-286. Procedure When Infection is Suspected.

(a) When the Regulatory Authority has reasonable cause to suspect the possibility of disease transmission from any food employee, it may secure a morbidity history of the food employee or make any other investigation as may be indicated and shall take appropriate action. The Regulatory Authority may require any or all of the following measures:

- (1) The immediate exclusion of the food employee from all food establishments;
- (2) The immediate closing of the food establishment by summarily suspending a permit to operate in accordance with law.
- (3) Restriction of the food employee's services to some area of the establishment where there would be no danger of transmitting disease;
- (4) Adequate medical and laboratory examination of the food employee, of other employees and of his and their body discharges;

(b) Exclusions and Restrictions. The person in charge shall:

(1) Exclude a food employee from a food establishment if the food employee is diagnosed with an infectious agent such as: *Salmonella typhi*, *Shigella spp.*, shiga toxin-producing *Escherichia coli*, Norovirus, or Hepatitis A virus.

(2) Restrict a food employee from working with exposed food; clean equipment, utensils and linens; and unwrapped single-service and single-use articles, in a food establishment if the food employee is suffering from a symptom of diarrhea, fever, vomiting, jaundice, sore throat with fever, not experiencing a symptom of acute gastroenteritis specified but has a stool that yields a specimen culture that is positive for Norovirus, *Salmonella typhi*, *Shigella spp.*, or shiga toxin-producing *Escherichia coli*; or has a lesion containing pus such as a boil or infected wound that is open or draining and is not covered with an impermeable cover.

(3) If the population served is a highly susceptible population, exclusion of food employees must adhere to all laws in accordance with TFER §229.163(d)(2)(D)(i-iii), as amended, and the Federal Food and Drug Administration's Food Code Section 2-201.12(c), as amended.

(4) For a food employee who is jaundiced:

(i) If the onset of jaundice occurred within the last seven (7) calendar days, exclude the food employee from the food establishment or

(ii) If the onset of jaundice occurred more than seven (7) calendar days before, food employees must be excluded from food establishments serving highly susceptible populations or restrict food employees activities specified under (b)(2) of this Section if the food employee does not serve highly susceptible populations.

Sec. 6-287. Permit.

(a) Required; transferability. It shall be unlawful for any person to operate a food establishment, food processing establishment, mobile food establishment, temporary food establishment, seasonal food establishment, bed and breakfast food establishment, child care facility subject to this Article, or licensed childcare home subject to this Article, within the City without a valid permit issued by the Regulatory Authority. Only a person who complies with the requirements of this Article shall be entitled to receive and retain such a permit. Permits shall not be transferable from one (1) person or entity to another person, location, or entity. A valid permit shall be posted in every establishment. Permits for temporary food establishments shall be issued for a period of time not to exceed fourteen (14) calendar days. Seasonal food establishment permits may be issued for a period not to exceed thirty (30) calendar days.

(b) Review of plans. Whenever a food establishment or food processing establishment is constructed or extensively remodeled, and whenever an existing structure is converted to use as a food service establishment,

properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Regulatory Authority for review and approval before construction begins. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The Regulatory Authority shall approve the plans and specifications if they meet the requirements of the law. No food service or food processing establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Regulatory Authority. A pre-operational inspection will be conducted in each food establishment or food processing establishment prior to the start of operations to determine compliance with approved plans and with the requirements of this Article.

(c) Application. Any person desiring to operate a food establishment or food processing establishment shall make written application and pay the appropriate fee for a permit provided by the Regulatory Authority. Such application shall include the applicant's full name, business address and whether such applicant is an individual, firm, or corporation, and if a partnership, the name of the partners, together with their addresses shall be included; the location and type of the proposed establishment; and the signature of the applicant or applicants.

(d) Temporary Food Establishment Permits.

(1) Application and fees must be submitted not later than two (2) working days prior to the event, or not later than fourteen (14) working days prior to the event if five (5) or more booths are to be permitted for the same vendor. Applications received after these deadlines will be subject to an additional administrative fee.

(2) Large events where vendors have more than one booth will be charged an initial fee for the first booth and subsequent fees for each additional booth. Participation in large events with multiple booths will count as only one (1) permit towards the annual limit of eight (8) temporary permits for the same vendor.

