

CITY OF ALLEN

**ENVIRONMENTAL HEALTH
ORDINANCE NO. 1569-1-98**

ENVIRONMENTAL HEALTH ORDINANCE

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**CITY OF ALLEN
ENVIRONMENTAL HEALTH ORDINANCE
ORDINANCE NO. 1569-1-98**

AN ORDINANCE OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, REPEALING ORDINANCE NO. 738-9-86 IN ITS ENTIRETY, AND ADOPTING REGULATIONS FOR THE HEALTH AND ENVIRONMENTAL STANDARDS FOR THE CITY OF ALLEN, COLLIN COUNTY, TEXAS; PROVIDING RULES AND REGULATIONS FOR A COMPREHENSIVE FOOD SERVICE SANITATION PROGRAM; PROVIDING FOR REGULATIONS GOVERNING PUBLIC AND SEMI-PUBLIC SWIMMING POOLS; PROVIDING RULES FOR CHILD CARE OPERATIONS AND ADOPTION OF MINIMUM STANDARDS SET BY THE TEXAS DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES; PROVIDING FOR MINIMUM ENVIRONMENTAL SANITATION STANDARDS; PROVIDING FOR ENFORCEMENT; ESTABLISHING A SCHEDULE OF FEES; PROVIDING A PENALTY OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR AN APPEAL PROCESS; PROVIDING FOR A CONFLICT AND SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE OF IMPLEMENTATION.

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

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SECTION I

PURPOSE: RULES AND REGULATIONS ON FOOD SERVICE SANITATION; PROVIDING FOR PURPOSE, DEFINITIONS, FOOD CARE, PERSONNEL, CLEANING, SANITIZATION AND STORAGE OF EQUIPMENT AND UTENSILS AND MAINTENANCE OF PHYSICAL FACILITIES, PLAN REVIEW, CON-

STRUCTION, DESIGN, AND INSTALLATION OF PHYSICAL FACILITIES AND EQUIPMENT, CATERING TRUCKS, TEMPORARY FOOD ESTABLISHMENTS, CONCESSION FACILITIES, ITINERANT VENDORS AND DELIVERY OF FOOD, ICE CREAM AND SNOW CONE VENDORS, FOOD CARTS, REQUIRING PERMITS FOR THE OPERATIONS OF FOOD SERVICE ESTABLISHMENTS, AND REGULATING THE INSPECTION OF SUCH ESTABLISHMENTS.

ARTICLE 1: Purpose. The function of these rules is to protect the public health by establishing uniform requirements for food service operations.

ARTICLE 2: Definitions. For the purpose of these rules:

- (A) "Adulterated" shall mean the condition of food:
- (1) If it contains any poisonous or deleterious substance in a quantity which may render it injurious to health;
 - (2) If it contains any poisonous or deleterious substance for which no safe tolerance has been established;
 - (3) If it consists in whole or in part of any filthy, putrid or decomposed substance, or it is otherwise unfit for human consumption;
 - (4) If it has been processed, prepared, packed or held under unsanitary conditions where it may have become contaminated with filth, or whereby it may have been rendered injurious to health;
 - (5) If it is whole or in part the product of a diseased animal or an animal which has died; or
 - (6) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.
- (B) "Approved" shall mean acceptable to the regulatory authority based on their determination as to conformance with appropriate standards and recognized public health practices.
- (C) "Approved Source" shall mean a food processing establishment where the conditions and methods of preparation and/or packaging are subject to official regulation or inspection by federal, state and local regulatory authorities and where all federal, state and local regulations are complied with.
- (D) "Catering Truck" means a vehicle from which approved prepackaged foods are sold or conveyed in such a manner that no direct food contact results.
- (E) "Closed" shall mean tightly fitted together leaving no openings large enough to permit the entrance of vermin.
- (F) "Commissary" shall mean a catering establishment, restaurant, or any other place in which food, container, or supplies are kept, handled, prepared, packaged or stored.
- (G) "Concession Facility" shall mean a food service establishment located within a building or permanent structure equipped with electricity, public water supply, sanitary sewer and is operated

in association with sports and athletic or similar recreation activities on a seasonal basis of more than 14 days but less than 3 months.

- (H) "Condiments" shall mean spices, salt, pepper, sugar, catsup, mustard, mayonnaise, sauces, nondairy creamers and other items added by the consumer to food.
- (I) "Corrosion-resistant materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of use.
- (J) "Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.
- (K) "Event" means a gathering of persons at a predetermined location and time with specific purposes and goals unrelated to the temporary sale of food. Events shall include but not limited to non profit organization fund raising activities, circuses, carnivals, cultural and social activities, holiday celebrations, parades, and promotions of stationary businesses.
- (L) "Food" means any 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.
- (M) "Food cart" means a mobile unit which is not motorized and is designed and intended for sale of certain prepackaged foods and precooked products requiring only heating.
- (N) "Food-contact surface" means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip or splash back onto surfaces normally in contact with food.
- (O) "Food establishment" means any place where food is manufactured, packaged, prepared, sold or conveyed. The term includes food processing establishments, food service establishments, retail food stores as defined herein regardless of whether there is a charge for food. The term does not include private homes where food is prepared or served for individual family consumption.
- (P) "Food processing establishment" means a commercial establishment in which food is manufactured or packaged for human consumption.
- (Q) "Food service establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption on or off the premises and regardless of whether there is a charge for the food. The term does not include private homes where food is prepared or served for individual family consumption, food processing plants, and the location of vending machines and supply vehicles.
- (R) "FRP wallboard" shall mean fiberglass reinforced polyester wallboard with a thickness of three-thirty seconds-inch or greater.
- (S) "Hazard Analysis Critical Control Point (HACCP)" is a prevention based food safety system which consists of (1) hazards associated with any phase of a food product; (2) determination of critical control points required to control any identified hazard; (3) establishment of procedures to monitor critical control points.

- (T) "Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content after processing.
- (U) "Heavy food preparation" shall mean any area in which foods are prepared, utilizing a grill, griddle, deep fat fryer, commercial oven, and any other similar food preparation equipment; or any area subject to flushing or wet cleaning procedures or to the cutting or processing of meat, poultry, fish, pork or similar products. Heavy food preparation includes, but is not limited to cafeterias, fast food restaurants, full service restaurants, pizza preparation, donut preparation, meat and fish markets.
- (V) "Hot water" shall mean water temperature of 120 degrees Fahrenheit.
- (W) "Hygienic practices" shall mean the exhibition by food service employees of personal practices and methods that reduce the likelihood of contaminating food, drink and food contact surfaces of equipment, utensils or single service articles and that promote sanitary food preparation and service.
- (X) "Kitchenware" means all multi-use utensils other than tableware.
- (Y) "Law" includes federal, state, and local statutes, ordinances, regulations and rules.
- (AA) "Light food preparation" shall mean any area in which foods are prepared without the use of fryers, grills or other similar equipment. Light food preparation limited to the preparation of hot dogs, sandwiches, salads and other similar foods and fountain type drinks.
- (BB) "Misbranded" shall mean the presence of any written, printed or graphic matter, upon or accompanying food or containers of food, which is false or misleading, or which violates any applicable labeling law.
- (CC) "Mobile food unit" means a vehicle mounted food service establishment designed to be readily movable.
- (DD) "No food preparation" shall mean any area in which foods are provided prewrapped, from an approved source, with a microwave or convection oven. "No food preparation" is limited to prepackaged sandwiches or similar food, candies and containerized drinks.
- (EE) "Nonfood contact surface" means a surface (including, but not limited to, a shelf, counter, fan or an exterior part of equipment) that does not normally come into contact with food in the operation of a food establishment but may be exposed to splash and food debris.
- (FF) "Packaged" means bottled, canned, carton or securely wrapped.
- (GG) "Perishable food" shall mean any food or such type or in such condition as may spoil.
- (HH) "Person in charge" means the individual present in a food establishment who is the actual or apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.
- (II) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk

- products, eggs, meat, poultry, fish, shellfish, edible crustacea, or any other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor free boiled shell eggs or foods which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less.
- (JJ) "Precooked linked products" shall mean certain products containing any combination of beef, pork, poultry, and vegetable protein, wrapped in a shell membrane, cut into individual links, and thoroughly cooked. Such products may be reheated prior to serving but do not require further cooking.
- (KK) "Reduced oxygen packaging means the reduction of oxygen in a package by mechanically evacuating, displacing the oxygen with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the surrounding atmosphere, which is 21% oxygen.
- (LL) "Reconstituted" means recombining dehydrated food products with water or other liquids.
- (MM) "Regulatory authority" means the local health enforcement authority, Sanitarian, Environmental Health Inspector or authorities in the City of Allen having jurisdiction over the food service establishment.
- (NN) "Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to become a component of or otherwise affect the characteristics of any food either directly or indirectly. If materials are food additives or color additives as defined in Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act, they are "safe" only if used as specified in Section 409 or 706 of the Act. Other materials are "safe" only if they are not food or color additives as defined in Section 201(s) or (k) of the Act, as used.
- (OO) "Safe temperatures" as applied to potentially hazardous food shall mean temperatures of forty (40)°F.(5)°C. or below and temperatures of one hundred forty (140)°F. (60)°C. or above.
- (PP) "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.
- (QQ) "Sealed" means free of cracks or other openings that permit the entry or passage of moisture.
- (RR) "Single-service articles" means 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 and then discarded.
- (SS) "Slacking" means the process of moderating the temperature if a food such as allowing a food to gradually increase from a temperature of -10°F (-23°C) to 25°F (-4°C) in preparation for deep fat frying or to facilitate even heat penetration during the cooking of previously block frozen food such as spinach.
- (TT) "Tableware" shall mean all multi use eating and drinking utensils including flatware (knives, forks and spoons), chopsticks and skewers.

- (UU) "Temporary food service establishment" means a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days or on a seasonal basis of more than 14 days but less than 180 days in conjunction with an event or celebration.
- (VV) "Utensil" means any implement used in the storage, preparation, transportation or service of food.
- (WW) "Vending machines" means any self service device which dispenses a serving of food in bulk or in packages, without the necessity of replenishing the unit between each vending operation.
- (XX) "Water activity" means the water in a food or medium that is available to microorganisms for growth. The water activity value is the point where the relative humidity of an atmosphere around a food neither gains nor loses water so that the two (2) humidities are in equilibrium and the water vapor pressure of the food is the same as the atmosphere. The water vapor pressure of pure water at the same temperature is numerically equal to the water activity.
- (YY) "Wholesome" shall mean in sound condition, clean, free from adulteration and otherwise suitable for use as human food.

ARTICLE 3: Food Care

(A) Food Supplies

- (1) General. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The making of pre-made sandwiches and other pre-made packaged food other than individual portions is a manufacturing process which requires proper labeling and the facility shall be registered as a manufacturer with the State of Texas. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited. Expiration dates on all food containers shall be required.
- (2) Special Requirements
- (a) All milk and milk products to include frozen and dry milk sold in the City of Allen shall be pasteurized.
- (b) 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, sell by_ or shuck date and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they were 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. Only fish from a commercially approved source and approved by the regulatory authority shall be served or sold.

- (c) Only pasteurized, clean whole eggs with shell intact, frozen, dry eggs, shall be used, except that commercially prepared and packaged, peeled, hard boiled eggs also may be used.
- (d) Reduced oxygen packaging criteria shall be in accordance with Section 3-502.12 of the Federal food Code and a HACCP plan, Section 8- 201.14, and shall be required prior to installation of packaging equipment.
- (e) Wild game is prohibited for sale or service except from a commercially approved source.

(B) Food Protection

- (1) General. At all times, including while being stored, prepared, displayed, served, vended or transported, food shall be protected from potential contamination, cross contamination, dust, insects, rodents, unclean equipment and utensils, chemicals, money laden unwashed hands, tasting, unnecessary handling, inadequate packaging coughs and sneezes, flooding, drainage and overhead drippage from condensation. The internal temperature of potentially hazardous food shall be 40°F. (5°C.) or below 140°F. or (60°C.) or above at all times. Food shall not be allowed to stand at room temperature, except as otherwise provided in these rules.
- (2) Emergency Occurrences. In the event of an emergency, such as a fire, flood, water or power outage, sewage backup, or similar event, which might result in the contamination of food, or which might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately discontinue operations and contact the regulatory authority. Upon receiving notice of this occurrence, the regulatory authority shall take whatever reasonable action that it deems necessary to protect the public health.

(C) Food Storage

- (1) General
 - (a) 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 except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent, 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.
 - (b) Containers of food shall be stored a minimum of six inches above the floor (12 inches when hose down cleaning methods are used) in the manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, except that:
 - 1) Metal pressurized or boxed beverage containers, and cased food packaged in cans, glass or other waterproof containers shall be stored in a manner to allow easy cleaning; and

- 2) Bulk food products and containers shall be stored on dollies, or racks, provided such equipment is easily moveable.
 - (c) 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 and single service items in toilet, locker, dressing, mechanical rooms or vestibules is prohibited.
 - (d) Food not subject to further washing or cooking before serving (ready-to-eat) shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking (raw foods).
 - (e) Packaged food shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.
 - (f) Unless its identity is unmistakable, food not stored in the product container or package in which it was obtained, shall be stored in a container labeling the food by common name.
 - (g) Non perishable foods shall be stored in a cool, clean dry well ventilated room.
- (2) Refrigerated Storage
- (a) Conveniently located mechanical refrigeration facilities shall be provided to assure the maintenance of all potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to $\pm 3^{\circ}\text{F}$. ($\pm 1.7^{\circ}\text{C}$.), located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to $\pm 3^{\circ}\text{F}$. ($\pm 1.7^{\circ}\text{F}$.), may be used in lieu of indicating thermometers.
 - (b) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 40°F . (5°C .) or below (From 140°F . (60°C) to 70°F . (21°C) within 2 hours and from 70°F (21°C) to 40°F (5°C) or below within 4 hours). Potentially hazardous foods may be prepared in small batches, however food prepared in large quantities shall be rapidly cooled utilizing quick chilling or rapid cooling equipment or other methods such as loosely covered or uncovered shallow pans (maximum 4 inches deep), agitation, or water circulation external to the food container so that the total cooling period shall not exceed four (4) hours. If cooling period exceeds four (4) hours it shall be discarded as waste. Potentially hazardous food to be transported shall be pre chilled and held at a temperature of 40°F . (5°C .) or below at all times unless maintained in accordance with paragraph (3) (b) of subsection (C) of this rule.
 - (c) Frozen foods shall be kept frozen and shall be stored at a temperature of 0°F . (-18°C .) or below. Before service or sale in ready-to-eat form, raw, marinated, or partially cooked fish other than molluscan shellfish shall be frozen to a temperature of -31°F (-35°C) for 15 hours in a blast freezer. Records shall be maintained.

- (d) Ice intended for human consumption shall be from an approved source, and 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.
- (e) Ready-to-eat potentially hazardous foods prepared and held for more than 24 hours or frozen shall be clearly dated with date of preparation.

(3) Hot Storage

- (a) Conveniently located hot food storage facilities, approved by the regulatory authority, shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility shall be provided with a numerically scaled indicating thermometer, accurate to $\pm 3^{\circ}\text{F}$. ($\pm 1.7^{\circ}\text{C}$.), located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording thermometers accurate to $\pm 3^{\circ}\text{F}$. ($\pm 1.7^{\circ}\text{C}$.) may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bainmaries, 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.
- (b) The internal temperature of potentially hazardous foods requiring hot storage shall be 140°F . (60°C .) or above except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140°F . (60°C .) or above unless maintained in accordance with paragraph (2) (b) of subsection (C) of this rule.

(D) Food Preparation

- (1) General. 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. Where operations require continuous manual contact with potentially hazardous foods, and ready-to-eat foods, disposable gloves, tongs or other utensil shall be used. Hands shall be washed prior to using utensils, gloves, food preparation and as often as necessary during preparation. Separate cutting boards and utensils shall be used for ready-to-eat foods and raw potentially hazardous foods.
- (2) Raw Fruits and Raw Vegetables. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cut, cooked, combined with other ingredients or served for human consumption in ready-to-eat form.
- (3) Cooking Potentially Hazardous Foods. Potentially hazardous ingredients shall be held at safe temperatures except during actual food preparation of products. Preparation shall be accomplished quickly and without delay. Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 145°F . (63°C .) for 15 seconds, except that:
 - (a) Poultry, poultry stuffing, stuffed meats and stuffing containing meat shall be

- cooked to heat all parts of the food to at least 165°F. (74°C.) for 15 seconds with no interruption of the cooking process.
- (b) Pork, pork products, comminuted (ground/combined/mixed) fish and meat, and game shall be cooked to heat all parts of the food to at least 155°F. (68°C.) for 15 seconds.
 - (c) Roast beef shall be cooked to an internal temperature of at least 145°F (63°C) for 3 minutes.
 - (d) Ground beef products shall be cooked to internal temperature of at least 155°F (68°C), for 15 seconds, center being brown or gray, and juices clear with no trace of pink.
 - (e) Microwave cooking. Raw animal foods cooked in a microwave shall be rotated or stirred throughout to compensate for uneven distribution of heat. Foods shall be heated to at least 165°F (74°C).
- (4) Dry Milk and Dry Milk Products. Only pasteurized reconstituted dry milk and dry milk products shall be used.
 - (5) Liquid, Frozen, Dry Eggs and Egg Products. Only pasteurized Liquid, frozen, dry eggs and egg products shall be used. Such eggs shall be substituted for shell eggs in the preparation of foods that are not cooked such as Caesar salad, hollandaise or bernaïse sauce noncommercial mayonnaise, eggnog, and egg-fortified beverages.
 - (6) Re heating. Potentially hazardous foods that have been cooked and then refrigerated, shall be reheated rapidly to 165°F. (74°C.) or higher for 15 seconds throughout before being served or before being placed in a hot food storage facility at 140°F. The establishment shall utilize stoves, ovens, microwave ovens, and high heat pressure steamers for rapid re heating. Microwave re heating shall require foods to be rotated or stirred through out during heating and heated to a temperature of at least 165°F (74°C). Steam tables, bainmaries, warmers, and similar hot food holding facilities are prohibited for the rapid re heating of potentially hazardous foods.
 - (7) Nondairy Products. Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one gallon in capacity and cooled to 40°F. (5°C) or below within four hours after preparation.
 - (8) Product Thermometers. Metal stem-type numerically scaled indicating thermometers, or electronic digital thermometers accurate to $\pm 2^{\circ}\text{F}$. ($\pm 1.1^{\circ}\text{C}$.), shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods.
 - (9) Thawing Hazardous Foods. Potentially hazardous foods shall be thawed:
 - (a) In refrigerated units at a temperature not to exceed 40°F. (5°C.) ; or
 - (b) Under potable running water of a temperature of 70°F. 21°C.) or below, with

- sufficient water velocity to agitate and float off loose food particles into the overflow; or
- (c) In a microwave oven ONLY when the food will be immediately transferred to the conventional cooking facilities as part of a continuous cooking processor when the entire, uninterrupted cooking process takes place in the microwave oven; or
 - (d) As part of the conventional cooking process.
- (E) Food Display and Service
- (1) Potentially Hazardous Foods. Potentially hazardous food shall be kept at an internal temperature of 40°F. (5°C.) or below or at an internal temperature of 140°F. (60°C.) or above at all times during display and service.
 - (2) Raw foods of animal origin shall not be made available for self service.
 - (3) (a) Milk and Cream Dispensing
Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one 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. Expiration dates on all milk products shall be observed.
 - (b) 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.
 - (4) Nondairy Product Dispensing. Nondairy creaming or whitening agents shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.
 - (5) Condiment Dispensing.
 - (a) Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers or from original containers designed for dispensing and protected in accordance with paragraph (8) of subsection (E) of this rule.
 - (b) Condiments provided for table or counter service shall be individually portioned, except that catsup 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 pour-type dispensers.
 - (6) Ice Dispensing. Ice for consumer use shall be dispensed only by employees with scoops,

tongs, or through automatic self 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. Automatic service units shall be used for self-service.