(3) Fees are non-refundable and applications will not be accepted after 4 p.m. Central Time on the Friday immediately prior to the event.

(4) Establishments with a valid City permit issued under Subsection (a) of this Section must apply for a temporary food establishment permit when participating in an event. An administrative fee will apply.

(5) A permit waiver may be obtained if proof of charitable, non-profitable status, i.e. church, school district, charity, government agency, etc. is submitted with application; however, a processing fee will be charged.

(6) Out of town vendors must submit a copy of the current local permit and a copy of the most recent health inspection report conducted by the local authority that grants permits for food service establishments in the jurisdiction in which the out-of-town vendor's home office is located.

(7) Food manufacturers must submit a copy of the state manufacturer's license with their application.

(e) Seasonal Food Establishment Permits.

(1) Seasonal food establishment permit applications must be submitted at least two (2) working days prior to the start date. Applications submitted less than two working days prior to the start date will be subject to an administrative fee.

(2) Applications will not be accepted after 4 p.m. Central Time on the Friday immediately prior to the event.

(3) Vendors with seasonal food establishment permits may not operate at the same location for more than forty-five (45) days during the same calendar year or such shorter time as may be established pursuant to the Allen Land Development Code.

(f) Annual Permits.

(1) Inspection; issuance of permit. Upon receipt of such an application, the Regulatory Authority shall make an inspection of the establishment to determine compliance with the provisions of this Article. When an inspection reveals that the applicable requirements of this Article have been met, a permit shall be issued to the applicant by the Regulatory Authority.

(2) All permits issued under this Article, excluding temporary food establishment permits and seasonal food establishment permits, shall be valid for a period of one (1) year from its date of issuance, unless otherwise revoked or suspended under this Article.

(g) Suspension of permits.

(1) Permits may be suspended temporarily by the Regulatory Authority for failure of the holder to comply with the requirements of this Article.

(2) Whenever a permit holder or operator has failed to comply with any notice issue under the provisions of this Article, 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 within five (5) days.

(3) Notwithstanding the other provisions of this Article, whenever the Regulatory Authority finds unsanitary or other conditions in the operation of the establishment which in his judgment constitutes a substantial hazard to the public health, he may without warning, notice or hearing, issue a written notice to the permit holder or operator citing such conditions, specifying the corrective action to be taken; and, if deemed necessary, such order shall state that the permit is immediately suspended, and all food operations are immediately to be suspended. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the Regulatory Authority, shall be afforded a hearing as soon as possible.

(h) Reinstatement of suspended permits. Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of the reinstatement of the permit. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in his opinion the condition causing the suspension of the permit has been corrected, the Regulatory Authority shall make a reinspection. If following the reinspection the applicant is determined to be in compliance with the requirements of this Article, the permit shall be reinstated.

(i) Revocation. 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 duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the Regulatory Authority. Prior to revocation of the permit, the Regulatory Authority shall notify the permit holder in writing, stating the reasons for which the permit shall be permanently revoked at the end of five (5) days following service of this notice, unless a request for a hearing is filed with the Regulatory Authority, by the permit holder within such five-day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

(j) Penalty. Any person violating any provision of this Article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed **TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00)** for each offense. Additionally, the City shall be entitled to pursue other civil and criminal remedies to which it is entitled under law.

(k) Hearings. The hearing provided for in this Section shall be conducted by a permit appeals committee at a time and place designated by the Regulatory Authority. The permit holder shall be notified of such hearing no less than five (5) days prior to the hearing date. The permit appeals committee shall be appointed by the Regulatory Authority and be comprised of the City health specialist, the City Chief Building Official and one (1) other member engaged in food establishment work, i.e. restaurant owner, cafeteria manager, grocery store operator, etc. The Regulatory Authority shall maintain a list of such persons, from which members to the permit appeals committee, may be appointed on a rotating basis. Based upon the record of such hearing, the Regulatory Authority shall, upon the affirmative vote of the majority, make a finding to sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the Regulatory Authority within five (5) days after the date of the hearing.

DIVISION 14. SWIMMING POOLS, SPAS, AND PUBLIC INTERACTIVE WATER FEATURES (PIWFs)

Sec. 6-288. Purpose.

The function of this Division is to establish uniform requirements and standards for swimming pools, spas, and interactive water features and fountains (PIWFs) to protect public health. The Regulatory Authority may also enforce state statutes and federal regulations applicable to swimming pools, spas, and PIWFs operating within the City.