- (7) In use 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:
 - (a) Stored in the food with the dispensing utensil handle extended out of the food; or
 - (b) Stored clean and dry; or
 - (c) Stored in running water of sufficient velocity to flush particles; or
 - (d) 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.
 - (8) Re-service. Once served to a consumer, portions of leftover food shall not be served again except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition, may be re-served.
 - (9) Display Equipment. Food on display shall be protected from consumer contamination by the use of packaging or by the use of an easily cleanable counter, serving line or salad bar protector devices, closed display cases, or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.

Food not protected under these rules shall be discarded as waste.
 - (10) 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.
 - (11) Vending machines. Shall be equipped with a self closing door or cover. A machine vending potentially hazardous food shall have an automatic control that prevents the machine from vending food if there is a failure or condition that does not allow the machine to maintain safe temperatures.
- (F) (1) 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 the sun, heat, dust, insects, and other contamination. Foods in original individual packages do not need to be over-wrapped 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 these rules relating to food protection and food storage.
- (2) Vehicles for the Transportation of food. All vehicles used for transporting food shall be covered and kept clean. These vehicles shall not be used for hauling

garbage, petroleum, or other materials which could cause food contamination.

Completely inclosed refrigerated or heated units are required when transporting potentially hazardous foods.

- (G) Hazard Analysis Critical Control Point (HACCP). The regulatory authority may on a case by case bases, require HACCP plans for certain food operations such as Reduced Oxygen Packaging and Smoking and Curing operations.

ARTICLE 4. PERSONNEL

(A) Disease Control

- (1) Generally. No person, employee or applicant, while infected with a communicable disease that can be transmitted by or through 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, gastrointestinal infection, jaundice fever or exhibits other signs of illness, shall work in a food service 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.
- (2) Duty of person in charge.
 - (a) If the person in charge of a food establishment knows or has reasonable cause to believe that a person working in the facility is in violation of subsection (A) (1) of this article, the person in charge shall immediately remove that person from the facility.
 - (b) The person in charge shall reinstate an employee only when receiving written documentation from a licensed physician stating that the person is no longer ill, is no longer in an infectious condition, and is able to resume duties as a food handler.
 - (c) The person in charge shall report to the regulatory authority persons diagnosed with or suspected of having Salmonella, Shigella, Escherichia coli 0157:H7, or hepatitis A virus infection.
- (3) Duty of employee. If a person who works in a food establishment knows or has reasonable cause to believe that they are in violation of subsection (A) (1) of this article, they shall immediately inform the person in charge of that fact or belief.
- (4) Duty of the regulatory authority. When infection or disease outbreak is suspected, the regulatory authority may cause a person working or applying for work in a food establishment to be examined to determine if the person is in violation of subsection (A) (1) of this article. If the regulatory authority has reasonable cause to suspect that a person is in violation of subsection (A) (1) of this article, the regulatory authority may take reasonably necessary action to prevent further infection of or transmission to others, such as including but not limited to:
 - (a) Securing a morbidity report of the person;

- (b) Excluding the person from all food establishment; or
- (c) Closing the food establishment in which the person works until the regulatory authority determines that the risk of infection or transmission to others or disease outbreak no longer exists.

(B) Food Service Managers Certification

- (1) Purpose. The purpose of this section is to require the certification of supervisory personnel of a food service establishment, so that supervisory personnel shall have knowledge of safe techniques for storage, preparation, display, and service of foods with the underlying purpose of preventing food borne illness and protecting the public health. Supervisory personnel shall train employees under their supervision regarding same.
- (2) Requirements
 - (a) Within 120 days of the effective date of this section, a food service establishment shall have on each shift, at least one person who is an on site supervisory employee of that food establishment responsible for food protection and service, and has a current certificate which satisfies the requirements of sub section (B) (4) below.
 - (b) The regulatory authority may require additional certified operators per shift to insure that all food preparation and service is performed under the direction of certified food service personnel.
 - (c) Whenever a certified food service manager terminates employment, the food establishment shall employ another certified food service supervisor within 30 days of the effective date of termination.
- (3) Exemption from Requirement.
 - (a) Food service establishments that serve, sell, or distribute pre-packaged foods and/or foods which are not potentially hazardous may be exempted from these requirements by the regulatory authority.
 - (b) The regulatory authority may waive or modify the requirements of this ordinance for temporary food service establishments, special facilities and/or events.
- (4) Proof of Knowledge.

All certified food service supervisors must provide the regulatory authority with documentation verifying their knowledge of safe food handling procedures applicant has achieved a passing score on an examination, which has and food borne illness prevention. Satisfactory documentation may consist of one of the following:

 - (a) A certificate from an accredited testing agency which certifies that the been designed to measure the understanding and application of safe food handling techniques and practices.

- (b) A certificate from a training program which has been approved by the Texas State Health Department under the provisions of state law.
- (5) **Demonstration of Knowledge.**
A manager or person in charge may be required to demonstrate to the regulatory authority knowledge of food borne disease prevention, application of the Hazard Analysis Critical Control point principles, and the requirements of this Ordinance as it relates to the food operation.
- (6) **Additional Training.**
The regulatory authority may require certified supervisory personnel, and or operators to successfully complete additional training when:
 - (a) The employing food service establishment has repeated or persistent violations of critical health code requirements or effective corrective action has not been taken over a reasonable period of time, as determined by the regulatory authority.
 - (b) The employing food service establishment is suspected by the regulatory authority as a source of food borne illness. All cost associated with training shall be the responsibility of the food service establishment.
- (7) **Renewal of Certification.**
All certified food service operators shall renew their certificate every two years in accordance with subsection (B) (4) above.
- (8) **Proof of certification.**
Each certified food service operator shall display their certificate in a prominent location in the establishment or carry it on their person when on duty, as directed by the regulatory authority.
- (9) **Certificate Transferability.**
A food service operators certificate is not transferable from one to another person.
- (10) Certificates from other cities may be accepted with approval of the regulatory authority.
- (11) **Revocation of Certification.**
The regulatory authority may revoke a food service operators certification if the holder:
 - (a) Has been convicted of interfering with the lawful inspection or investigation of a food establishment;
 - (b) Makes a false statement of material fact in the application for certification or renewal of certification; or
 - (c) Was employed as a food service supervisor of an establishment where the establishments food service permit was suspended two or more times within a twenty four (24) month period or where the establishments food service permit was revoked.

(C) Employee Responsibilities

- (1) Personal Cleanliness. All employees shall thoroughly clean their hands and exposed portions of the arms with a cleaning compound by vigorously rubbing together the surfaces of their lathered hands and arms and thoroughly rinsing with clean water. Signs shall be posted to this effect. Particular attention shall be given to underneath fingernails and between fingers. Employee finger nails shall be kept clean and trimmed. Finger nail polish and false fingernails are prohibited.
 - (a) Safe chemical hand sanitizing solutions may be used in addition to hand washing not as a substitute for same.
 - (b) Employees shall wash their hands at the following times:
 - (1) After touching bare human body parts other than clean hands and clean, exposed portions of arms;
 - (2) After using the toilet room;
 - (3) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating or drinking;
 - (4) After handling soiled equipment or utensils;
 - (5) Immediately before engaging in food preparation including working with exposed food, ready-to-eat foods, using gloves, clean equipment and utensils, and unwrapped single service articles;
 - (6) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
 - (7) When switching working with raw foods and working with ready-to-eat foods; or
 - (8) After engaging in other activities that contaminate the hands.
- (2) All employees while engaged in food preparation, food service and utensil washing shall wear clean outer clothing. When moving from a raw food operation to a ready-to-eat operation, employees shall wear a clean outer covering, such as aprons or smocks, over clothing or change to clean clothing if their clothing is soiled. Tank tops and similar clothing shall be prohibited in the same above mentioned areas.
- (3) Hair
 - (a) Employees working in food preparation and utensil cleaning areas shall use effective hair restraints (hair coverings or nets, caps, hats, beard restraints and clothing) to prevent the contamination of hands, food or food contact surfaces. Hair spray alone shall not be considered an effective hair restraint.
 - (b) Employees with long hair shall be required to gather and tie their hair behind their head, in addition to wearing approved hair nets, hats, and caps.
- (4) Employees shall remove all loose or unsecured jewelry. When manipulating food by hand, remove any jewelry that cannot be adequately sanitized. Plain wedding bands are acceptable.
- (5) Employees involved only in the conveying of meals and drinks to dining areas, such as waiters and waitresses, shall meet all personal hygiene requirements in this section

deemed necessary by the regulatory authority. The regulatory authority may waive or modify certain requirements for employees involved in minimal food handling capacities.

(D) Employee Practices

- (1) 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. In that case, employees shall eat in the customer dining area. Employees may drink from closed beverage containers providing no contamination may result.
- (2) 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. An employee tobacco use area shall not be designated for that purpose if the use of tobacco there may result in contamination of food, equipment, utensils or other items needing protection.
- (3) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.
- (4) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food service establishment. Unsanitary practices such as scratching the head, placing fingers on the mouth or nose is prohibited. Indiscriminate, uncovered coughing and sneezing is discouraged.

(E) Employer Responsibility

- (1) It shall be the responsibility of the owner/management/person in charge to enforce items (A) through (D) of this section and to further certify to the City Sanitarian that all employees are in compliance with this code. Tours shall be scheduled at non peak hours when contamination opportunities are reduced.
- (2) Management shall be responsible for employee health compliance and cleanliness practices to the point of insuring these rules are completely understood.

ARTICLE 5. CLEANING, SANITIZATION AND STORAGE OF EQUIPMENT AND UTENSILS.

(A) Equipment and Utensil Cleaning and Sanitization.

- (1) Cleaning Frequency
 - (a) Tableware shall be washed, rinsed and sanitized after each use.
 - (b) To prevent cross-contamination, kitchenware and food-contact surfaces of equipment shall be washed, rinsed and sanitized;
 - 1 Before each use with different type raw animal food.
 - 2 Each time there is a change from working with raw foods to ready-to-eat foods.

- 3 Between uses with raw produce and with potentially hazardous food.
 - 4 At any time during the operation when contamination may have occurred.
- (c) Where equipment and utensils are used for the preparation of potentially hazardous foods, utensils and the food-contact surfaces of equipment shall be washed, rinsed and sanitized at intervals throughout the day on a schedule based on food temperature maintained during operation, type of food, amount of food particle accumulation, and characteristics of the equipment and its use.
 - (d) The food-contact surfaces of grills, griddles and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day; except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of grease deposits and other accumulated soil.
 - (e) Nonfood-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, grease, dirt, food particles and other debris.
- (2) Wiping Cloths
 - (a) 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. Sponges shall not be used.
 - (b) Moist cloths used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in paragraph (3) (e) (1 through 6) below, and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses. The solution shall be changed frequently. Dry or moist cloths used with raw animal foods shall be kept separate from cloths used for other purposes.
 - (c) 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 paragraph (2) (b) of subsection (A) of this rule, and used for no other purpose. These cloths shall be stored in the sanitizing solution.
- (3) Manual Cleaning and Sanitizing
 - (a) A three (3) compartment sink shall be used if washing, rinsing and sanitizing of utensils and equipment is done manually. 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 and be self draining. Suitable equipment shall be made available if washing, rinsing and sanitizing cannot be accomplished by immersion. A four-compartment sink shall be utilized where mixed drinks are prepared. Sinks shall have automatic portioning injectors for detergent and sanitizer.
 - (b) Non corrosive sloped drain boards, easily movable dish tables, over_shelves or

drying racks 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.

- (c) Prior to cleaning, all equipment and utensils shall be pre flushed or pre scraped and, when necessary, presoaked to remove gross food particles and soil. To insure that manual or mechanical dishwashing results in completely clean and sanitary utensils, a pre rinse spray may be required.
- (d) 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:
 - 1) Sinks shall be cleaned prior to use; and
 - 2) Equipment and utensils shall be thoroughly washed in the first compartment with a hot wash (min 110°F. or 43°C.) solution that is changed frequently.
 - 3) Equipment and utensils shall be rinsed free of detergent and abrasive with clean, hot, water in the second compartment; and
 - 4) Equipment and utensils shall be sanitized in the third compartment according to one of the methods included in paragraphs (3) (e) (1 through 6) below.
- (e) The food contact surfaces of all equipment and utensils shall be sanitized by:
 - 1) Immersion for at least one-half ($\frac{1}{2}$) minute in clean, hot water at a temperature of at least 170°F. (77°C.); or
 - 2) Immersion for at least one (1) minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75°F. (24°C.); or
 - 3) Immersion for at least one (1) minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and at a temperature of at least 75°F. (24°C.); or
 - 4) Immersion in a solution containing an approved quaternary ammonium compound (Q.A.C.) at a temperature of 75°F. (24°C) at a strength and for a period of time as stated on the product's officially approved label; or
 - 5) Immersion in a clean solution containing any other chemical sanitizing agent approved by the Texas Board of Health that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75°F. (24°C.) for one (1) minute.
 - 6) Rinsing, spraying, swabbing with a chemical sanitizing solution of at least

twice the strength required for that particular sanitizing solution under paragraph (3) (e) 5, if equipment is too large for immersion.

- (f) When hot water is used for sanitizing, the following facilities shall be provided and used:
 - 1) 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 at least 170°F. (77°C.); and
 - 2) A numerically scaled indicating thermometer, accurate to $\pm 3^\circ\text{F}$. ($\pm 1.7^\circ\text{C}$.), convenient to the sink for frequent checks of water temperature; and
 - 3) Dish baskets or rack of such size and design to permit complete immersion of utensils and equipment in the hot water.
 - (g) When chemicals are used for sanitization, a test kit or other device that accurately measures the parts per million (ppm) concentration for that specific chemical solution shall be provided and used.
 - (h) A dishwashing sink may be used to wash produce or thaw food if the sink is cleaned and sanitizes before and after each use.
- (4) Mechanical Cleaning and Sanitizing.
- (a) 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. These machines and devices shall be properly installed, clean, 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 agent dispensers, and liquid sanitizer injectors, shall be properly installed and maintained.
 - (b) The pressure of final rinse water supplied to spray-type dishwashing machines shall not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A 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.
 - (c) Machine or water line mounted numerically scaled indicating thermometers accurate to $\pm 3^\circ\text{F}$. ($\pm 1.7^\circ\text{C}$.), shall be provided to indicate the temperature of the water in the wash and rinse tank of the machine and the temperature of the final rinse water as it enters the manifold.
 - (d) 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. Pressure required for sanitizing rinse, conveyor speed for conveyor machines or cycle time on stationary rack machines, and temperature required for washing, rinsing, and sanitizing shall be in accordance with

manufacturers' specifications attached to the machines.

- (e) Drain boards, sloped to drain, 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 movable dish tables or over shelves for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.
- (f) Prior to mechanical washing, all equipment and utensils shall be flushed or scraped and, when necessary, presoaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a pre wash cycle is a part of the dishwashing machine operation. A pre rinse spray may be required. 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.
- (g) Machines (single-tank, stationary-rack, door-type machines and spray-type glass washers) using chemicals for sanitization may be used provided that:
 - 1) The temperature of the wash water shall not be less than 120°F. (40°C.); and
 - 2) The wash water shall be kept clean; and
 - 3) Chemicals added for sanitization purposes shall be automatically dispenses; and
 - 4) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with the manufacturers' specifications for time and concentration; and
 - 5) The chemical sanitizing rinse water temperature shall be not less than 75°F. (24°C.) nor less than the temperature specified by the machine's manufacturer; and
 - 6) Chemical sanitizer used shall be approved and a test kit or other device that accurately measure the parts per million concentration of the solution shall be available and used.
- (h) 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 at not less than the temperatures stated below:
 - 1) Single-tank, stationary-rack, dual-temperature machine: wash temperature - 150°F. (66°C.); final rinse temperature - 180°F. (82°C.)
 - 2) Single-tank, stationary-rack, single-temperature machine: wash temperature - 165°F. (74°C.); final rinse temperature - 180°F (82°C)

- 3) Single-tank, conveyor machine: wash temperature - 160°F. (71°C.); final rinse temperature - 180°F. (82°C.).
- 4) Multi-tank, conveyor machine: wash temperature 150°F. (66°C.); pumped rinse temperature - 160°F. (71°C.); final rinse temperature - 180°F. (82°C.).
- 5) 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.).

- (i) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory and sanitary operating condition.
- (j) Drying. After sanitization, all equipment and utensils shall be air dried. The use of towels is prohibited.
- (k) Food service establishments which do not have adequate and effective facilities for cleaning and sanitizing utensils shall use single service articles.
- (l) Mechanical dishwashing machines shall be used if reusable tableware is provided for customers.

(B) Equipment and Utensil Storage.

- (1) 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 user's mouth.
- (2) Knives shall be stored in a rack or holder designed for that purpose and said holder shall be kept clean.
- (3) Storage
 - (a) Cleaned and sanitized utensils and equipment shall be stored at least six 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.
 - (b) Utensils shall be air dried before being stored or shall be stored in a self-draining position. Adequate drying or storage racks shall be provided.
 - (c) Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted. 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.