Sec. 6-289. Definitions.

The following words, terms, and phrases, when used in this Division, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Disinfectant. Energy or chemicals used to kill undesirable or pathogenic (disease causing) organisms, and having a measurable residual at a level adequate to make the desired kill.

(2) Person. An individual, partnership, company, corporation, association, firm, organization, institution, or similar entity.

(3) pH. A value expressing the relative acidic or basic tendencies of a substance, such as water, as indicated by the hydrogen ion concentration. The pH is expressed as a number on the scale of zero to 14, zero being most acidic, 1 to 7 being acidic, 7 being neutral, 7 to 14 being basic and, 14 being most basic.

(4) Public Interactive Water Features and Fountains (PIWFs). Any indoor or outdoor installation maintained for public recreation that includes water sprays, dancing water jets, waterfalls, dumping buckets, or shooting water cannons in various arrays for the purpose of wetting the persons playing in the spray streams. These may stand alone, or share a water supply, disinfection system, filtration system, circulation system, or other treatment system that allows water to co-mingle with a pool.

(5) Public Pool. A swimming pool or spa to which the general public has access.

(6) Remodel. The replacement of or modification to a swimming pool structure, circulation system and/or its appurtenances such that the design, configuration and/or operating characteristics are different than the original design, configuration and/or operating characteristics.

(7) Residential Pool/Spa. A pool or spa that is located on private property under the control of the owner or lessee, the use of which is limited to swimming, diving and/or recreational bathing by not more than two resident families and their guests. It includes a pool or spa serving only a single-family home or a duplex.

(8) Semi-Public Pool. A swimming pool or spa that is privately owned and opened only to an identifiable class of persons, including but not limited to, hotel guests, apartment residents, home owners association and club members.

(9) Spa. A constructed permanent or portable structure that is 2 feet or more in depth and that has a surface area of 250 square feet or less or a volume of 3250 gallons or less and that is intended to be used for bathing or other recreational uses and is not drained and refilled after each use. It may include, but is not limited to, hydro jet circulation, hot water, cold water, mineral baths, air induction bubbles, or any combination thereof. A spa, as is defined in these rules, does not refer to a business establishment such as a day spa or a health spa. Industry terminology for a spa includes, but is not limited to, "hydrotherapy pool," "whirlpool," "hot spa," "hot tub," etc.

(10) Swimming Pool or Pool. Any man-made permanently installed or non-portable structure, basin, chamber, or tank containing an artificial body of water that is used for swimming, diving, wading, aquatic sports, or other aquatic activity other than a residential pool and that is operated by an owner, lessee, operator, licensee or concessionaire, regardless of whether a fee is charged for use. The pool may be either publicly or privately owned. The term does not include a spa or a decorative fountain that is not used as a pool.

(11) Unblockable drain. Any drain with an ASME/ANSI A112.19.8. approved covering with dimensions that exceed 18" x 23" or have a diagonal measurement greater than 29".

Sec. 6-290. Standards for Public and Semi-Public Swimming Pools, Spas, and Public Interactive Water Features and Fountains (PIWFs).

(a) All public and semi-public swimming pools and spas shall comply with the Texas Department of State Health Services Standards set forth in Title 25, Part 1, Chapter 265, Subchapter L of the Texas Administrative Code, as amended.

(b) All PIWFs shall comply with the Texas Department of State Health Services Standards set forth Title 25, Part 1, Chapter 265, Subchapter M of the Texas Administrative Code, as amended.

(c) The following requirements shall be applicable in addition to those established by the Texas Department of State Health Services and are intended to further protect the public health and prevent disease and injury:

(1) Pool & Spa Enclosure.

(i) All residential pool and spa enclosures shall comply with Section 4.10 of the City of Allen Land Development Code regarding zoning regulations, as amended.

(ii) All pools and spas shall be enclosed by a solid wall, fence, or other structure six feet (6') high without openings greater than four inches (4") other than doors or gates used for ingress and egress to the pool or spa. Such enclosure shall be designed and constructed in a manner without protrusions, ledges or gaps that would assist a person in being able to climb the enclosure.