- (d) If presetting is practiced, 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. Soiled tableware shall be removed and handled in a way that clean tableware is not contaminated.
- (4) Single-Service Articles
- (a) Single-service articles shall be stored at least six 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.
 - (b) 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.
 - (c) 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 prepackaged, holders shall be provided to protect these items from contamination, and present the handle of the utensil to the consumer.
- (5) Linen Storage. Clean and soiled linen and clothes shall be stored separately and protected from contamination.
- (6) Prohibited Storage Area. The storage of food equipment, utensils or single-service articles in toilet rooms, garbage rooms, locker rooms, stairwells, boiler rooms or vestibules is prohibited.

ARTICLE 6. CLEANING AND MAINTENANCE OF PHYSICAL FACILITIES

- (A) Floors, Walls, Ceiling. Cleaning of floors and walls, and ceilings, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. Floor, mats, walls, ceilings shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust arresting sweeping compounds.
- (B) Repair. Floors, walls, and ceilings shall be smooth, durable and non-absorbent and shall be maintained in a condition that facilitates through and rapid cleaning. Floors, walls, baseboards and ceilings shall be free of cracks, chips, holes, and deterioration. The regulatory authority shall require repair or replacement of any floor, wall or ceiling which fails to meet these requirements.
1. Mats shall be of non absorbent, grease resistant materials, removable, and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards may be used as storage racks in food storage and distribution warehouses. Mats may be cleaned in the utility facility.

2. Attachments. Light fixtures, wall mounted fans, decorative materials attached to walls and ceiling shall be cleaned and maintained in good repair.
 3. Vents. Intake and exhaust air ducts shall be cleaned and filters changed to prevent entrance of dust, dirt, and other contaminating materials.
- (C) EQUIPMENT. Equipment shall be clean and sanitary and maintained in a condition that facilitates through and rapid cleaning and in good working order. The regulatory authority may require repair or replacement of equipment which fails to meet these requirements.
- (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 trash materials. Toilet rooms used by women shall have at least one covered waste receptacle for sanitary napkins.
- (E) LAVATORIES. A supply of hand cleansing soap or detergent shall be available in each lavatory. The use of bar soap is prohibited. A dispensing unit with a supply of individually dispensed sanitary towels or hand drying device shall be conveniently located near each lavatory. Common, reusable or roll paper towels are prohibited. If disposable towels are used, easily cleanable, covered waste receptacle shall be conveniently located near the hand washing facilities. Lavatories, soap dispensers, hand drying devices and all related fixtures shall be kept in good repair.
- (F) GARBAGE AND REFUSE
1. Garbage and refuse accumulated inside a facility shall be kept in durable, easily cleanable, insect and rodent proof, covered containers with swivel or push through lids that do not leak or absorb liquids. Plastic bags shall be used to line these containers, and they may be stored inside the food service establishment. When three-fourths full, plastic bags are to be securely tied prior to disposal in dumpsters in an unbroken condition.
 2. Containers stored outside the establishment, and dumpsters, compactors, compactor systems, grease units shall be easily cleanable, non absorbent, leak proof and shall be provided with tight fitting lids, doors or covers and shall be kept covered when not in actual use. In container designed with drains, drain plugs shall be in place at all times except during cleaning.
 3. Soiled containers shall be cleaned at a frequency to prevent buildup, odors, and an attraction to insects and rodents. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment or other food preparation areas. Suitable facilities, including hot water and detergent or steam, shall be provided and used for washing containers. Liquid waste from compacting units or cleaning operations shall be disposed of as sewage.
 4. 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 baled units containing garbage or refuse is prohibited. Cardboard or other packaging materials containing garbage or food waste shall be broken down, stored in dumpsters or self contained compactors to prevent odors and insect or rodent harborage.

5. Garbage and refuse shall be removed by an approved commercial service at least twice per week to prevent the development of odor and the attraction of insects and rodents. The regulatory authority may require more frequent removal.

(G) INSECT AND RODENT CONTROL

1. General. Effective measures intended to minimize the presence of rodent, flies, cockroaches and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents. Implement a strong housekeeping program in conjunction with a licensed, reliable pest controller.
2. Licensed exterminators. Licensed exterminators shall conduct spraying in a food service and food processing facility. Spraying will be conducted before or after food preparation and service hours. Food, equipment, linens, and single service items shall be protected from toxic residues due to spray, drip, drain or splash, by removing items, covering with impermeable covers, or cleaning and sanitizing equipment after application.

(H) POISONOUS OR TOXIC MATERIALS

1. Materials Permitted. Only those poisonous or toxic materials necessary for the maintenance of the establishment, the cleaning and sanitizing of equipment and utensils, and the control of insects and rodents shall be present in food service establishments.
2. Labeling of Materials. Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law with the common name of the material for easy identification of contents.
3. Storage of Materials. Poisonous or toxic materials consist of the following three categories:
 - a. Insecticides and rodenticide;
 - b. Detergents, sanitizer and related cleaning or drying agents;
 - c. Caustics, acids, polishes and other chemicals.

All poisonous or toxic materials shall be stored in cabinets or 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 sanitizer at utensil or dishwashing stations.

4. Use of Materials.
 - a. Bactericides, cleaning compounds or other compounds intended for use on food contact surfaces shall so indicate on the manufacturer's label and not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a

hazard to employees or other persons.

- b. Poisonous or toxic materials shall not be used in a way that contaminates food, equipment or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.
 - c. A food container shall not be used to store, transport, or dispense poisonous or toxic materials. A container previously used to store poisonous or toxic materials may not be used to store, or dispense food.
5. Personal Medications. Personal medications shall not be stored in food storage, preparation or service areas. Medications shall be stored in a designated area for this purpose only.
 6. First Aid Supplies. First aid supplies shall be stored in a kit or container and in a way that prevents them from contaminating food or food contact surfaces.

(I) PREMISES

1. General.

- a. Food establishments and all parts of the property used in connection with operations of the establishment shall be kept free of litter, debris and high weeds.
- b. Only articles necessary for the operation and maintenance of the food establishment shall be stored on the premises. All unneeded articles and equipment shall be removed. All parts of the establishment shall be kept neat, clean, and free of litter.
- c. The traffic of unnecessary persons through the food preparation and utensil washing area is prohibited.
- d. Cleaning Equipment Storage. Maintenance and cleaning tools such as brooms, mops, buckets, 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.
- e. Animals. Live animals, including birds and turtles, shall be excluded from within the food service operational premises and from immediately adjacent areas under the control of the food service establishment. This exclusion does not apply to edible fish, crustacean, shellfish or to fish in aquariums. Patrol dogs accompanying security or police officers or guide dogs accompanying blind persons, shall be permitted in dining areas.

ARTICLE 7. PLAN REVIEW, CONSTRUCTION, DESIGN, AND INSTALLATION OF PHYSICAL FACILITIES AND EQUIPMENT

- (A) Generally. Any person desiring to operate a food establishment shall submit plans in accordance with this section. All food establishments shall be constructed of materials which facilitate cleaning, minimize deterioration and prevent vermin harborage. Food establishments shall be constructed and maintained in accordance with this article; however establishments constructed before the date of this article may not be required to meet construction requirements unless floors, walls, ceilings and equipment cannot be properly maintained as specified in Article 6 of this ordinance.
- (B) Plans Required.
- (1) When a food establishment is hereafter constructed, remodeled, changes ownership, change in type of food establishment, significantly changes in the menu or when an existing structure is converted for use as a food establishment, properly prepared plans and specifications shall be submitted to the regulatory authority for approval 15 days before such work is begun. An approved copy of such plans shall be at the site at all times. Inspections shall be conducted during construction to insure compliance with approved plans.
 - (2) Contents of plans shall be based on the type of operation, and type of food preparation and shall include:
 - (a) Intended menu;
 - (b) Proposed layout, mechanical schematics, construction materials, and finish schedules;
 - (c) Proposed equipment types, manufactures, locations, dimensions, performance capacities, and installation specifications;
 - (d) HACCP plan if required
 - (e) Other information required by the regulatory authority for complete review of proposed plans.
- (C) Floor Surfaces.
- (1) Food Preparation, Dishwashing, Service Areas. Floor surfaces in these areas are based upon the degree of preparation expected. Food establishments involved in heavy preparation shall incorporate quarry tile, ceramic tile, terrazzo tile or an equivalent floor covering as approved by the regulatory authority. Food establishments involved in light food preparation shall incorporate a commercial grade sheet vinyl or equivalent floor covering as approved by the regulatory authority. Establishments involved in no food preparation shall incorporate vinyl composition tile or an equivalent floor covering. All floors shall be integrally coved with the same floor covering material at the floor/ wall juncture.
 - (2) Toilets, Dressing, Locker Rooms, Vestibules. Food establishments involved in heavy

preparation shall install floor coverings of quarry tile, ceramic tile, terrazzo tile or an equivalent material as approved by the regulatory authority. Food establishments involved in light food preparation shall install commercial grade sheet vinyl or an equivalent material as approved by the regulatory authority. Establishments that are not involved in the preparation of food shall install vinyl composition tile or an equivalent material as approved by the regulatory authority. An approved sealer shall be required at the floor/wall interface.

- (3) Walk-in Coolers and Freezers. Potentially hazardous food no longer sealed in a commercially packaged container shall be stored in walk in coolers and freezers with quarry tile flooring or an equivalent material as approved by the regulatory authority. Floors must be at the same elevation or higher as the surrounding exterior floors, or must be equipped with a floor drain. Food establishments storing only unopened commercially packaged foods in walk in freezers shall install sealed concrete or an equivalent material as approved by the regulatory authority.
 - (4) Dry Storage Areas. All food preparation establishments with dry storage areas shall install vinyl composition tile or an equivalent material as approved by the regulatory authority. A more moisture resistant flooring may be required if the dry storage area is subject to moisture.
 - (5) Floor carpeting. Carpeting, if used as a covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, food storage, (including salad bar, buffet and steam table areas) equipment washing, utensil washing areas and toilet rooms where urinals or toilet fixtures are located, and areas where it would be exposed to grease and water.
 - (6) Prohibited Floor Covering. The use of sawdust, wood shavings, peanut hulls or similar material as a floor covering is prohibited.
 - (7) Utility Line Installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floors. In all new or remodeled establishments installation of exposed horizontal utility lines and pipes on the floor shall be prohibited.
 - (8) Floor Junctures. In all new or remodeled establishments utilizing quarry tile, terrazzo, ceramic or similar flooring materials, and where water flush cleaning methods are used, the junctures between walls and floors shall be coved and sealed. In all other cases, the juncture shall not present an open seam of more than 1/32 inch. An approved sealer shall be required at the floor/wall interface of a food service facility.
 - (9) Wait Stations. Wait stations, that are used for food preparation other than non-potentially hazardous beverages, must meet the flooring requirements listed under C above.
- (D) Floor Drains.
- (1) Food Preparation Areas. Floor drains shall be required in food preparation, dishwash, bar, restrooms and service areas of a food establishments involved in heavy and light food

preparation. Floor drains must be adequate in number, readily accessible for cleaning, and located in such a manner as to reduce exposed drain lines to an absolute minimum. These drains may receive discharges of water or other fluid waste from equipment or in areas where pressure spray methods for cleaning floors and equipment are used. Equipment that is draining into a floor drain must provide an air gap that is twice the diameter of the inlet pipe or have a backflow preventer installed. Floor drains may be waived in existing food service establishments that change ownership depending on the type of food preparation.

- (2) Toilets. Floor drains shall be required in toilets of all food establishments. Floor drains may be waived in existing food service establishments that change ownership.

(E) Ceiling requirements.

Ceilings shall be of light color, smooth, nonabsorbent, durable and easily cleanable. In all food preparation areas, utensil washing areas and food service area exposed to open food and /or moisture, ceiling materials shall be non-porous, washable, drop-in, vinyl coated panels or an equivalent material as approved by the regulatory authority

(F) Wall Surfaces.

- (1) Food Preparation areas. Wall surfaces in food preparation areas based upon the degree of preparation expected. Food establishments involved in heavy and light preparation, shall install wall surfaces of FRP 1/16 inch or greater, ceramic tile, or equivalent materials as approved by the regulatory authority in all food preparation, dishwashing, and service areas. Wall surfaces must extend eight (8) feet in height or to the ceiling if the ceiling height is less than eight (8) feet. Surfaces shall be non absorbent, light colored, smooth, durable, without seams, and sealed to be easily cleanable. Stainless steel or ceramic tile walls are required in areas where there is extreme heat from the cooking process such as behind stoves, grills, and ovens and behind three compartment sinks where there is excessive splash and moisture. Said walls shall extend from below the cooking surface of the equipment up to the vent hood. The regulatory authority may require additional durable and easily cleanable wall surfaces in areas exposed to excessive splash.
- (2) Toilets. Food establishments involved with heavy and light food preparation, shall install FRP, ceramic tile or equivalent materials approved by the regulatory authority. Wall surfaces must extend at least four (4) feet in height with the remainder consisting of any light colored, smooth washable material. Wall surfaces in toilet facilities of establishments that are not involved in food preparation shall be of any smooth, light colored, washable material.
- (3) Walk-in coolers. Wall surfaces shall be smooth, non absorbent, easily cleanable and capable of withstanding effects of low temperature and moisture.
- (4) Dry storage areas. Wall surfaces shall be smooth, light colored, and washable.
- (5) Exposed Construction studs, joists, and rafters shall not be exposed in those areas listed in paragraph (1)(2)(3)(4) of subsection (F) of this rule. If exposed in other areas, they shall be painted and sealed to provide an easily cleanable surface.
- (6) 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 ceiling. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in those areas listed in paragraph (1)(2)(3)(4) of subsection (F) of this rule.

- (7) Attachments. Light fixtures, vent covers, wall-mounted fans, decorative materials and similar equipment attached to walls and ceilings shall be easily cleanable and maintained in good repair.
- (8) Non-corrosive metal corner guards must be installed on ceramic tile wall corners where, in the opinion of the regulatory authority, wall degradation could occur.

(G) Sink requirements

- (1) Sink Installation. All sinks must be affixed with hot and cold running water, tempered by means of a mixing valve or combination faucet, at each sink. Sinks shall have a backsplash and be sealed to the wall to prevent the entrance of moisture.
- (2) Freestanding hand wash sinks shall be required and conveniently located within 25 uninterrupted linear feet of all food preparation, service and utensil washing areas. A supply of hand cleaning soap or detergent and a supply of sanitary disposable towels must be conveniently located near each sink. Hand drying devices providing heated air are prohibited in the kitchen. Sinks used for hand washing must not be used for any other purpose.
- (3) Utensil Washing. A stainless steel, three-compartment sink with sloped drain board and basins large enough to allow complete immersion of the largest utensil shall be installed in the dish wash area if all utensils cannot be sanitized in the commercial dishwasher. If reusable tableware (glasses, china, stainless flatware) is utilized, the establishment must install a commercial dishwasher. A freestanding stainless steel, four compartment sink shall be required in bar areas if all glassware is not sanitized in a commercial dishwasher. Automatic injectors for dispensing detergent and sanitizer are required.
- (4) A stainless steel two compartment sink and garbage disposal may be required for produce preparation and washing.
- (5) Toilets. An easily accessible hand wash sink is required to be located in or immediately adjacent to each toilet facility.
- (6) Utility Facility. In new or remodeled establishments at least one utility sink or curbed cleaning facility of sufficient size with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools, floor mats, trash cans, etc., and for the disposal of mop water or similar liquid wastes, the drain shall be plumbed to the grease trap. The use of lavatories, utensil-washing or equipment-washing, hand washing, or food preparation sinks for this purpose is prohibited. A vacuum breaker device shall be installed as part of the facility.
- (7) No Food Preparation Establishments. Establishments which do not prepare food but sell coffee and other self service drinks and food items must provide a stainless steel three compartment sink to be used for the washing, rinsing and sanitizing of coffee pots, drink

dispensing equipment and utensils.

(H) Equipment Design, Installation and Location

(1) MATERIALS

- (a) General. Equipment and utensils shall be constructed, finished, and repaired with safe materials, including finishing materials, shall be smooth, corrosion resistant, non-absorbent and easily cleanable under normal use. Equipment and utensils shall not impart odors, color or taste, nor contribute to the contamination of food.

All food service equipment and utensils shall be constructed, designed, and installed to meet standards of the National Sanitation Foundation (NSF) or other agency with equivalent testing programs.

- (b) Wood. Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in paragraph (H) (1) (a) above, shall be used for cutting blocks, cutting boards, salad bowls, bakers tables, and wooden spoons. Wood may be used for single service articles such as chop sticks, stirrers, or ice cream spoons. The use of wood and wicker wood as a food contact surface is prohibited.
- (c) Plastics and Rubber. Safe plastic or safe rubber or safe rubberlike 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 of (H) (1) (a) above may be reused.
- (d) Mollusk and Crustacea Shells. Mollusk and Crustacea shells may be used only once as a serving container. Further reuse of such shells is prohibited.
- (e) Single Service. Single service articles shall be made from clean, sanitary, safe materials and shall not impart odors, color, taste, nor contribute to the contamination of food. Reuse of single service articles is prohibited.

(2) EQUIPMENT DESIGN AND FABRICATION

- (a) General. All equipment and utensils, including plasticware shall be commercially designed and fabricated for durability under conditions of normal use and shall be resistant to denting, rusting, buckling, pitting, chipping and crazing.
- (b) Food Contact Surfaces. All food contact surfaces shall be of stainless steel construction, or equivalent materials, including shelving of walk-in refrigerators and freezers. Cast iron may be used where exposed to extreme heat such as grills, griddle tops and skillets. All food contact surfaces shall be safe, durable, corrosion resistant, non absorbent, smooth, easily cleanable, resistant to pitting, chipping, scratching, free of open seams, cracks, chips, pits, and free of difficult to clean internal angles, corners, crevices and finished to have smooth welds and joints.

- (c) **Non Food Contact Surfaces.** Surfaces of equipment not intended for contact with food, but which is exposed to splash of food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, corrosion resistant, nonabsorbent, 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. Non food contact surfaces in the kitchen, storage and serving area shall not be composed of wood, wood products or galvanized metal.
- (d) 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. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food contact surfaces.
- (e) 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 or condensation from entering the ice machine or ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or ice storage bin. Such drainage must be routed to a floor or hub drain.
- (f) Kick plates shall be designed so that areas behind them are accessible for inspection and cleaning by being removed as specified in (H) (2) (g) of this section or capable of being rotated open and removable without unlocking equipment doors.
- (g) **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 kept available near the equipment.
- (h) **In Place Cleaning.** Equipment intended for in place cleaning shall be so designed and fabricated that:
 - 1. Cleaning and sanitizing solutions can circulate throughout a fixed system; and
 - 2. Solutions will contact all interior food contact surfaces; and
 - 3. The system is self draining or capable of being completely drained.