(iii) Entries to pool and spa area shall have a gate or door equipped with a self-closing and self-latching device attached. Such latching device must be located not less than four and one-half feet (4.5') from the ground. All self-latching mechanisms must be approved by the Regulatory Authority.

(iv) The pool and spa enclosure shall be in good condition and maintained in proper working order at all times to protect public health. If the enclosure is damaged, or doors or gates do not self-close and latch, the pool or spa shall be immediately secured with temporary fencing or chains to provide compliance with this ordinance.

(2) Certified Operator.

(i) No person shall operate a public or semi-public swimming pool, spa, or PIWF without obtaining and maintaining certification as a Certified Aquatic Facility Operator (A.F.O.), Certified Pool/Spa Operator (C.P.O.), Pool Operator On Location (P.O.O.L.) or other certification deemed equivalent by the regulatory authority. All certifications shall be approved by the Regulatory Authority.

(ii) On days the pool and spa will be open, a certified operator shall test swimming water for pH, disinfectant, water clarity, stabilizer, and temperature to assure safety and protect public health. If test results are not within required limits, the pool or spa shall be immediately closed and a closure sign posted in a highly visible area. Prior to opening the pool or spa for use, all test results shall be within approved State limits and findings documented to include initial results, corrective actions and final readings.

(3) Public and Semi-Public Swimming Pool & Spa Regulations.

(i) No person shall knowingly allow a condition to exist that endangers the life, health or safety of a swimmer.

(ii) No person shall knowingly permit swimmers in a pool that have skin abrasions, open sores, cuts, skin disease, eye disease, nasal or ear discharge, diarrhea or other communicable disease.

(iii) No person shall allow glass containers in a pool enclosure or area.

(iv) No person shall exceed permissible bather loads of pools and spas.

(v) No person shall remove or alter safety equipment from a pool except in an emergency situation.

(vi) No person shall urinate or defecate in swimming pool water.

(vii) No person shall allow children under age thirteen (13) into pool area unless accompanied at all times by an adult, parent, or guardian.

(4) Public and Semi-Public Swimming Pool and Spa Signs.

(i) All required signs must be maintained in good condition and posted in conspicuous places within pool area or enclosure. Signs shall be posted in English and also any language predominantly spoken by the majority of users.

(ii) Every public or semi-public pool shall have a sign posted within the enclosure in a highly conspicuous place visible to the public containing the physical address of the pool in at least four inch (4") letters.

(5) Safety Equipment/Personnel at Public and Semi-Public Swimming Pools and Spas

(i) A life pole that is light, strong, non-telescoping, and not less than twelve (12) feet long with an attached shepherd's crook must at all times be available near pool-side and accessible to the public. The pole must be constructed of fiberglass or other electrically non-conducting material and in good working condition.

(ii) A United States Coast Guard approved ring buoy with an outside diameter of fifteen to twenty (15 to 24) inches with attached throwing rope not less than two-thirds the maximum width of the pool must at all times be maintained in good working condition crook and available near pool-side and accessible to the public.

(iii) A functional telephone capable of dialing directly to 911 or emergency answering service must be permanently mounted within the pool enclosure or accessible to the public from inside the enclosure.

(iv) A functional safety vacuum release device (SVRD), gravity drainage system, automatic pump shut-off system, or other suction-limiting vent system shall be installed as required to prevent a suction entrapment hazard.

(v) Drains in pools and spas, except unblockable drains, must be fitted with secure drain covers or grates compliant with ASME/ANSI A112.19.8-2007 or newer standards and be in good condition.

(vi) Certified lifeguards and trained second responders shall be available at all pools hosting competitive events and pools with an unsecured diving board, slide, or starting block. Additionally, these pools must be equipped with one or more backboards having a minimum of three tie-down straps and head immobilizer for neck and back injuries, and an OSHA approved 24- unit First Aid kit.

Sec. 6-291. Special Provision Related to Permitting of Public and Semi-Public Swimming Pools, Spas, and Public Interactive Water Features and Fountains (PIWFs).

(a) No person shall operate a public or semi-public swimming pool, spa, or PIWF without a valid and current permit issued by the Regulatory Authority. Only a person who complies with the requirements of this Division shall be entitled to receive or retain such a permit. Permits are not transferable, and must be displayed in an area visible to the public.