- (i) 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.
- (j) Existing Equipment. Equipment which was installed in a food service establishment prior to the effective date of these rules, and which does not meet fully all the design and fabrication requirements of this rule, shall be deemed acceptable in that establishment as long as there is no change of ownership, if it is in good repair, capable of being maintained in a sanitary condition, and the food contact surfaces are in accordance with (H) (1) and (2) of this section and approved by the regulatory authority. Replacement equipment and new equipment acquired after the effective date of these rules shall meet the requirements of these rules.

(3) EQUIPMENT INSTALLATION AND LOCATION

- (a) General. All equipment shall be installed and maintained to facilitate the cleaning thereof, and of all adjacent areas. Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer or water lines, open stairwells, toilet, locker, garbage and mechanical rooms, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler system heads that may be required by law.
- (b) Table Mounted Equipment. 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 area.
 - 1. Equipment is portable within the meaning of paragraph (3) (b) above if:
 - a. It is small and light enough to be moved easily by one person; and
 - b. 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.
 - 1. Floor mounted equipment, unless readily movable, shall be:
 - a. Sealed to the floor; or
 - b. Installed on a raised platform of tile or other smooth

masonry in a way that meets all the requirements for sealing or floor clearance; or

- c. Elevated on legs to provide at least a six (6) inch clearance between floor and equipment, between equipment and wall, and between equipment. Clearance between equipment and wall and between equipment may be greater for larger equipment. Vertically mounted floor mixers may be elevated to provide at least a four (4) inch clearance between the floor and equipment if no part of the floor under the mixer is more than six inches from cleaning access.

2. Equipment is easily movable if:

- a. It is mounted on wheels or casters; and
 - b. It 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.
- (d) Unless sufficient space is provided for 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 butted and sealed to the adjoining equipment or adjacent walls. Walk in units shall be flush with ceiling or flanged and sealed.
 - (e) Soft drink syrup canisters, containers, carbonators, and compressors shall be situated on easily cleanable and easily accessible non corrosive racks.
 - (f) A commercial dishwasher with final rinse temperature of one hundred eighty (180) degrees Fahrenheit, or an approved chemical sanitizer, shall be required in all food service establishments utilizing reusable tableware.
 - (g) Dry storage racks shall be smooth, non corrosive metal or equivalent and positioned to allow easy accessibility for cleaning.
 - (h) 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, personal contact or cleaning equipment. All easily movable storage equipment such as racks and dollies shall be positioned to provide accessibility to working areas.

(I) Lighting

- (1) 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, walk-ins, dry storage, utensil-washing, and hand washing

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, during cleaning operations.

(2) Protective Shielding

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

(J) Ventilation

- (1) General. All rooms shall have ventilation with sufficient capacity to keep them free of excessive heat, steam, condensation, vapors, dust, obnoxious odors, smoke and fumes. Ventilation hoods and devices shall be designed to prevent grease or condensate from draining or dripping into food, or onto equipment, food preparation surfaces, or collecting on walls and floors. Hoods shall be of stainless steel construction, flush with ceiling or aproned and sealed. Filters, where used shall be readily removable for cleaning. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create an unsightly, harmful or unlawful discharge. The regulatory authority may require more extensive emission controls as needed to prevent air pollution.

(2) Special Ventilation

- (a) Heating and air conditioning systems shall be designed and installed so that the vents do not cause contamination of food, food preparation surfaces, equipment and utensils.
- b. In new or remodeled establishments, all rooms, including rest rooms, from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside.

(K) Dressing Rooms and Locker Areas.

- (1) Dressing Rooms. If employees routinely change clothes within the establishment, rooms shall be designated and used for that purpose. These designated rooms shall not be used for food preparation, storage, service, or for utensil-washing.
- (2) Locker Area. Sufficient lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings so as not to contaminate food contact surfaces. Lockers or other suitable facilities may be located only in designated dressing rooms or designated areas.

(L) Laundry Facilities.

- (1) Laundry facilities in a food service 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.

(M) Administrative area. All food service establishments shall have an office or space designated as an administrative office area which shall be kept clean and orderly at all times.

(N) Sanitary Facilities and Controls

(1) Water Supply

(a) General. Adequate potable water for the needs of the food service 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 service 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) Water Under Pressure. Water (hot and cold) under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

(d) Steam. Steam used in contact with food or food contact surfaces shall be free from harmful material or additives.

(e) Hot Water heater. Hot water heaters shall be located in a separate room near but not in kitchen areas and on a raised concrete pad or on legs at least 6 inches off the floor to allow for cleaning of the floor. A minimum size shall be no less than a 50 gallon unit for the smallest of food establishments.

(2) Sewage. All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed and operated according to law. Non water carried sewage disposal facilities are prohibited, except as permitted by Article 10 and 11 (pertaining to mobile and temporary food facilities) or as permitted by the regulatory authority in remote areas or because of special situations. In the event of sewage backup into the food service facility, the preparation and serving of food shall cease.

(3) Plumbing.

(a) General. All food and drink establishments must be connected to City water and sewer with the possible exception of temporary establishments. Plumbing shall be sized, installed and maintained according to law. There will 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 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, and 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. The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and back siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim. A hose shall not be attached to a faucet unless a backflow prevention device is installed.
- (4) Grease Traps or interceptors.
- (a) Grease traps or interceptors are required and shall be of size designated and located in accordance with the specifications of the Uniform Plumbing Code. Grease traps or interceptors shall be required in heavy food preparation establishments and in light food preparation establishments with similar food preparation or grease generating equipment.
 - (b) Food service establishments, with seating capacity of 50 or more, are required to have a minimum 750 pound capacity grease interceptor unless otherwise allowed by the regulatory authority.
 - (c) Increased use or volume, change in menu, misinterpretations of operations, or discharge violations may require installation of larger trap/interceptor at owners expense.
 - (d) The use of microbial additives, if allowed by the City, requires a 750 pound interceptor.
 - (e) Grease traps/interceptors shall be located on the outside of the building. All grease traps/interceptors must be serviced effectively and frequently enough to maintain traps in satisfactory working order to protect the sanitary sewer from excessive contaminants. Materials removed from a grease trap/interceptor shall be disposed of at an approved disposal site in a lawful manner by a licensed hauler.
- (5) Garbage Grinders/Disposal Units. If used, garbage grinders/disposal units shall be installed and maintained according to law. All establishments which utilize a commercial dish machine shall install an approved commercial garbage grinder in the dish washing area. Food establishments in operation as of the passage of this chapter may be required to utilize grinders, if the lack of such equipment contributes to violations of paragraph (O). The regulatory authority may require garbage grinders in other food establishments to prevent violations of paragraph (O) of this Article.
- (6) Drains. With the exception of hand sinks and utility sinks, there shall be no direct connection between the sewage system and any drains originating from equipment in which food, drink, portable equipment, or utensils are placed, When a dishwasher machine is located within five feet of a trapped floor drain, the dishwasher waste outlet

may be connected directly on the inlet side of a properly vented floor drain trap if permitted by law.

(7) Toilet Facilities

- (a) Toilet Installation. Toilet facilities shall be installed according to law, shall be the number required by law, shall be conveniently located, and shall be accessible to employees and consumers at all times.
- (b) Separate facilities shall be made available for male and female employees and patrons. In the case of take out operations where patrons do not eat on the premises, a single toilet room is acceptable, if within the limits of the Uniform Building and Plumbing Codes. Public access must not be through food preparation, serving or storage areas.
- (c) Toilet Design. Toilets and urinals shall be designed to be easily cleanable.
- (d) 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. Toilet rooms shall not open directly into the food preparation area. Signs will be conspicuously posted directing all personnel to wash hands after using the toilet. Toilet rooms shall have exhaust fans and floor drains. Floors shall be graded to drain.
- (e) Toilet Fixtures. Easily cleanable receptacles shall be provided for trash materials. Toilet rooms used by women shall have at least one covered waste receptacle for sanitary napkins.

(8) 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. Lavatories shall also be located in toilet rooms. Sinks used for food preparation or for washing equipment, utensils or clean up shall not be used for hand washing.
- (b) Lavatory Faucets. Each lavatory shall be provided with hot (120°F.) and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least fifteen seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.
- (c) Lavatory Supplies. A supply of hand-cleansing soap or detergent shall be available at each lavatory. The use of bar soap at lavatories is prohibited. A supply of sanitary towels shall be conveniently located near each lavatory. When sanitary towels are used an individual towel dispensing unit shall be required. Common, reusable and roll paper towels are prohibited. Easily cleanable waste receptacles shall be conveniently located near the hand washing facilities.

Automatic hand blowing dryers shall be prohibited in the kitchen and employee only toilets. Nail brushes shall be provided at employee lavatories.

(O) Garbage and Refuse

(1) Containers

- (a) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers with swivel or push through lids that do not leak and do not absorb liquids.
- (b) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates. High volume establishments shall utilize self-contained compactors for trash and disposal of cardboard, packaging materials and garbage.
- (c) Soiled containers shall be cleaned at a frequency to prevent build up, odors, and an attraction to insects and rodents. 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. 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.
- (d) Grease and cooking oil removal equipment or devices shall be easily cleanable, insect proof, non absorbent, and leak proof. Units shall be easily movable, tightly covered so that grease can be removed safely.

(2) Storage

- (a) 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. Trash storage rooms shall be protected by automatic sprinklers as stated in the Fire Code.
- (b) Outside storage areas shall be enclosed and shall be large enough to store the garbage, refuse, and grease containers. Garbage, refuse, grease 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 and graded to drain. Enclosures shall be maintained in good repair. Garbage and refuse containers shall not be stored or placed within five (5) feet of combustible walls, openings, or roof eave.
- (c) Special pickup of construction or remodeling debris, and bulk items shall be the responsibility of the owner of the food service or processing establishment.

(P) Insect and Rodent Control

- (1) Openings. Openings to the outside shall be effectively protected against the entrance of

rodents. Outside openings shall be protected against the entrance of insects, especially flies, by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Loading docks and receiving doors and drive through windows shall have automatically activated air curtains or other approved mechanical insect control devices. Screen doors shall be self-closing, and screens for windows, doors, skylights, 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 (25.mm).

- (2) Insect Control Devices. Devices used to electrocute flying insects shall have "escape-resistant" trays and devices used to trap insects by adherence shall be installed so that they are located at least seven feet away from a food preparation areas, clean equipment, utensils linens, and unwrapped single service articles. Bait stations shall be covered and tracking powders not used in a food establishment.
- (3) Devices used to spray or mist insect repellent or pesticide into the air are prohibited in food preparation and utensil washing areas.

(Q) Poisonous or Toxic Materials

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 sanitizer at utensil or dish washing stations.

(R) Premises

- (1) The walking and driving surfaces of all exterior areas of the food service establishments shall be surfaced with concrete or asphalt or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to drain to prevent pooling of water and maintained in good repair.
- (2) Living Areas. No operation of a food service establishment shall be conducted in any room used as living or sleeping quarters. Food service operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

ARTICLE 8. CATERING TRUCKS

(A) General Requirements

- (1) Application. This section shall apply to the sale of prepackaged food from catering trucks. The sale of food from any other type vehicle shall be prohibited, except as provided in Article 9 and 10.
- (2) Permit. All catering trucks shall have a valid food service permit and such permit shall be kept visible in the vehicle at all times. The permit shall bear the name of the company and vehicle registration plate number. The permit shall be valid for one year unless sooner revoked by the regulatory authority. Trucks shall have the company name in three inch

letters on both sides of the truck's cab.

(B) Special Requirements

- (1) Food Storage. Catering trucks shall be completely enclosed. All food storage areas in catering trucks shall be maintained free of rust and corrosion, clean and protected from contamination.
- (2) Food Items. All foods sold from catering trucks shall be prepackaged, single service size, wholesome and unadulterated. All foods shall be obtained from an approved source inspected by the Texas department of Health. Potentially hazardous foods shall be wrapped and sealed, labeled to include type of food, location and date of preparation. All potentially hazardous foods shall be disposed of at the end of each day of operation. Sale of certain foods, such as boiled eggs may be prohibited during months of excessive hot temperatures.
- (3) Condiments. All condiments shall be served in single service packages or commercially filled squeeze type containers.
- (4) Food Handling. No direct food handling of any type shall be permitted by catering truck operators or customers. It shall be unlawful for catering truck operators to sell, dispense or serve ice in any manner except from an approved automatic dispenser. Soft drinks shall be sold only in prepackaged cans, bottles or cartons. Beverages that are not potentially hazardous (i.e. coffee tea, lemonade) shall be dispensed from urns into single service cups. Packaged food shall not be stored in direct contact with water or ice. All hot potentially hazardous foods shall be maintained at 140°F. (60°C) or above in a mechanical warming oven at all times. All cold potentially hazardous foods shall be maintained at 40°F. (5°C) or below at all times. If cold food temperature cannot be consistently maintained, cold potentially hazardous foods shall not be carried or sold. Thermometers shall be provided for each compartment.
- (5) Waste retention. If liquid waste results from operation of a catering truck, the waste shall be stored in a permanently installed retention tank that is of at least (15%) larger capacity than the water or liquid supply tank. Liquid waste shall not be discharged from the retention tank when the catering truck is in motion. All connections on the vehicle for servicing catering truck waste disposal facilities shall be of a different size or type than those used for supplying potable water to the catering truck. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water supply.
- (6) Water Supply. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, food, dust, dirt, oil or grease and it shall be kept capped when not being filled.

(C) Commissary Base of Operation

- (1) Catering Trucks and Food Carts shall operate from a commissary or other fixed food service establishment permitted to sell food and shall report at least daily to such location for all supplies and for all cleaning and servicing operations.

- (2) The commissary or other fixed food service establishment, used as a base of operation for mobile food units, shall be constructed and operated in compliance with the requirements of these rules.
- (D) Servicing Area and operations
 - (1) Servicing Area:
 - (a) A Catering Truck or Food Cart servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or where mobile food units do not contain waste retention tanks.
 - (b) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine-paid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.
 - (2) Servicing Operations:
 - (a) Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.
 - (b) The liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewerage disposal system.

ARTICLE 9. TEMPORARY FOOD SERVICE ESTABLISHMENTS

- (A) (1) General. The degree of regulation of a temporary food establishment shall depend upon the type of foods (potentially hazardous or non-potentially hazardous) sold from the establishment. A temporary food establishment permit shall be obtained prior to the preparation or sale of any food product. The permit shall allow preparation and sale of food from an approved temporary facility at a single location for no more than 14 consecutive days or on a seasonal basis of more than 14 but less than 180 days. A temporary food establishment permit shall be issued only if food is to be sold in conjunction with an event. Each separate event shall require a separate food permit.
- (2) A temporary food service establishment shall comply with the requirements of these rules except as otherwise provided in this rule. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food service establishment, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of these rules. Prior to making changes of any kind, the regulatory authority shall be notified.

(B) Temporary Sale of Potentially Hazardous Foods

(1) Food Trailers, Permanent Structures

Potentially hazardous foods may be prepared and sold from approved food trailers and permanent structures on a temporary basis provided the following conditions are met:

- (a) **Permit Required:** A temporary food establishment permit shall be obtained from the regulatory authority. An application for such permit shall be filed 14 days prior to the scheduled event.
- (b) **Structure:** Floors, walls and ceiling of food trailers shall meet the structural requirements as detailed in Article 8 of this ordinance. Permanent facilities, such as churches and retail stores, utilized as temporary food establishments shall meet structural requirements as approved by the regulatory authority.
- (c) **Refrigeration:** Mechanical refrigeration, capable of maintaining all potentially hazardous food products at 40°F (5°C) or below shall be provided in a temporary food facility. All bulk storage of potentially hazardous foods shall be located on site in approved refrigeration equipment. Ice chests shall be allowed for precooked link products for events of one (1) day duration. A thermometer shall be provided.
- (d) **Sanitary Facilities and Controls:**
 1. **Water Supply.** Hot, 120°F. (40°C), and cold running water under pressure with hot water heater volume sufficient (15 gallon minimum capacity) to handle daily hand washing and utensil sanitizing demands shall be provided in the temporary food service facility if potentially hazardous foods are sold.
 2. **Water retention.** Wastewater shall be drained to a sanitary sewer or collected on site in an approved holding tank that is 15% larger than the water supply tank.
- (e) **Equipment and Utensils:**
 1. **Sinks.** A three compartment sink, with drain boards, for washing, rinsing and sanitizing utensils shall be required for temporary food service facilities involved with preparation of potentially hazardous food. The use of the three compartment sink shall be in accordance with Article 5 (A) (3) (d) 1 through 4.
 2. **Hot Holding Devices.** Approved electrical, or gas fired, or canned fuel hot holding devices with sufficient capacity to maintain all hot, potentially hazardous foods at 140°F (60°C.) or above shall be available and a thermometer shall be provided.
 3. **Food Contact Surfaces.** All food contact surfaces shall be constructed of

stainless steel or other material approved by the regulatory authority.

4. Ventilation Hoods. Ventilation hoods with grease intercepting filters shall be installed in temporary food service facilities if grills, stoves, or deep fat fryers of any type are utilized inside a permanent structure or food trailer.

(f) Food

1. Foods Limited. The preparation or service of potentially hazardous foods, including pastries filled with cream, or synthetic cream, custards and similar products, and salads or sandwiches containing meat, poultry, eggs or fish is prohibited. This prohibition does not apply, however to any potentially hazardous food that has been prepared and packaged under conditions meeting the requirements of these rules, is obtained in individual servings, is stored at a temperature of 40°F. (5°C.) or below, in facilities that meet the requirements of these rules, and is served directly in the unopened container in which it was packaged.
2. All food products shall be made with ingredients from commercially approved sources. Home preparation or storage of food is prohibited.

(2) Food Booths

Potentially hazardous foods requiring limited preparation may be prepared and sold from facilities other than mobile food trailers and permanent structures, such as food booths, provided the following conditions are met:

- (a) Permit Required: Same as (B) (1) (a).
- (b) Structure: All temporary food establishments are required to have approved floors, roof covering, and sides.
 1. Floors shall be concrete, asphalt, tight wood or similar cleanable material, as approved by the regulatory authority, kept in good repair. Dirt or gravel, when graded to drain, may be used as subflooring when covered with clean, removable platforms or duckboards,
 2. Ceilings and walls shall be made of wood, canvas, nylon, 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. Doors to food preparation areas shall be solid or screened and shall be self closing. Screening materials used for walls, doors or windows shall be at least sixteen (16) mesh to the inch. Operations serving only prepackaged food are not required to provide an enclosure.
 3. Counter-service openings shall not be larger than 18 inches high. These openings shall be provide with tight-fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict the entrance of flying insects.

Counter openings shall be kept closed, except when in actual use.

- (c) 1. Refrigeration: Mechanical refrigeration capable of maintaining all potentially hazardous food products at 40°F. (5°C) or below shall be provided in the temporary food establishment. All bulk storage of potentially hazardous foods shall be located on-site in approved refrigeration equipment. Ice chests shall be allowed for precooked linked products for events of one day duration.
- 2. Wet Storage. The storage of package food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.
- (d) Hot Holding Devices. Approved electric, gas fired or canned fuel hot holding devices with sufficient capacity to maintain all hot, potentially hazardous foods at 140°F (60°C.) or above at all times, shall be available in temporary food establishments.

(e) Sanitary Facilities

- 1. Water Supply. Enough potable water shall be available in the establishment for cleaning, sanitizing and hand washing. A suitable temporary hand washing facility shall be located within the food preparation areas. Hand washing sinks shall have a minimum five-gallon capacity with spigot. The sink shall be supplied with running water through gravity flow. Hand soap dispensers and individual paper towels shall be provided. Adequate containers for holding wastewater shall be provided at the hand wash facility.
- 2. Water Retention. Wastewater shall be drained to a sanitary sewer or collected on site in an approved holding tank that is 15% larger than the water supply tank.
- 3. Toilet Facilities. Toilet facilities shall be available and readily accessible, but in no case be greater than 300 feet from booth.
- 4. Garbage and Refuse Disposal. Trash cans with double liners and tight fitting lids shall be provided, convenient, adequate in number, and properly maintained to minimize, vermin, odors and litter.
- 5. Insect Control. Effective insect control measures, such as screening, fans, spraying, use of fly swatters, good sanitation, or a combination of insect control methods shall be provided.

(f) Equipment and Utensils

- 1. Tableware. Only single service tableware shall be used.
- 2. Sink. A three-compartment sink for washing, rinsing and sanitizing utensils may be required by the regulatory authority for temporary establishments, such as food booths, if the temporary food establishment is involved in the preparation of potentially hazardous food for more than 3 days. The use of the three

compartment sink shall be in accordance with Article 5 (A) (3) (d) 1 through 4. If the duration of an event is 3 days or less utensil washing may be accomplished by using 2 five gallon containers for washing, and sanitizing (one tablespoon bleach to one gallon of water). The containers shall be large enough to immerse the largest utensil used.

3. Food Contact Surfaces. All food contact surfaces shall be easily cleanable and shall consist of stainless steel, plastic laminated wood, polymer cutting boards or equivalent as approved by the regulatory authority. All food contact surfaces shall be protected from contamination by consumers and other contaminating agents. Where helpful to prevent contamination, effective shields for such equipment shall be provided.
4. Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.

(g) Food.

1. Foods Limited. Only those potentially hazardous foods requiring minimal handling and limited preparation such as pre-formed hamburgers and frankfurters, bacon, corn dogs, pre cut and/ or pre breaded meat products, commercially prepared chili's and BBQ where only heating is required, shall be authorized for preparation and sale.
2. Condiments. All condiments shall be served in single serving containers or from commercially filled bottles with manual pump or squeeze dispensers. No open condiment containers shall be permitted.
3. Ice. Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of these rules. The ice shall be obtained only in chipped, crushed or cubed form and in single use safe plastic bags filled and sealed at the point of manufacture. The ice shall be held in these bags and stored off the ground until it is dispensed in a way that protects it from contamination.
4. No food may be left unprotected by open display. Foods shall be protected from contamination at all times.

(C) Temporary Sale of Non-Potentially Hazardous Foods and Certain Pre-cooked Linked Products:

- (1) Non-potentially hazardous foods and certain pre-cooked linked products may be sold on a temporary basis from food trailers, permanent structures and open air booths, provided the following conditions are met:
 - (a) Permit: A temporary food service permit shall be obtained from the regulatory authority. An application for such permit shall be filed at least seven days prior to the scheduled event.
 - (b) Foods.

1. **Approved Foods.** The following non-potentially hazardous food products may be sold from a temporary food service facility: fruits, vegetables, prepackaged chips, candy, popcorn, soft drinks, cakes, cookies, nachos and snow cones. Home canned foods shall be prohibited. Other non-potentially hazardous foods shall be approved on a case by case basis. With the exception of certain baked desserts no food shall be prepared in home (residential) kitchens. All baked dessert shall be individually wrapped and protected from contamination. Certain precooked linked products, such as frankfurters, may be sold from temporary food service establishment. Open, unprotected displays of food are not allowed.
2. **Condiments.** All condiments shall be served in single serving containers or from commercially filled bottles with manual pump or squeeze dispensers. No open condiment containers shall be permitted.

(c) **Sanitary Facilities.**

1. **Water Supply/Waste Water.** Hand wash facilities with a minimum five gallon capacity, with spigot, shall be required in temporary facilities that sell unpackaged non-potentially hazardous foods or pre cooked linked products. The sink shall be supplied with running water through gravity flow. Adequate containers for holding wastewater shall be provided at the hand wash facility.
2. **Toilet Facilities.** Toilet facilities shall be made available and ready accessible, but in no case more than three hundred (300) feet from food preparation areas.
3. **Garbage and Refuse Disposal:** Trash cans with double liners and tight fitting swivel lids shall be provided, convenient, adequate in number and properly maintained to minimize vermin, odors, and litter.

(d) **Equipment and Utensils**

1. **Tableware.** All tableware used shall be single service.
2. **Utensils and Kitchenware.** A sufficient number of cleaned and sanitized utensils and kitchenware shall be provided to safely prepare and serve food during the event.
3. **Utensil washing facility.** Booths require two 5 gallon containers for the cleaning of equipment, utensils and general cleaning. One shall contain soapy water and the other bleach water solution (one tablespoon bleach per gallon of water).
4. **Hot Holding Devices.** Approved electric, gas fired, or canned fuel hot holding devices with sufficient capacity to maintain hot potentially hazardous foods at 140°F. (60°C.) or above shall be available in temporary food service facilities when precooked linked products or similar goods are served.

5. Food Contact Surfaces. All food contact surfaces shall be easily cleanable and consist of stainless steel, plastic laminated wood, polymer cutting boards or equivalent as approved by the regulatory authority.
 6. Food Protection. Food items shall be wrapped in single service portions, unless a hand wash sink is provided at the point of sale.
 7. Refrigeration. Precooked linked products and any other potentially hazardous foods shall be maintained at 40°F (5°C) or below in equipment approved by the regulatory authority.
- (e) The regulatory authority may waive some or all of the requirements in Subsection (C) (1) (a) through (e) above for temporary food establishments in which only baked desserts, fruits and vegetables and prepackaged non potentially hazardous foods are served.
- (D) Inspections: The regulatory authority shall inspect temporary food establishments to determine compliance with this chapter, and when necessary prior to the scheduled event.
- (E) Personnel Practices: Temporary food service facility employees shall abide by all applicable sections of this ordinance with respect to personal hygiene and sanitary food handling practices. Temporary food establishment employees shall be exempt from managers certification requirements when selling non potentially hazardous foods.
- (F) Sale of Fish or Shellfish products prohibited: The sale of fish or shellfish products from temporary food establishments is prohibited.
- (G) The sale or display of food from street corners or roadside stands, is prohibited in the City of Allen.

ARTICLE 10. CONCESSION FACILITIES

- (A) Generally: Concession facilities are food service establishments operated from permanent or mobile structures and are generally associated with athletic, or recreational functions. Concession facilities are seasonal and often operate more days per year than other temporary food establishments but significantly less days per year than permanent food establishments. The degree of regulation of a concession facility shall depend upon the type of foods (potentially hazardous or non potentially hazardous) sold or conveyed, the volume of food sold or conveyed, and the number of days of operation per year.
- (B) Permit: A concession facility permit shall be obtained from the regulatory authority 14 days prior to operation. The person in charge of a concession facility shall insure that all necessary inspections are arranged prior to opening for the season.
- (C) Compliance, Waiver of Requirements: Concession facilities and employees shall comply with specific requirements under Article 8 of this ordinance, provided that the regulatory authority may waive certain requirements which are deemed unnecessary for protection of the public health.

ARTICLE 11. ITINERANT VENDORS AND DELIVERY OF FOOD

- (A) Application of Section: This section is applicable to the sale of food by itinerant vendors, persons delivering previously ordered food, and all other sales and conveyance of food, other than catering trucks.
- (B) Itinerant Sales of Food:
- (1) Potentially Hazardous Foods. It shall be unlawful for any person to sell or convey potentially hazardous foods or perishable foods (such as cut produce) from house to house or place to place within the City of Allen.
 - (2) Non Potentially Hazardous Foods. Any person who sells or conveys non potentially hazardous, commercially prepackaged foods from house or place to place, within the City of Allen shall obtain a permit from the regulatory authority.
 - (3) Any person desiring to sell or convey from house to house or place to place non potentially hazardous foods which are not commercially prepackaged shall apply for a permit. The regulatory authority shall approve or deny the application based on the type of non potentially hazardous food intended for sale.
 - (4) Any foods sold or conveyed from house or place to place shall meet all applicable requirements of this rule related to approved source, temperature control, labeling, protection from contamination, wholesomeness, etc.
 - (5) Any person who sells or conveys food from house to house or place to place shall comply with all provisions of Article III City of Allen Code of Ordinances ("Itinerant Merchants, Peddlers, Etc."). When applying for health permit, Solicitor's permit from City Secretary and permit fee shall accompany application.
- (C) Delivery of Food:
- (1) This section pertains to persons who deliver food which has been ordered by individuals or business in the City of Allen from an itinerant vendor through United States mail, by telephone or other means of communication.
 - (2) Any person who delivers food previously ordered to the person who placed the order shall comply with all applicable sections related to approved source, temperature control, labeling, protection from contamination, wholesomeness, etc.
 - (3) Vehicles used for the delivery of food previously ordered to the person who places the order shall meet the following minimum criteria:
 - (a) The vehicles shall comply with all State of Texas rules for motor vehicles.
 - (b) The vehicles shall be equipped and maintained to adequately store food during transportation to prevent contamination, adulteration or damage to the food or to containers in which food is stored.
 - (c) The vehicle shall be maintained in clean and sanitary condition.

- (4) Any person who delivers food previously ordered to the person who placed the order shall not be required to obtain a permit from the regulatory authority, provided that:
 - (a) The regulatory authority shall have the authority to inspect the vehicle, products, and any invoices and bills of lading at any reasonable time and shall have all authorities defined in article 16.
 - (b) The person delivering food shall comply with all applicable sections of this ordinance.
- (5) Any person who solicits orders for food from house to house or place to place shall comply with all provisions of Article III City of Allen Code of ordinances ("Itinerant, merchants, Peddlers, Etc.")

ARTICLE 12. ICE CREAM AND SNOW CONE VENDORS

(A) Ice Cream Vendors

- (1) Permit required and posted in plain view of customers.
- (2) Vehicle shall be covered or enclosed van or truck with smooth easily cleanable floors.
- (3) Freezer unit shall be enclosed and contain a visible thermometer.
- (4) All ice cream shall be commercially wrapped, sealed, labeled, and obtained from an approved source.
- (5) Only pre-packaged candy, chips, soft drinks and other prepackaged non hazardous foods may be sold in single portion units in conjunction with ice cream only.
- (6) The firm name, in three inch letters, shall be clearly placed on both sides of the vehicle.

(B) Snow Cone Vendors

- (1) Permit required and posted in plain view of customers.
- (2) Vehicles shall be covered or enclosed commercial van or truck with smooth easily cleanable floor and equipment.
- (3) Food contact surfaces (ice bin, grinder, scoops, etc.) shall be smooth and easily cleanable, free from open seams, cracks, chips and pits.
- (4) Ice holding and crushing facilities shall be enclosed and NSF approved.
- (5) Ice, flavoring, and toppings must be obtained from a commercially approved source. Only non hazardous flavorings or toppings shall be used.
- (6) Flavorings shall be in closed, pump type dispensers.

- (7) Single service cups, etc. only shall be used.
 - (8) A sanitizer solution and paper towels shall be provided for drips and spills.
 - (9) A potable water tank with spigot (5 gallon minimum), securely mounted over sink shall be installed for hand washing. A waste water container shall be provided.
 - (10) A holding tank (i.e. bucket) be required for ice run off.
 - (11) The firm name, in three inch letters, shall be clearly placed on both sides of the vehicle
- (C) Vendors hours of sale regulated; Sales close to school; Sound amplifying equipment.
- Persons permitted to operate under this article shall sell or offer products between sunrise and sunset only. Products shall not be sold or offered within 300 feet of school property prior to 5:00 p.m. when school is in session. Amplifying equipment shall be off when vehicle not in motion.
- (D) Required documentation. Ice cream and snow cone vendors shall comply with all the provisions of Article III City of Allen Code of Ordinances "Itinerant Merchants, Peddlers, etc. "When applying for a health permit, a Solicitors permit from the City Secretary and permit fee shall accompany the application.
- (E) Penalty for violation, revocation of permit. Any person who violates any of the provisions of Article 10,12,13,14 shall upon conviction thereof, be fined in accordance with the provisions of this code. In addition, violations of any of the provisions of this article shall be cause for suspension and/or revocation of the permit issued to the person in violation.

ARTICLE 13. FOOD AND DRINK CARTS.

- (A) General Requirements:
- (1) Application. This article shall apply to the sale and conveyance of food and drink from carts.
 - (2) Permit. All food carts shall have a valid food service permit posted to the food cart in plain view of customers. Food carts shall be operated in compliance with applicable sections of this ordinance.
- (B) Food Cart Construction and Operation:
- (1) Construction. Food carts shall meet all construction requirements of the National Sanitation Foundation (NSF) Standard 59 and shall be approved by the regulatory authority.
 - (2) Food Items.
 - (a) Sale of prepackaged foods. Prepackaged foods may be sold from food carts provided they are commercially packaged, from an approved source, wholesome, unadulterated, and properly labeled.

- (b) Sale of foods prepared at the food cart. Certain potentially hazardous and non hazardous foods may be prepared at and sold from food carts. Potentially hazardous foods shall be limited to precooked linked products, canned chili, and canned cheese toppings where only heating is required. Non hazardous foods shall be those requiring minimal preparation and include fruits, vegetables, chips, candy, cotton candy, soft drinks, baked goods, nachos, shaved ice, frozen novelties, pretzels and ice.
- (3) Condiments. All condiments shall be served in single service containers or from approved, commercially filled dispenser or squeeze type containers.
- (4) Food handling.
 - (a) Food carts approved only for sale of prepackaged food shall not be utilized for non prepackaged food service or preparation.
 - (b) Food carts approved for the preparation or service of food shall be equipped with an integral hand wash lavatory which has hot and cold running water. A supply of soap and paper towels shall be maintained at all times.
 - (c) The handling of food shall be minimized through use of gloves, tongs, forks, or similar utensils.
 - (d) All food shall be served on single service articles.
 - (e) Food carts serving hot, potentially hazardous food shall be equipped with a fuel fired or electric hot holding devices capable of maintaining foods at 140°F or above. Food carts serving or storing cold potentially hazardous food shall have mechanical refrigeration capable of maintaining refrigerated foods at 40°F or less and frozen food at 0° F or less. All foods shall be from an approved source, wholesome, unadulterated, and shall be maintained at safe temperatures.
 - (f) All food contact surfaces on food carts shall be stainless steel, polymer cutting boards, or equivalent as approved by the regulatory authority.
 - (g) Potentially hazardous foods which have been reheated or kept refrigerated on a food cart shall, if not sold in one day, be discarded at the end of each day, provided that unopened canned foods and properly maintained frozen foods may be returned to the commissary for reuse.
 - (h) All food carts shall be provided with accurate thermometers in each cold and hot holding unit. The food cart operator shall possess an accurate probe type thermometer for monitoring food temperatures.
 - (I) A three compartment sink for cleaning and sanitizing equipment and utensils is required.
- (5) Waste Retention. All liquid waste resulting from the operation of a food cart shall be collected and stored in an integral waste holding tank and disposed of in a sanitary manner.

- (6) Solid Waste. The permit holder shall provide a trash can with an integral lid for collection of all solid waste produced by the food cart. Double plastic trash can liners shall be used at all times.
 - (7) Storage and Equipment. All foods sold or conveyed from a food cart shall be stored or displayed only within or on the food cart. Additional equipment, other than the operator's chair, shall be prohibited.
 - (8) Potable Water System. Hot and cold water shall be provided in accordance with NSF standards.
- (C) Commissary. All food carts shall operate from a base of operations, such as a commissary or other fixed food establishment permitted by the regulatory authority. The base of operations shall meet all the requirements of this chapter and Article 8 (C and (D) of this ordinance. The permit holder shall remove the cart from the point of use daily and transport it to the base of operations for all supplies, cleaning and servicing operations. All food carts shall be stored at the base of operations when not in use.
- (D) Cleaning and sanitizing. Food carts serving potentially hazardous foods shall be cleaned and sanitized daily at the base of operations. Carts selling prepackaged or non hazardous foods shall be washed and rinsed daily at the base of operations. Food carts shall be maintained in a clean, sanitary condition at all times.
- (E) Personnel
- (1) All persons operating food carts where food is prepared or non prepackaged food is served shall possess a valid food operator's certification.
 - (2) Food cart operators shall comply with all personal hygiene and related employee responsibilities as set forth in Article 4.
 - (3) Food carts shall be located within 300 feet of approved restroom facilities. Operators shall have written permission from the restroom owner or person in charge to utilize the restroom facilities.
 - (4) Food cart operators shall provide the regulatory authority with building floor plans identifying the actual location of the cart. Operation of a food cart at a location other than the location specified on the site plan or floor plan for that cart shall be an offense.

ARTICLE 14. FOOD SERVICE PERMITS, INSPECTION AND ENFORCEMENT PROVISIONS

- (A) Permits
- (1) General. No person shall sell, offer to sell, convey food or operate a food service or food processing establishment without a valid permit issued to him by the regulatory authority. Only a person who complies with the requirements of this ordinance 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.