(b) The permit required by subsection (a), above, will be issued in accordance with the following:

(i) A written application for a pool permit shall be submitted annually before January 31 on a form provided by the Regulatory Authority. Such application shall include the full name and mailing address, telephone number, an indication of whether the applicant is an individual, corporation, partnership, or other type of business entity, the names of their officers, directors, and general partners, as appropriate, their addresses, location and type of business establishment, identification of certified operator, signature of each applicant, as well as other information deemed necessary.

(ii) An application and permit fee in the amount set by the City Council for the City is required for each body of water. A permit that is issued will be valid from date of issuance until January 31 of the immediately following calendar year, unless suspended or revoked. Permits must be renewed on an annual basis by filing a renewal application and payment of the permit fee. The fee is not refundable. An administrative late fee in the amount set by the City Council for the City may be required if an application for a renewal permit is made more than thirty (30) days after the previous permit has expired. No fees shall be charged to any public or semi-public swimming pool facility owned and operated by a government agency or independent school district; however, such establishments must comply with all other requirements of this Division.

(iii) Prior to final approval of an application for permit and issuance of such permit, the Regulatory Authority shall inspect the swimming pool facility to determine compliance with the requirements of this Division. If a permitted swimming pool facility fails inspection at anytime during the year and a re-inspection is required, a re-inspection fee in the amount set by the City Council for the City may be charged.

(iv) If an application for permit is denied, the applicant will be informed of the reasons for denial and what action is required to qualify for a permit. The Regulatory Authority shall issue a permit to the applicant if subsequent inspection reveals that the swimming pool facility complies with the requirements of this Division and all fees have been paid.

Sec. 6-292. Revocation or Suspension of Swimming Pool, Spa, and Public Interactive Water Features and Fountains (PIWF) Permits

The Regulatory Authority may deny, revoke, or suspend any operating permit for the failure of the applicant to comply with the provisions of these standards, or in cases where the operating permit has been obtained through non-disclosure, misrepresentation or misstatement of a material fact. Notices of closure shall be processed as follows:

(a) All notices or orders issued shall be either delivered personally or sent by certified mail to the person or corporation to whom the permit was issued or to the person in charge of the subject premises. Except in cases of emergency or urgent public necessity, such notice shall be delivered or mailed at least ten (10) days before any operating permit is revoked or suspended and shall state the reason(s) for such proposed revocation or suspension and notify that person of a right to appeal the decision of the Regulatory Authority to the City Manager for the City.

(b) An operating permit which has been revoked or suspended may be reissued upon proper application and upon presentation of evidence that the deficiencies and/or irregularities which caused the revocation or suspension have been corrected.

(c) If the Regulatory Authority determines that the operation or maintenance of any swimming pool is such as to constitute an imminent hazard to the health and safety of the public, the operating permit shall be suspended immediately and the swimming pool shall be closed for use and shall remain closed until the necessary remedial action has been completed.

Sec. 6-293. Special Provisions Related to Inspection of Public and Semi-Public Swimming Pools, Spas, and Public Interactive Water Features and Fountains (PIWFs)

(a) Agents of the Regulatory Authority, after presenting proper identification, shall be permitted to enter any swimming pool establishment at any time, for the purpose of making inspections to determine compliance with these rules. The agents shall be permitted to examine the records of the establishments, including testing logs and proof of operator certification.

(1) Consent and Authorization. Application for and operation of a swimming pool inside the City of Allen constitutes consent for the Regulatory Authority to inspect the pool to determine compliance with this Division. In addition to the criminal punishment authorized by Texas Health and Safety Code Section 391.091, as amended, should any owner, person in charge, employee, or agent of the Public or Semi-Public Swimming Pool, Spa, or PIWF hinder, physically prevent, interfere with or otherwise obstruct the lawful inspection of a swimming pool establishment by the Regulatory Authority, such action may also constitute reason for suspension or revocation of permit.

(2) Inspection Reports.

(i) Whenever an inspection is conducted at a public or semi-public swimming pool, spa, or PIWF, the findings shall be recorded on the inspection report form provided by the Regulatory Authority. The original of the inspection report form 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 pass or fail ranking for the pool. The completed inspection report form is a public document that should be posted at a conspicuous location for consumers.

(ii) Violations noted on the inspection report by the Regulatory Authority shall be corrected within the time frame given. A reasonable time frame for compliance shall be given for violations unless the health, welfare, or safety of persons using the swimming pool is at risk. If the regulatory notes any condition that endangers public health the swimming pool shall immediately be closed, and the permit temporarily suspended.

Sec. 6-294. Construction of Public and Semi-Public Swimming Pools, Spas, and Public Interactive Water Features and Fountains (PIWFs)

(a) Whenever a swimming pool, spa or PIWFs is constructed or extensively remodeled, or whenever an existing structure or part of a pool enclosure is changed, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Regulatory Authority for review and approval before construction is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The Regulatory Authority shall approve the plans and specifications if they meet the requirements of this Division. No swimming pool, pool enclosure, pool structure, or pool equipment shall be constructed, extensively remodeled, or converted except when a permit has been granted by the Regulatory Authority demonstrating compliance with this Division. A pre-operational inspection will be conducted at the swimming pool facility prior to the start of operations to determine compliance with approved plans and with the requirements of this Division.

(b) The Regulatory Authority may direct the replacement of the facilities and equipment because of a change of ownership and all requirements of this Division shall be met prior to resuming normal course of operations.

(c) The Regulatory Authority shall require the replacement of equipment and facilities if they are discovered to be in poor condition, fail to function properly, do not meet current requirements, or endanger the health and safety of the public.

Sec. 6-295. Water Quality and Disposal Standards for Swimming Pools, Spas, and Public Interactive Water Features and Fountains (PIWFs)

(a) All swimming pools, spas, and PIWFs in the City of Allen, including those intended for private residential use, shall comply with the water requirements of this section to protect public health.

(1) Water Quality.

(i) All swimming pools and spas shall be maintained and kept free of algae to provide sufficient clarity of the main drain from outside the pool at all times. No person shall allow a pool under their control to violate this standard unless the pool has a cover installed meeting the requirements of the Regulatory Authority.

(ii) All swimming pools, spas, and PIWFs shall use make-up water from an approved source suitable for drinking as deemed acceptable by the Regulatory Authority.

(2) Water Disposal.

(i) All swimming pools, spas, and PIWFs containing disinfectant shall discharge filter backwash and overflow lines into an approved septic tank system or sanitary sewer. Additionally, no person shall allow water containing disinfectant from pools, spas, or PIWFs to be discharged into the storm sewer.

(ii) It shall be unlawful for any person to drain water from a swimming pool, spa, or PIWF onto public or privately-owned property at anytime. Pools drained for repairs shall be discharged into the sanitary sewer or approved septic tank system.

(iii) Deck drains of all swimming pools and spas, including residential pools, shall be discharged to a lawn, leaching field, or natural drainage course.

DIVISION 15. FEE SCHEDULE

6.-300 Fees. Any and all fees proscribed by this Article shall be set by Resolution by the City Council of the City, a copy of which shall be on file in the City Secretary's Office for public inspection."

SECTION 3. All provisions of the Ordinances of the City of Allen, codified or uncodified, in irreconcilable conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Ordinances of the City of Allen, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 5. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, and Ordinance No. 1569-1-98 in effect when the offense was committed and the former law is continued in effect for this purpose. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any Ordinances at the time of passage of this Ordinance.

SECTION 6. Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and, upon conviction in the Municipal Court, shall be subject to a fine not to exceed **TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00)** for each offense. Each and every violation shall be deemed to constitute a separate offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 7. This Ordinance shall take effect immediately from and after its passage and publication in accordance with its provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 24TH DAY OF AUGUST, 2010.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY

Shelley B. George, CITY SECRETARY

RESOLUTION NO. 2943-8-10(R)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ESTABLISHING PERMIT, INSPECTION, AND ADMINISTRATIVE FEES RELATED THE CITY OF ALLEN ENVIRONMENTAL HEALTH ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Allen, Texas requires all food establishments, food processing establishments, mobile food establishments, temporary food establishments, seasonal food establishments, bed and breakfast food establishments, child care facilities, licensed childcare homes and public and semi-public swimming pools and spas located in the City of Allen to submit applications and obtain permits pursuant to the City of Allen Environmental Health ordinance; and,

WHEREAS, the City Council desires to establish the fees and charges set forth herein;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The City Council hereby establishes the following permit fees and charges for food service, child care, and public and semi-public swimming pools:

(1) Food Establishment Permit Fees.