(2) Issuance of Permit

- (a) Application. A written application for a permit shall be submitted 15 days before proposed opening and on a form provided by the regulatory authority is required. Such application shall include the full name and mailing address, telephone number, and indication of whether the applicant is an individual, firm or corporation, or partnership, the names of their partners, their addresses, location and type of business establishment, as well as signature of each applicant and other information deemed necessary. If the application is for a temporary food establishment, it shall include the inclusive dates of the proposed operation.
- (b) Permit fee. A permit fee shall accompany each application, and the permit is valid for one year from date of issuance unless suspended or revoked. Permits shall be renewed on an annual basis by filing a renewal application and payment of the permit fee. The fee is not refundable. An administrative fee not to exceed the permit fee may be required if permit has expired. No fee shall be charged to any food establishment owned and operated by a government agency or independent school district; however, such establishments shall comply with all other requirements of this chapter. The permit fee is designated in Exhibit A of this ordinance.
- (c) Prior to final approval of a new application for permit and issuance of such permit, the regulatory authority shall inspect the food establishment to determine compliance with the requirements of this section.
- (d) 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 food establishment complies with the requirements of this section and the fee has been paid.

(3) Suspension of Permit

- (a) The regulatory authority may, without warning, notice or hearing, suspend any permit to operate a food service or processing establishment if the owner or holder of the permit does not comply with the requirements of this section, or the operation of the establishment does not comply with the requirements of this section, or if the operation of the establishment otherwise constitutes a hazard to the public health or a permit has been expired for over 30 days. Suspension is effective immediately upon service of the notice required by the following paragraph of this section. When a permit is suspended, the holder of the permit shall be afforded an opportunity for hearing within 10 days of receipt of a request for hearing. Permits may be suspended temporarily by the regulatory authority for repeated failure of the permit holder to comply with the requirements of these rules. Whenever a permit holder or operator has failed to correct a violation after receiving two (2) written notices for the violation, the regulatory authority may suspend the permit or issue a citation for each violation.

- (b) Whenever a permit is suspended, the owner or holder of the permit or person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that food service operations be immediately discontinued.
 - (c) An opportunity for hearing will be provided if a written request for hearing is filed with the regulatory authority by the holder of the permit within ten (10) days. If no written request for hearing is filed within ten (10) days, the suspension is sustained.
 - (d) Reinstatement. A permit may be reinstated when the holder of the permit has written a request to the regulatory authority indicating the conditions for suspension have been corrected. The regulatory authority shall reinspect the operation to insure compliance within ten (10) days following receipt of request. Once all requirements are met, the permit shall be reinstated.
- (4) Revocation of Permit
- (a) The regulatory authority may, after providing opportunity for hearing, permanently revoke a permit for serious or continuously repeated violations of any of the requirements of this ordinance or for interference with the regulatory authority in the performance of duty.
 - (b) Prior to revocation, the regulatory authority shall notify, in writing, the holder of the permit or person in charge of the specific reason(s) for which the permit is to be revoked, and the permit shall be revoked at the end of ten (10) days following service of such notice, unless a written request for hearing is filed with the regulatory authority by the permit holder within the ten (10) day period. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final. A permit may be suspended for cause pending its revocation or a hearing relative thereto.
- (B) Notices
- (1) Service of Notices. A notice provided for in this ordinance is properly served when it is hand carried to the owner or holder of the permit, person in charge, or a person operating a food establishment without a permit or when it is sent by certified mail, or regular mail to the last known address of the permit holder.
 - (2) Hearings. The hearings provided for in this section are to be conducted by a regulatory committee at the time and place designed by the regulatory authority. The regulatory committee is comprised of the city Health Inspector, the City Fire Marshal, and two other appointees by the City Manager engaged in the food service industry in the City of Allen. Based upon the record of such hearing, the regulatory committee shall make a finding and sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision will be furnished to the permit holder by the regulatory authority.
 - (3) Permit refunding. The applicant shall not be entitled to refunding of a permit fee when

- permit is revoked or suspended.
- (4) Application after Revocation. Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit after the expiration of six (6) months.

ARTICLE 15. INSPECTIONS

- (A) Access. Agents of the regulatory authority, after proper identification, shall be permitted to enter any food service and processing 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 to obtain information pertaining to food and supplies purchased, received or used or to persons employed.
- (B) Consent to Inspection. Application for and operation of a food establishment inside the City of Allen constitutes consent for the regulatory authority to inspect the food establishment to determine compliance with this ordinance. It shall constitute an offense for any person to hinder, physically prevent, interfere with or otherwise obstruct the lawful inspection of a food establishment by the regulatory authority. Such action may also constitute reason for suspension or revocation of permit. In addition, it also shall constitute an offense if any person willfully provides false information to the regulatory authority as it relates to operations and enforcement of the provisions of this ordinance.
- (C) Inspection Frequency. An inspection of a food service or processing establishment should be performed at least three (3) times annually. Additional inspections shall be performed as often as necessary for the enforcement of this section. Less frequent inspections may be conducted based on risk assessment and previous history of the facility.
- (D) Report of Inspections. Whenever an inspection is made of a food service establishment, the findings shall be recorded on the inspection report form provided by the regulatory authority (Exhibit B). 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 weighted point value for each requirement. The rating score of the establishment shall be the total of the weighted point value for all violations, subtracted from one hundred (100). The completed inspection report form is a public document that shall be posted at a conspicuous location for consumers.
- (E) Correction of Violations. 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) If a potential health hazard exists, including but not limited to an obvious lack of sanitization, refrigeration, electricity, water, or fire, food borne illness outbreak, or sewage backup into the establishment, the establishment shall immediately cease food service operations and regulatory authority notified. Operations shall not be resumed until authorized by the regulatory authority.
 - (2) All violations of 4 or 5 point weighted items shall be corrected at the time of inspection or within a time specified by the regulatory authority.
 - (3) If score is 85 or above, all 1 or 2 point weighted items shall be corrected as soon as

possible, but in any event, by the time of the next routine inspection. If score is 70-84 correct as soon as possible but in any event within 30 days.

- (4) When the rating score of the establishment is less than seventy (70), the regulatory authority may immediately suspend the permit, or issue a citation for each violation, or the establishment shall complete corrective action on all identified violations within twenty-four (24) hours.
 - (5) In the case of temporary food service establishments, all violations shall be corrected within twenty-four (24) hours. If violations are not corrected within twenty-four (24) hours, the establishment shall immediately cease food service operations until authorized to resume by the regulatory authority.
- (F) Examination and Condemnation of Food. The regulatory authority may examine and collect samples of food as often as necessary for the enforcement of these rules. The regulatory authority shall, upon written notice to the owner or person in charge specifying the reason therefor, destroy or place under detention any food which it has probable cause to believe is adulterated or misbranded.

Under a detention order, food shall be suitably stored. It shall be unlawful for any person to remove or alter a detention order, notice or tag placed on food by the regulatory authority, and neither such food or the container thereof shall be re-labeled, replaced, reprocessed, altered, disposed of, used, served or destroyed without the permission of the regulatory authority except on order by a court of competent jurisdiction. After the owner or person in charge has had a hearing as provided for in Article 15 (C) (2) and on evidence produced at such hearing, or on the basis of his examination in the event a written request for a hearing is not received within ten (10) days, the regulatory authority may vacate the detention order, or may by written order direct the owner or person in charge of the food that been placed under detention to denature or destroy such food or to bring it into compliance with the provisions of this ordinance.

- (G) Procedure When Infection is Suspected. When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, it may secure a morbidity history of the suspected employee or make any other investigation as may be indicated. The regulatory authority may require any or all of the following measures:
- (1) The immediate exclusion of the employee from all food service establishments;
 - (2) The immediate closing of the food service establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;
 - (3) Restriction of the 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 employee, of other employees and of his and their body discharges.
- (H) Food Service Establishments Outside Jurisdiction of the Regulatory Authority.

Food from food establishments outside the jurisdiction of the regulatory authority of the City of Allen may be sold within the city if such food service establishments conform to the provisions of this ordinance. To determine the extent of compliance with such provisions, the regulatory authority may accept reports from reasonable authorities in other jurisdictions where such food establishments are located.

SWIMMING POOLS
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PURPOSE: REGULATING PUBLIC AND SEMI-PUBLIC, SWIMMING POOLS; PROVIDING FOR DEFINITIONS; PROVIDING FOR PERMIT REQUIRED; PROVIDING FOR INSPECTIONS; PROVIDING FOR CONSTRUCTION MATERIALS; PROVIDING FOR SHAPE; PROVIDING FOR DEPTH AND SLOPE; PROVIDING FOR PROJECTIONS; PROVIDING FOR DIVING AREA; PROVIDING FOR STEPS, LADDERS AND TOWERS; PROVIDING FOR OVERFLOW GUTTERS AND SKIMMING DEVICES; PROVIDING FOR DECK AREA, POOL ENCLOSURE, SPECTATOR SEPARATION; PROVIDING FOR RECIRCULATION SYSTEM; PROVIDING FOR INLETS AND OUTLETS, WATER DISPOSAL; PROVIDING FOR HEATING UNITS; PROVIDING FOR LIGHTING; PROVIDING FOR TOILET FACILITIES; PROVIDING FOR PERMIT AND MANAGER OF OPERATIONS REQUIRED; PROVIDING FOR CERTIFICATION OF MANAGER OF OPERATIONS; PROVIDING FOR OPERATIONS OF A POOL; PROVIDING FOR QUALITY OF WATER; PROVIDING FOR SAFETY EQUIPMENT; PROVIDING FOR REGULATIONS IN POOL AREA; PROVIDING FOR POOL DRAINAGE; PROVIDING FOR SUSPENSION.

ARTICLE 1. Definitions

- (A) PERSON means an individual, partnership, company, corporation, association, firm, organization, institution, or similar entity.
- (B) PUBLIC POOL means a swimming pool to which the general public has access.
- (C) REGULATORY AUTHORITY means a representative of the City of Allen authorized to make pool inspections and review plans.
- (D) REMODEL means 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 or original design, configuration and/or operating characteristics.
- (E) RESIDUAL CHLORINE means the amount of measurable chlorine remaining in water following chlorination and is composed of Free Available Chlorine and Combined Residual Chlorine.
- (F) SEMI-PUBLIC POOL means a swimming pool that is privately owned and open only to an identifiable class of persons, including but not limited to, motel guests, apartment residents, home owners association and club members.
- (G) SUPERCHLORINATE means the addition to swimming pool water of an amount of chlorine sufficient to produce a free available residual which is at least equal to ten times the amount of combined residual chlorine plus the required minimum level of free available chlorine in order to oxidize the ammonia and nitrogenous materials which may be dissolved in the swimming pool water.
- (H) SWIMMING POOL OR POOL means a spa, hot tub, basin, tank or similar structure that

is used for swimming, bathing or water play, including all equipment and appurtenant facilities, and having a depth of eighteen (18") inches or more at any point.

ARTICLE 2. Permit required, application; issuance. No person shall construct, modify or repair a swimming pool in the city without obtaining a building permit. The application for a permit shall be on a form provided by the regulatory authority and shall be accompanied by the required fee and a specified number of copies of the detailed plans and specifications of which the applicant seeks approval. Included are details and descriptions of all appurtenances such as valves, pumps, filters, water treatment and disinfection methods. Sufficient longitudinal and cross sections of the entire plant explaining the construction of each unit are to be submitted. Plan review shall be conducted by the regulatory authority. If the regulatory authority is satisfied that the proposed swimming pool plans will conform in all respects to the requirements of the law, a permit shall be issued.

ARTICLE 3. Inspections. The regulatory authority shall inspect a swimming pool at any time and has authority to enter upon the premises where a pool is located to the extent necessary to make a full examination in the construction and operational stage to insure compliance. The regulatory authority will examine the swimming pool while under construction, and conduct a final inspection. Subsequent inspections during operation will be conducted to insure compliance with these rules.

ARTICLE 4. Materials. A swimming pool shall be constructed of materials that are sanitary, enduring, and non-toxic to humans. Materials used on walls and bottom surfaces shall provide a watertight structure with a smooth and easily cleaned light colored finish, free from cracks or open joints other than structural expansion joints.

ARTICLE 5. Shape. The shape of a pool shall be designed so that the water is uniformly circulated and so that all interior areas of a pool are visible from the edge of the pool.

ARTICLE 6. Depth and Slope; depth markings.

- (A) All surfaces on the bottom of a pool shall slope toward the main drain. A main drain is not required in vinyl pools with a depth of less than five feet. In areas of a pool that are less than five feet in depth, the following slope requirements apply:
 - (1) The slope of the floor in a pool 5 feet or more in depth shall not exceed one foot in three feet.
 - (2) The slope of the floor in a pool less than 5 feet in depth shall not exceed one foot in eight feet.
- (B) Walls in the deep portion of a pool shall be vertical from the water line for a minimum depth of two feet six inches.
- (C) Depth of water shall be marked at or above the water surface on the vertical pool wall and on the edge of the deck next to the pool, at maximum and minimum depth points, at points of break between deep and shallow areas, and at intermediate increments of depth, spaced at not more than 25 foot intervals around the entire perimeter of the pool. Markings shall be in numerals of a minimum height of four (4") inches and in a color contrasting with the background.

ARTICLE 7. Projections. Pool structures, protrusions, or extensions shall not project more than six inches within the pool area.

ARTICLE 8. Diving Area

- (A) The minimum depth of water below a diving board or platform and other minimum dimensions in the diving area of a pool must comply with the minimum standards indicated in Table I.
- (B) A diving board or platform must not be placed more than nine feet (three meters) above the water level without approval of the regulatory authority. The base of a diving board or tower shall not extend into the pool water, and the tower shall be anchored with sufficient bracing to insure stability under the heaviest load. Both sides of steps, ladders, and platforms of diving towers three feet (one meter) or higher shall be provided with suitable handrails designed to prevent persons from falling.
- (C) A minimum clearance of 16 feet shall be provided above each diving board or platform, measured from the center of the front end of the board or platform and extending at least eight feet behind and to each side and sixteen feet ahead of the measuring point.

ARTICLE 9. Steps, ladders, and towers

- (A) Materials used in steps, ladders, and diving towers must be of sufficient structural strength to safely support anticipated loads and must be corrosion resistant, easily cleaned, and of a nonskid design.
- (B) A minimum of one ladder must be provided for each 100 feet of public or semi-public pool perimeter; except that a diving area which is wider than 30 feet at any point must be provided with two ladders at opposite sides.
- (C) If recessed steps are used, they must be designed to drain into the pool and to be easily cleaned.
- (D) Ladders and recessed steps must be provided with a handrail on both sides. Handrails must be constructed out over the coping and return to the pool deck.

ARTICLE 10. Overflow Gutters and Skimming Devices

- (A) All pools must be equipped with either an overflow gutter or surface skimming device.
- (B) If surface skimming devices are used:
 - (1) handholds must be provided around the entire perimeter of the pool except above steps, and;
 - (a) if coping is used, the outer two inches must be not more than two and one-half inches thick; and
 - (b) must be not more than 12 inches above the normal water line;
 - (2) each skimming device must be individually controlled;
 - (3) each skimming device must be automatically adjustable to variations in water level over a range of at least three inches;
 - (4) the rate of flow through the total number of skimming devices must be automatically adjustable from 40 to 75 percent of the capacity of the pool filter system;
 - (5) each skimming device must have an easily removable and cleanable basket or screen to trap material which might clog the circulation pump; and
 - (6) one skimmer must be provided for each 500 square feet of water surface area plus an additional skimmer for any remaining increment of water surface area less than 500 square feet.
- (C) If an overflow gutter is used, it must:
 - (1) extend around the entire perimeter of the pool except above steps;
 - (2) be constructed so that the gutter is not completely recessed into the wall and water entering the gutter cannot flow back into the pool;
 - (3) be capable of continuously removing 50 percent or more of the recirculated water through the filter system;
 - (4) be connected to a recirculation system with a surge capacity of not less than one-half gallon for each square foot of pool surface area, and in pools subject to heavy swimming use, a surge capacity of not less than one gallon for each square foot of surface area;
 - (5) be designed so that the edge of the gutter can be used as a handhold for bathers;
 - (6) be designed so that the overflow edge is level within three-tenths inch;
 - (7) be designed so that the bottom slopes not less than one-eighth inch to the foot.

- (8) discharge waste into the recirculating system, the drain pipe being not less than one and one-half inches in diameter.

ARTICLE 11. Deck Area; pool enclosure; spectator separation

- (A) Each public or semi-public pool must be provided with a deck area which:
 - (1) is continuous around the entire pool;
 - (2) is not less than four feet in width, including coping and curbing;
 - (3) is constructed of sanitary material with a skid resistant surface;
 - (4) has a minimum slope of one-eighth inch per foot for the first eight feet to points of disposal other than the pool;
 - (5) is equipped with gratings for drain pipe openings that are two times the diameter of the drain pipe;
 - (6) is equipped around the entire edge of the pool with coping designed to prevent deck water from entering the pool.
- (B) Hose bibbs of not less than three-fourths inch must be provided around the perimeter of the deck area at intervals which will allow all parts of a pool to be reached with a 75 foot hose for cleaning. Each bibb must be equipped with an approved back-flow preventer.
- (C) Pool Enclosure
 - (1) The pool shall be enclosed as to eliminate access of small children. A fence, wall or other solid structure six feet (6') high shall be erected. Entries to pool area shall have a self-closing and self-latching device. Such latching device shall be of located on the pool side at least four and one-half feet (4 ½') from the ground to eliminate access by small children. Signs or markers shall be mounted on all entries stating "Keep closed at all times."
 - (2) Openings under the enclosure may not allow a sphere four inches (4") in diameter to pass under the enclosure.
 - (3) If the enclosure is constructed with horizontal and vertical members, and the distance between the tops of the horizontal members is at least 45 inches, the openings may not allow a sphere four inches (4") in diameter to pass through the enclosure.
 - (4) If the enclosure is constructed with horizontal and vertical members, and the distance between the tops of the horizontal members is less than 45 inches, the openings may not allow a sphere 1¾ inches in diameter to pass through the enclosure.
 - (5) If the enclosure is constructed with diagonal members and no vertical members, such as a lattice fence, the openings may not allow a sphere 1¾ inches in diameter to pass through the enclosure.

- (6) If the enclosure is constructed with chain link metal fencing material, the openings may not allow a sphere 1¼ inches in diameter to pass through the enclosure.
 - (7) Decorative designs or cutouts on or in the enclosure may not contain any openings greater than 1¾ inches in any direction.
 - (8) Permanent equipment or structures may not be constructed or placed in a manner that makes them readily available for climbing over the enclosure.
 - (9) Prior to excavation, a temporary fence shall be installed and maintained until completion of the pool.
- (D) Trees shall not hang over pool. Deck surfaces as well as adjoining areas shall be kept clean and free of weeds, bugs, trash and cans.
- (E) If spectator galleries are installed:
- (1) there shall be a separation between the areas used by bathers and the areas used as galleries by spectators;
 - (2) galleries shall not extend over any part of a pool.
 - (3) Food and drink are allowed in these areas.

ARTICLE 12. Recirculation System

- (A) Each pool with a water capacity of 800 gallons or more or a depth greater than three feet shall be equipped with a continuous recirculation system consisting of pumps, hair and lint catchers, filters, and pipe connections necessary to connect to the inlets and outlets of the pool.
- (B) Filters. Filters shall meet National Sanitation Foundation standards, or be approved by the regulatory authority. The regulatory authority shall disapprove a filter if it does not backwash thoroughly or does not filter at a sufficient rate.
- (C) Pumps. The pumps shall be of an adequate size to turn over the pool water capacity within six hours for public and semi-public pools.
- (D) Hair and lint catcher. A catcher shall be installed on the suction side of the pumps to prevent hair, lint, and other extraneous matter from reaching the pumps and filters. Catchers shall be designed to be easily dismantled for cleaning.
- (E) Cross connections. Cross connections between the pool water or the recirculation system and the water supply are prohibited. The pool shall be designed so that fresh water added to the pool will not create a cross connection as when a hose is submerged in the pool. Other cross connections shall comply with applicable city ordinances.

ARTICLE 13. Inlets and Outlets; water disposal

- (A) Inlets. Pool inlets shall be arranged to produce a uniform chlorine or equivalent disinfectant residual throughout the pool.
 - (1) Each inlet shall be equipped with an adjustable orifice or valve so that the flow of water to various portions of the pool may be adjusted.
 - (2) The fill pipe to all pools shall have an air gap of six inches above the pool coping or be protected by a double check backflow preventer assembly.
- (B) Outlets. Pool outlets shall be arranged to produce a uniform circulation of water throughout a pool.
 - (1) At least one outlet shall be provided at the lowest point of the floor to permit complete drainage of the floor area, except in vinyl pools of less than five feet in depth.
 - (2) If the width of a pool is more than 40 feet, multiple outlets shall be provided. In this case outlets shall be not more than 10 feet from each sidewall.
 - (3) If the exit velocity exceeds two feet per second, a National Sanitation Foundation approved, or equal, anti-vortex outlet must be used.
 - (4) Outlet gratings in the bottom of a pool shall be securely fastened and shall have a cross-sectional area of at least four times the cross-sectional area of the discharge pipe.
 - (5) A pool shall be equipped with pipe connections which permit the pool to be emptied as well as recirculated, except for vinyl pools of less than five feet in depth.
- (C) Water disposal
 - (1) Backwash from a filter must go to the sanitary sewer. Filter backwash may go to an approved septic tank system or separation tank if a sanitary sewer is not available.
 - (2) Pools drained for repairs or cleaning shall drain to the sanitary sewer in compliance with the Uniform Plumbing Code.
 - (3) A deck drain may go to a lawn, leaching field, dry well, or, if necessary, to a natural drainage course.
 - (4) It shall be unlawful to drain the pool upon public or privately owned property at any time.

ARTICLE 14. Heating Units. Heating units for pools shall have a thermometer in the recirculation line. Heaters in dressing rooms, shower rooms, toilet rooms, and rooms in which pools are contained shall be installed in a manner that will protect swimmers from injury and protect

the units from damage.

ARTICLE 15. Lighting

- (A) A system of artificial lighting shall be provided for pools, dressing rooms, shower rooms, toilet rooms, and rooms in which pools are contained. The system shall be installed in conformance with the City of Allen Electrical Code, and the design and arrangement of the lights shall insure clear vision in all areas of a pool and surrounding pool area.
- (B) Underwater lighting shall provide one watt per square foot of pool area for public or semi-public pools, and shall be installed and maintained in a manner that will insure the safety of swimmers. If underwater lighting is used, deck lighting shall be directed away from the pool surface as much as possible and be of a capacity not less than six-tenths watts per square foot of total area.
- (C) Lighting shall be properly grounded as per Allen City code.
- (D) No PVC conduit shall be allowed above grade or slab but rigid or EMT is permitted.

ARTICLE 16. Toilet Facilities

- (A) Semi-public pools shall have toilet facilities available within 200 feet of the pool.
- (B) Public pools shall have toilet facilities for each sex at the pool site.
- (C) Toilet rooms and toilet facilities shall be cleaned with a chlorine solution daily.
- (D) Floors shall be made of a smooth, impervious, non skid material and sloped to drain.
- (E) Walls and partitions shall be smooth and impervious.

ARTICLE 17. Permit and Manager of Operations

- (A) A person shall not operate a public or semi-public pool without an operations permit. To obtain a permit an applicant shall complete a form provided by the regulatory authority. An applicant shall designate a manager of operations of each pool for which a permit is sought.
- (B) If a manager of operations of a pool ceases to perform that function for any reason, the owner of the pool shall designate a new manager within 30 days.
- (C) The regulatory authority shall issue an operational permit only on receipt of an application for operation, receipt of the designated fee, and upon inspection of the pool for compliance to this section. No refunds will be made. See Exhibit A for the fee schedule. Once permitted, pools will be inspected as needed during the operational season. The inspection form shall constitute a written notice.
- (D) Non-conforming use. Any lawful use of swimming pools existing on the date of adoption of this ordinance which does not conform to the regulations prescribed herein shall be

deemed a non-conforming structure and shall be continued subject to such regulations as to the maintenance and operations of premises with the health and safety of bathers foremost in mind.

ARTICLE 18. Certification of Manager of Operations

- (A) A manager of operations of a public or semi-public pool shall obtain certification from the regulatory authority by successfully completing a training course in pool operations. If a person designated by an owner as manager of operations of a pool is not certified, he shall attend and successfully complete the next training course conducted after his designation. Certificates from other cities may be accepted with the approval of the regulatory authority.
- (B) The certification of a manager of operations expires two years from the date of certification and a manager must repeat the training course to maintain certification.

ARTICLE 19. Operation of a Pool.

- (A) A manager of operations or an owner of a public or semi-public pool shall not:
 - (1) knowingly permit a condition to exist that endangers the life, health, or safety of a swimmer or that violates a provision of this article;
 - (2) knowingly permit a person to swim in a pool who has skin abrasions, open sores, cuts, skin disease, eye disease, nasal or ear discharge, or other communicable disease;
 - (3) knowingly permit a person to carry glass or consume food or drink within a pool area or on deck;
 - (4) knowingly allow animals within a pool area or enclosure;
 - (5) fail to post placards containing pool regulations and instructions in conspicuous places within a pool area or enclosure;
 - (6) fail to maintain a pool in accordance with the standards of health and safety provided in Articles 20 and 21.
- (B) A manager of operations or an owner of a public or semi-public pool shall:
 - (1) test the swimming pool water for the amount of residual chlorine and pH prior to opening the pool for use;
 - (2) test the swimming pool water for residual chlorine and pH hourly during the hours the pool is open for use;
 - (3) evaluate the clarity of the water prior to opening and during the day at periods of heavy usage;

- (4) periodically collect samples of water during times when bathers are in the swimming pool and submit them for microbiological examination.
- (5) maintain pool operating records which shall be made available to the regulatory authority.
- (6) maintain permissible bathing loads within the pool room, enclosure or area at any one time and not exceed the sum of the following:
 - 1. One person per 15 sq. ft. of water surface in the non swimming area (portions of the pool with a water depth of 5 ft. or less), plus
 - 2. One person per 25 sq. ft. of water surface in the swimming area (portions of the pool with a depth greater than 5 ft.).

ARTICLE 20. Quality of Water

- (A) Acidity - alkalinity. The water shall be maintained in an alkaline condition so that the pH of the water is between 7.2 and 8.0 ppm.
- (B) Clarity. The water shall be sufficiently clear to permit a distinct view of the main drain from outside the pool.
- (C) Disinfectant.
 - 1. Disinfectant capable of killing bacteria and algae, but not harmful to humans, shall be added to the pool water through a continuous feed machine. If chlorine is used, a residual level shall be maintained of one to two parts per million (1.0-2.0 ppm) depending upon the pH of the water:

pH	Cl
7.2	1.0
7.4	1.0
7.6	1.25
7.8	1.75
7.9	2.0
8.0	2.5

- 2. Whenever it becomes necessary to add any harsh or irritating chemicals directly into the water of any pool, use of the pool shall be stopped until such time as the chemical is dissolved completely, diffused thoroughly throughout the swimming pool water, and testing indicates the chemical balance is within the ranges indicated above.
- (D) Algae. A swimming pool shall be kept free of algae.
- (E) Circulation. The recirculation system shall be in operation at all times.

- (F) Heating. Hot water shall not enter a pool at a temperature exceeding 110° Fahrenheit.
- (G) Make up water. Fresh water shall be added to a pool at a rate that will keep the pool water at a level sufficient to allow skimming devices or overflow gutters to work properly.
- (H) A testing kit shall be required and fully equipped as well as a log kept on a daily basis indicating hourly chlorine and pH readings, chemicals added, number of bathers and unusual occurrences. Water samples shall be taken as required by the regulatory authority.

ARTICLE 21. Safety Equipment. The following safety equipment shall be conspicuously located and available for use at anytime a pool is open:

- (A) a life pole or shepherd's crook pole capable of reaching each part of a pool; and
- (B) a ring buoy, maximum 15 inches in diameter with 60 foot rope attached, and
- (C) a guard line separating the shallow portion from the deep portion of a pool at the break point depth; and
- (D) a sign shall be available, and when applicable used, indicating "No Life Guard on Duty"; and
- (E) an adult, parent or guardian shall be in attendance with any children under age thirteen (13) years at all times while children are in pool enclosure; and
- (F) a telephone shall be nearby with information of nearest ambulance station; and
- (G) a first aid kit shall be available at all times; and
- (H) all chemicals shall be locked and stored in original containers, in a cool, dry, well ventilated area; and
- (I) chlorination room shall be well ventilated with gas mask outside; and
- (J) all cleaning equipment and materials shall be in good repair; and
- (K) chlorine gas cylinders secured.

ARTICLE 22. Regulations in Pool Area. A person commits an offense if he:

- (A) allows a pet under his control to remain within the pool area or pool enclosure.
- (B) has skin abrasions, open sores, cuts, skin disease, eye disease, nasal or ear discharge, or a communicable disease and swims in a public or semi-public pool;
- (C) carried glass within a pool area or enclosure;
- (D) alters or removes safety equipment from a pool except in a bona fide emergency;

- (E) defecates or urinates in the pool or pool area

ARTICLE 23. General Cleanliness and Sanitation.

- (A) The room, enclosure or swimming pool area shall be kept in good repair and maintained in a clean and sanitary condition at all times.
- (B) Dressing rooms, shower rooms, toilet rooms, fixtures, equipment rooms and equipment, concession and visitor areas shall be kept clean, sanitary and in good repair.
- (C) Soap dispensers shall be provided at showers and lavatory sinks.
- (D) The floors of dressing rooms, toilet rooms, showers, and passageways of all swimming pools shall be well drained and maintained in a clean condition at all times and shall be treated daily with a suitable fungicide.
- (E) Visible dirt and foreign material in the swimming pool shall be removed frequently preferably at least once a day.

ARTICLE 24. Temporary Closure. All swimming pools shall be temporary closed for use whenever any of the following conditions occur and shall not be reopened for use until the condition has been brought into compliance:

- (A) The amount of chlorine residual disinfectant is more or less than amounts specified in Article 20 (C).
- (B) The Microbiological quality of the swimming pool water is within the standards in the latest edition of "Standard Methods for the Examination of Water and Wastewater".
- (C) The pH of the swimming pool water does not comply with the provisions of Article 20 (A) and (C).
- (D) The clarity of water does not comply with the provisions of Article 20 (B).
- (E) There is a malfunction or non function of the recirculation system.
- (F) There is a condition which may endanger the health, safety, or welfare of persons using the swimming pool.
- (G) Temporary closure of a swimming pool shall not require the issuance of a written notice if the operator voluntarily closes the pool.

ARTICLE 25. Suspension.

The regulatory authority shall immediately suspend a permit to operate a public or semi-public pool if:

- (1) the annual permit fee is not paid; or

- (2) an owner fails to designate and retain a certified manager of operations as specified in this article; or
- (3) the condition of a pool is hazardous to the health or safety of swimmers or the general public; or
- (4) the owner fails to keep all pool equipment and devices working properly.
- (5) The suspension shall continue until the cause of suspension is corrected. The owner or operator of the pool shall contact the regulatory authority for reinspection to insure correction of deficiencies.
- (6) Lack of compliance with the provisions of these rules.

CHILD CARE CENTERS

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PURPOSE: TO PROTECT THE HEALTH, SAFETY, AND WELL BEING OF THE CHILDREN AND STAFF LIVING IN CHILD CARE FACILITIES; PROVIDING FOR DEFINITIONS; PRESCRIBING MINIMUM STANDARDS FOR CHILD HEALTH AND SAFETY PROTECTION DURING PART OR ALL DAY FOR CHILDREN UNDER 14; PROVIDING FOR FACILITY LOCATION AND DESIGN; PROVIDING FOR FACILITY EQUIPMENT; PROVIDING FOR CONSTRUCTION REQUIREMENTS AND PLAN REVIEW; PROVIDING REQUIREMENTS FOR FOOD SERVICE; PROVIDING FOR PERMITS AND INSPECTION FREQUENCY, PROVIDING FOR SUSPENSION AND REVOCATION OF PERMIT; PROVIDING FOR APPEAL; PROVIDING FOR REISSUANCE OF PERMIT; PROVIDING FOR CLOSING A FACILITY.

ARTICLE 1: DEFINITIONS

- A. “Child Care Center” is a commercial facility licensed by the Texas Department of Protective and Regulatory Services (TDPRS) and may be titled a Nursery School, Kindergarten, Child Development Center, Day Care Center, Private School, etc. and provides care for less than 24 hours a day for more than 13 children under age 14.
- B. Kindergarten and Nursery Schools are child care facilities licensed by the Texas Department of Protective and Regulatory Services offering a program four hours or less per day for children who have passed their second birthday but are under seven years of age.
- C. School-Kindergarten and above. A school, grades kindergarten and above, is a child care facility licensed by the Texas Department of Protective and Regulatory Services offering an educational program in one or more grades for children ages 5 through 13. A school operates only during customary public school days.
- D. “Regulatory Authority” -local health enforcement authority or authorities in the City of Allen having jurisdiction over the child care center.
- E. “Infant” - Children that range from 6 weeks of age to the age at which they are able to walk without assistance.
- F. “Toddler” - Children under 3 years of age that are able to walk without assistance.
- G. “Texas Department of Protective and Regulatory Services” - Licensing and Inspection agency of Child Care Centers for the State of Texas.

ARTICLE 2: RESPONSIBILITIES

The regulatory authority shall be responsible for monitoring the health and safety aspects and conducting of inspections of child care centers. Liaison with regulatory agencies shall be maintained to insure compliance with state minimum requirements. The director of the child care center has absolute responsibility for the operation of the center.

ARTICLE 3: GOVERNING RULES

A copy of the minimum standards set forth by TDPRS as well as the Allen Environmental Health Ordinance , Section III, and where applicable. Section 1, Food Service, and Section II, Swimming Pools, shall be easily accessible in the child care facility.

ARTICLE 4: FACILITY SITE

- A. Location
1. A child care center shall not be located in a residence.
 2. No other business enterprise will be conducted in a child care center during hours of operation.
 3. Centers will be located on the ground floor level.
- B. Outdoor Play Areas
1. All outdoor play areas shall be maintained in a clean and safe condition free of debris, dilapidated structures, broken or worn play equipment, or standing water, high weeds or similar conditions.
 2. Outdoor play areas shall be enclosed with a 6 foot fence with secured gate that is maintained in good repair.
- C. Outdoor Equipment and Materials
1. Playground equipment with hazardous moving parts or construction such as protruding nails, screws, sharp edges, splinters, etc, or toxic materials shall not be installed.
 2. Play equipment shall be securely fastened to the ground and maintained in good repair.
 3. Sandboxes, if used, shall be constructed to allow for proper drainage and maintained in a safe and sanitary condition.
- D. Swimming, Wading Pools and Enclosures. Pools and enclosures shall meet the specifications of Section II of the Environmental Health Ordinance.
- E. Water Supply
1. Quantity shall be sufficient to supply water for cooking, cleaning, drinking, toilets and outside uses without producing low water pressure.
 2. Approved methods of drinking water dispensing are:
 - a. Drinking fountains with an angled jet and orifice guard above the rim of the fountain. Regulate the pressure in order that the water stream does not come in contact with the orifice nor splash on the floor.
 - b. Single service cups dispensed by staff or through an approved dispenser.
- F. Sewage. All liquid wastes (including sink drainage, pool backwash, showers, etc.) must be discharged to a sanitary sewer.
- G. Solid Waste Disposal
1. All garbage and rubbish shall be kept in containers that are constructed of durable material

and are easily cleanable, do not leak, and do not absorb liquids.

2. Containers shall have tight fitting type lids or covers and disposable liners.
3. Stored garbage and rubbish areas shall be kept clean and inaccessible to children, insects and rodents.
4. Dumpsters or compactors shall be screened, secured and stored on a concrete or asphalt slab.

H. Insect and Rodent Control

1. All openings to the outside shall be effectively protected against entrance of insects and rodents by self closing doors, closed windows, screening, insect stripping or other effective means.
2. Insecticides and rodenticide must be of an approved type and dispensed in a method so as not to constitute a hazard.
3. Extensive extermination shall be provided by a licensed or certified pest control applicator.

ARTICLE 5: GENERAL FACILITY DESIGN

A. Room Finishes

1. Exposed flashing or deteriorating surfaces covered by lead based paint shall be resurfaced with lead free paint or other coverings.
2. Room finishes, plumbing, etc. shall be free of exposed friable asbestos.
3. Splash areas of walls at hand sinks shall be sealed and easily cleanable (epoxy or enamel paint as a minimum).
4. Toilet room walls shall be of FRP (fiber reinforced polyester), ceramic tile or equivalent.
5. Floors shall be smooth, easily cleanable, free of cracks, bare cement, dampness, splinters, sliding rugs, drafts, telephone or electrical outlets.
6. Floors in toilet rooms shall be of quarry, terrazzo, ceramic or equivalent material as approved by the regulatory authority.
7. Floors shall be vinyl tile or similar material where meals and snacks are consumed.