- (a) Grocery stores established for the retail foods shall be charged \$400 annually for a permit.
- (b) Food Establishments involved in Heavy Food Preparation include those where foods are prepared utilizing a grill, griddle, deep-fat fryer, commercial oven, and any similar food preparation equipment. In addition, this includes any area subject to flooding or wet cleaning procedures due to the cutting or processing of fish, pork, beef, poultry or other potentially hazardous foods. Heavy Food Preparation Food Establishments include, but is not limited to, cafeterias, fast-food restaurants, full-service restaurants, pizza preparation, and donut preparation. Heavy Food Preparation Food Establishments shall be charged \$300 annually for a permit.
- (c) Food Establishments involved in Light Food Preparation include those where foods are prepared without the use of fryers, grills, or other similar cooking equipment. Light Food Preparation is usually limited to the preparation of hot dogs, sandwiches, salads, coffee, fountain drinks, and similar foods. Light Food Preparation Food Establishments shall be charged \$200 annually for a permit.
- (d) Food Establishments involved in No Food Preparation shall include any entity in which foods are provided pre-wrapped or canned from an approved source. These include those that use microwaves or convection ovens for heating pre-wrapped foods, or cold holding units for chilling pre-wrapped foods. No Food Preparation Food Establishments shall be charged \$100 annually for the health permit.

(2) Temporary Food Establishments Permit Fees.

- (a) Concession Stands shall include food service establishments located within a building or a permanent structure equipped with electricity, public water supply, sanitary sewer, and operated in association with sports and athletic or similar recreation activities on a seasonal basis of more than 14 days but less than 6 months. Concession Stands shall be charged \$150 for a permit.

(b) Temporary Food Stands include food service stands that operate in a fixed location for a period of time of not more than 14 consecutive days, or of not more than 14 days on a seasonal basis over a 6 month period. Temporary Food Stands shall be charged \$100 for a permit.

(3) Mobile Food Establishments Permit Fees.

(a) Mobile Food Establishments, self-propelled vehicle mounted food establishment designed to be readily moveable that are equipped with food preparation equipment, shall be charged \$150 annually for a permit. These include, but are not limited to, ice cream vehicles, snow cone vehicles and food vending vehicles.

(4) Child Care Facilities Permit Fees.

(a) Child care Facilities shall be charged \$200 annually for a permit.

(5) Public and Semi-Public Swimming Pools, Spas, and Public Interactive Water Features and Fountains (PIWFs) Permit Fees.

(a) All public and semi-public swimming pools, spas, as defined by the City of Allen Environmental Health ordinance, shall be permitted separately, unless bodies of water are shared by circulation, heating, or filtration systems. The annual permit fee shall be \$150 per body of water or \$150 for shared bodies of water as determined by the regulatory authority.

(b) PIWFs at a location shall be permitted separately of swimming pools and spas, regardless if water is shared or interconnected with them, or operate using shared circulation, heating, or filtration systems. The annual permit fee for PIWFs shall be \$200 at each location.

(6) Administration Fees.

(a) All costs for abatement of any nuisance or violation, or any part thereof, shall be actual costs not less than \$25.00, plus a fee of \$100 for administrative costs in addition to costs for mailing notices and filing of a statement with the County Clerk, and interest levied will be assessed and collected against such property upon which such nuisance or violation or any part thereof is located.

(b) Any permitted establishment that receives an inspection score of "Poor" or "Fail" shall be required to submit a \$75 reinspection fee within three (3) business days, and these costs will be paid before a reinspection is conducted by the City of Allen.

(c) A \$50 late fee may be assessed for any permit not renewed within 30 days of expiration if the facility continues to operate without a valid permit.

(d) Food facilities required by the City of Allen to submit blueprints or drawings during the construction process shall be charged a health plan review fee of \$200.

SECTION 2. Resolutions of the City of Allen, Collin County, Texas, in conflict with the provisions of this resolution be, and the same are hereby, repealed; provided, however, that all other provisions of said resolutions not in conflict with the provisions of this resolution shall remain in full force and effect.

SECTION 3. This Resolution shall become effective immediately from and after its passage, provided, however, the fees and charges established herein shall take effect on its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 24TH DAY OF AUGUST, 2010.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Shelley B. George, CITY SECRETARY