B. Plumbing

1. All plumbing shall be in accordance with state and local codes.
 - a. Appropriate back flow preventers, vacuum breakers or air gaps shall be provided for all boiler units in which chemicals are used.
 - b. Appropriate vacuum breakers shall be installed on all threaded hose bibs.
2. Toilets, urinals and hand sinks shall be apportioned at a rate of 1:15 children, properly sized or mounted at appropriate height to accommodate the children. Safe and cleanable step aides may be used where adult sized plumbing is present.
3. Hot and cold running water shall be provided at every hand sink. Hot water shall not exceed 120°F. Mixing faucets are required to provide tempered water to these sinks.

C. Heating and Ventilation

1. All rooms used by children shall be adequately heated, cooled and ventilated.
2. A draft free temperature of 68°F to 74°F should be maintained at 35% - 60% humidity. Thermometers shall be placed in every indoor activity area.
3. All heating units, including hot water pipes and radiant heating devices, are to be made inaccessible to the children.
4. Ventilation shall be provided in each toilet room by means of mechanical ventilation which exhausts to the outside or by screened opened window.

D. Lighting

1. All activity areas shall have adequate lighting.
 - a. A minimum of 30 foot candles of illumination shall be maintained in work and play area. 50 foot candles are needed for reading, painting and other close working areas.
 - b. Light fixtures shall be shielded or shatterproof bulbs used.
 - c. Child proof covers for electrical outlets required for children under 5 years of age.

E. Custodial Areas

1. All mechanical, equipment, storage rooms, janitorial closets and maintenance shops shall be inaccessible to the children.
2. Flammable liquids shall not be stored in the building, near or in outdoor play areas.
3. Medicines, cleaning supplies, plastic bags and shop tools shall be inaccessible to children.

4. Combustibles such as cleaning rags, mops, cleaning compounds, etc. shall be stored in a well ventilated area. Cleaning materials, bleaches, detergents and other toxic items shall be properly labeled, separated from food and flammable items and be inaccessible to children.
5. If laundering is done on the premises, a laundry room with self closing doors and properly vented (to exterior) clothes dryer is needed.

ARTICLE 6: INTERIOR ACTIVITY AREA DESIGN

A. Furnishings and Equipment

1. Equipment, materials and furnishings shall be sturdy, of safe construction, easily cleanable and free of sharp points or corners, splinters, protruding nails, rusty parts or paint containing toxic materials.
2. Individual cubbies, lockers or coat hooks spaced 12 to 18 inches apart at child's height shall be provided for storage.
3. Toys and supplies shall be of safe, nontoxic, shatterproof materials without sharp points, easily cleanable and large enough not to be swallowed are acceptable.
4. Where individual cloth towels, tooth brushes, wash cloths or combs are used by children, they are to be stored in a safe and sanitary manner. Individual personal items shall be stored in a clean separate, closeable container that is labeled with the children name.
5. All stairways will be protected by gates or similar restraints.

B. Napping Area

1. All bedding such as cots, beds, cribs, floor pads (mats) or suitable coverings shall be maintained in a safe, waterproof, and sanitary manner.
2. Linens shall be labeled and laundered at least once a week and more often as needed. Linen used for more than one child shall be laundered between uses.

C. Isolation Area

1. Each center must include a designated area for a child who becomes ill. Such space shall be adequately ventilated and heated, and equipped with bed or cot composed of materials that can be sanitized easily.
2. If the area is not a separate room it shall be separated from space used by other children by a partition, screen or other suitable means. It should be in close proximity to toilet and lavatory facilities and where health and sanitation means can be carried out without interruption of other activities.

D. Infant and Toddler Provisions

1. Separate space for infants and toddlers should be protected from older children, general walk ways, or traffic areas.
2. Floors shall be clean and smooth. Carpeted areas must be vacuumed daily and shampooed regularly.

E. Equipment

1. Equipment and play materials shall be durable and free from characteristics that may be hazardous or injurious to include sharp, rough edges, toxic paints or materials, and objects small enough to be swallowed.
2. Safe, sturdy, well constructed individual cribs, portable cribs, or play pens used for sleeping shall be equipped with good, firm fitting mattresses made of waterproof materials that can be washed. Stacking cots, constructed of washable materials or full sized cribs shall be provided for toddlers.
3. Equipment, toys, play materials shall be of cleanable construction. Mouth contact surfaces shall be sanitized daily and/or between different children use.
4. Vertical slats on cribs shall not be more than 2½ inches apart.
5. Bed linens used on cots, cribs or playpen shall be tight fitted and washable.
6. Conveniently located, washable, plastic lined, tightly covered receptacles shall be provided for soiled diapers.
7. Locked cabinets shall be provided for hazardous items.
8. High chairs, cribs, and swings shall be stable and kept in good repair.
9. Feeding tray surfaces shall be smooth, easily cleanable and sanitized after each use.

ARTICLE 7: CARE OF CHILDREN

- A.
 1. Diaper station shall be located immediately adjacent to hand sinks supplied with dispenser soap and disposable towels. Wash hands before and after diaper changing.
 2. Disposable diapers will be placed in cleanable containers with plastic liners and tight fitting lids after changing and then removed to the exterior garbage area when ¾ full.
- B.
 1. Children's hands shall be washed and dried.
 2. Formulas and food brought in shall be refrigerated, as required, and identified with child's name and date.
 3. Sack lunches shall be labeled.
 4. Common towels or face cloths are prohibited.

- C. First aid supplies shall be kept in a designated area, in a covered container and inaccessible to children and labeled "First Aid."

ARTICLE 8: PERSONAL HEALTH REQUIREMENTS

1. No staff member who is in intimate contact with communicable disease, or is a carrier of such disease, or is afflicted with boils, infected wounds or sores, or acute respiratory infection or acute diarrhea shall be permitted to care for children, prepare food, or be employed in any capacity where there is a likelihood of transmitting the disease to other individuals in the center. If there is doubt of an individual's communicability, a physician's clearance is required.
2. All staff members shall wear clean outer garments, maintained in a high degree of personal cleanliness.
3. Staff shall wash hands frequently.
4. Volunteer personnel must meet the same health requirements as staff.

ARTICLE 9: FOOD SERVICE REQUIREMENTS

A. General Requirements

1. The center shall conform to all applicable food service rules as stated in the Allen Environmental Health Ordinance .
2. Children must wash hands and be adequately supervised when involved in any food service activity including setting tables.
3. Children shall not be allowed in kitchen area.
4. Kitchen facilities shall be separated from other day care areas.

B. Equipment Requirements contained in the Food Service Ordinance are applicable in Child Care Center kitchens with these added stipulations:

1. Facilities serving up to 30 meals/day should be provided with a three compartment sink or dishwasher. If a dishwasher is used, it must be capable of sanitizing. At least a two compartment sink should be installed in conjunction with a dishwasher. A dishwasher must be provided if reusable tableware is used.
2. Facilities serving 31-90 meals/day must be provided with a three compartment sink with dual integral drain boards and/or a 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 91 or more meals/day must be provided with a three compartment sink with dual integral drain boards and/or a commercial dishwasher. If only a commercial dishwasher is to be installed, a minimum of a two compartment sink with spray unit is required.

Commercial refrigeration and cooking equipment is also required.

4. For facilities serving 8-50 meals/day commercial refrigeration is recommended. A domestic refrigerator and freezer are adequate for this enrollment capacity.
5. Facilities serving 50 or more meals/day must provide commercial refrigeration.
6. Facilities serving 91 or more meals/day with commercial cooking equipment requiring ventilation must provide an exhaust system which provides 50 feet per minute capture velocity 6 inches above the outer edges of the cooking surfaces.
7. A separate handsink with hot and cold water tempered by means of a mixing valve or combination faucet supplied with soap and individually dispensed paper towels. The soiled end of a two or three compartment sink may be used if a dishwasher is used for sanitizing all food contact equipment.
8. Preparing foods that require a grill, fryer or similar grease producing equipment will require additional ventilation and grease trap requirements.
9. Food Contact Surfaces. Food contact surfaces shall be safe, durable, corrosion resistant, nonabsorbent, smooth, easily cleanable, resistant to pitting, chipping, scratching, distortion and decomposition.
10. Non Food Contact Surfaces. Surfaces of equipment not intended for contact with food, but which is exposed to splash, spillage and other food soiling, shall be constructed of smooth, corrosion resistant, nonabsorbent material.

C. Room Finishes

1. Floor surfaces. Child Care Center kitchens involved in heavy food preparation shall install quarry, ceramic, terrazzo tile or an equivalent floor covering and integrally coved with the same material. Those involved in light food preparation shall install commercial grade sheet vinyl or equivalent. An approved sealer is required at the floor/wall juncture.
2. Wall surfaces. Child Care Centers shall install wall surfaces of fiberglass reinforced polyester (FRP) or equivalent material.
3. Ceiling surfaces. Ceiling surfaces shall be of washable, easily cleanable vinyl coated panels or equivalent materials.
4. Maintenance, repair and replacement. Floors walls, ceiling and equipment shall be maintained in a condition that facilitates through and rapid cleaning , good repair free of cracks, chips, holes and deterioration. The regulatory authority may require repair or replacement of any floor, walls or equipment that fail to meet requirements of this ordinance.
5. Existing facilities. When remodeling, or changing ownership

- a. Existing facilities having residential dishwashers are required to be capable of sanitizing by hot water, steam, or chemicals.
- b. If existing facilities change menu, requiring the use of grills, fryers or other grease producing equipment (heavy food preparation), additional modifications such as grease trap and exhaust systems are required.
- c. Mop sink is required.
- d. Existing equipment - See Section 1 Article 7 (H) (2) (j) of this ordinance.

ARTICLE 10: OFF-SITE FOOD SERVICE

1. All off-site food services used by a child care center must have a valid license as a food service facility.
2. Centers receiving food from off-site facilities must have adequate provisions for holding and serving hot food hot (140°F) and cold food cold (40°F) and utensil washing facilities to meet the requirements of this ordinance.
3. All potentially hazardous foods shall be kept at the above temperatures during transportation.
4. During transportation all food shall be kept in covered containers or packaged to protect it from contamination as required by the Allen Food Service rules.

ARTICLE 11: PLANS REQUIRED

When a child care center is constructed or remodeled, stamped, certified, properly prepared plans and specifications shall be submitted to Environmental Health for approval fifteen (15) days before such work is begun. Contents of plans shall include:

1. Intended food service menu.
2. Projected volume of food to be stored, prepared and served.
3. Maximum capacity and square footage of center and playground.
4. Proposed room layout and dimensions, construction materials and finish schedules.
5. Equipment schedule, locations, dimensions and performance capacities.
6. Plumbing, lighting, mechanical schedules.
7. Other items as required by Environmental Health.

ARTICLE 12: PERMITS

A. Permits

1. General. No person shall operate a child care center without a valid permit issued to him by Environmental Health and the Texas Department of Protective and Regulatory Services. (TDPRS). Only a person who complies with the requirements of this ordinance shall be entitled to receive, or retain such a permit. Permits are not transferable, and must be displayed in plan view of the public.
2. Issuance of Permit.
 - a. Application. A written application for a permit, is required and shall be submitted fifteen (15) days before proposed opening, on a form provided by Environmental Health. Application for new ownership of an existing center is also required. Such application shall include the full name, mailing address, telephone number and other information deemed necessary.
 - b. Permit Fee. A permit fee shall accompany the application, and the permit is valid for one year from date of issuance unless suspended or revoked. Permits shall be renewed on an annual basis by filing a renewal application and payment of permit fee. The fee is not refundable. An administrative fee not to exceed the permit fee may be required if permit has expired. No fee shall be charged to any child care center owned and operated by a government agency or independent school district; however such establishments shall comply with all other requirements of this ordinance.
 - c. Prior to final approval of a new application for permit and issuance of such permit, the regulatory authority shall inspect the center to determine compliance with the requirements of this section.
3. Denial of Permit. If an application of permit is denied, the applicant will be notified, in writing, as to the reasons for denial and refunded one-half (50%) of the permit fee.
4. Suspension of Permit
 - a. The regulatory authority may suspend any permit to operate a child care center if the holder of the permit or person in charge does not comply with the requirements of this ordinance or other pertinent city ordinances, or if the operation of the center does not comply with the same ordinances, or if the operation of the center otherwise constitutes a hazard to the occupants or a permit has expired for over 30 days. Permits may be suspended temporarily by the regulatory authority for repeated failure to comply and respond within a specified limit of time regarding violations observed and noted. A citation may be issued for each violation found.
 - b. Whenever a permit is suspended, the holder of the permit or person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that child care operations must be immediately discontinued.
 - c. An opportunity for hearing will be provided if a written request for hearing is filed with the regulatory authority by the holder of the permit within ten (10) days. If

no written request for hearing is filed within the ten days, the suspension is sustained. (See Section V, Administration).

- d. Reissuance of Permit. The permit will be reissued when, the holder of the permit has written a request to the regulatory authority indicated the conditions causing the suspension have been corrected. The regulatory authority shall reinspect the operation to insure compliance within ten (10) days following receipt of request. Once all requirements are met, the permit shall be reinstated. A new application form and permit fee shall be submitted.

5. Revocation of Permit

- a. The city manager, or designee may, after providing opportunity for a hearing, permanently revoke a permit for serious or continuously repeated violations of any of the requirements of this ordinance or for interference with the regulatory authority in the performance of duty.
- b. The regulatory authority shall notify, in writing, the holder of the permit or person in charge of the specific reasons for which the permit is to be revoked. The regulatory authority shall also notify the City Manager, or designee for permission to continue the revocation process. The permit shall be revoked at the end of fifteen (15) days following service of such notice, unless a written request for hearing is filed with the city manager by the permit holder within the fifteen (15) day period. If no request for hearing is filed within the fifteen (15) day period, the revocation of the permit is final. A permit may be suspended for cause pending its revocation or hearing relative thereto.

B. Notices

1. Service of Notices. A notice provided for in this ordinance is properly served when it is hand carried to the permit holder, a person operating the center without a permit, or person in charge, or when sent by regular or certified mail to the last known address.
2. Hearings. The city manager, or designee, shall serve as hearing officer at a time and place designated by the regulatory authority. Based on the record of such hearing, the hearing officer shall make a finding and sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision will be furnished to the permit holder by the regulatory authority.
3. Permit Refunding. The applicant shall not be entitled to a refund of a permit fee when permit is revoked or suspended.
4. Reinstating after Revocation. Whenever a revocation of a permit has become final, it shall not be reinstated.

ARTICLE 13. INSPECTIONS

- A. Access. The regulatory authority, after proper identification, shall be permitted to enter any child care center at anytime, for the purpose of making inspections to determine compliance with these

rules.

- B. **Consent to Inspection.** Application for and operation of a child care center inside the City of Allen constitutes consent for the regulatory authority to inspect the center. It shall constitute an offense for any person to hinder, physically prevent, interfere with or otherwise obstruct the lawful inspection of a child care center by the regulatory authority. Such action may constitute reason for disapproval of application, or suspension or revocation of permit. In addition, it also may constitute an offense if any person willfully provides false information to the regulatory authority as it relates to the operation and enforcement of the provisions of this ordinance.
- C. **Inspection Frequency.** An inspection of a child care center should be performed at least four times annually. Additional inspections shall be performed as often as necessary for the enforcement of this section. Less frequent inspections may be conducted based on previous history and compliance of the facility.
- D. **Report of Inspection.** Whenever an inspection is made of a child care center, the finding shall be recorded on an inspection form provided by the regulatory authority. The original copy of the inspection form shall be furnished to the owner or person in charge at the completion of the inspection and constitutes a written notice. The completed inspection form is a public document that shall be posted at a conspicuous location for the public.
- E. **Correction of Violations.** The inspection report shall specify a reasonable period of time for correction of violations found, and correction of the violations shall be accomplished within the period specified. A new citation may be issued each day the violation remains uncorrected.
- F. **Potential Health Hazards.** If a potential health hazard exists, that area of the center will cease operations and children be removed until the problem is corrected. Hazards include but are not limited to lack of water, electricity, sewer back up, communicable disease outbreaks, and fire.

ARTICLE 14. CLOSING A CHILD CARE CENTER

The regulatory authority in conjunction with the Texas Department of Protective and Regulatory Services shall close a center and place the children in another facility if violations of this ordinance and the minimum standards set by TDPRS create an immediate danger to the children.

FAMILY HOME**SECTION IV**

PURPOSE: PROVIDING A DEFINITION FOR FAMILY HOME; PRESCRIBING REQUIREMENTS FOR CHILD HEALTH AND SAFETY PROTECTION DURING PART OR ALL DAY FOR CHILDREN UNDER 14 IN FAMILY HOME CARE; PRESCRIBING REGISTRATION REQUIREMENTS ESTABLISHED BY THE STATE OF TEXAS; PRESCRIBING ADMINISTRATIVE PROCEDURES AND REPORTING OF CHILD ABUSE; AND PRESCRIBING JOINT INSPECTION PROCEDURES BY THE CITY OF ALLEN AND STATE OF TEXAS.

ARTICLE 1. DEFINITION: A family home means a home 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 care; but the total number of children, including the care giver's own, does not exceed twelve (12) at any given time.

ARTICLE 2. REQUIREMENTS FOR CHILD HEALTH AND SAFETY PROTECTION:

The operator of a Registered Family Home must comply with the Texas Department of Protective and Regulatory Services' rules and standards.

ARTICLE 3. REGISTRATION REQUIREMENTS: A family home that provides care for three (3) or fewer children excluding the care giver's own children may register with the Texas Department of Protective and Regulatory Services. A family home that provides care for four (4) or more children excluding the care giver's own children must register with the Texas Department of Protective and Regulatory Services.

ARTICLE 4. ADMINISTRATIVE PROCEDURES IN REPORTING OF VIOLATIONS: Complaints of failure to comply with any of the requirements established for family homes shall be referred to the Texas Department of Protective and Regulatory Services for investigation. Complaints referred to the Environmental Health Department of the City of Allen concerning child abuse in a family home shall be referred to the Texas Department of Protective and Regulatory Services and City of Allen Police Department for investigation.

ARTICLE 5. JOINT INSPECTION: Inspections of family homes shall be performed on a complaint basis, either by the Texas Department of Protective and Regulatory Services and the City of Allen. In cases where directed to do so by the Texas Department of Protective and Regulatory Services, The Environmental Health Department of the City of Allen shall perform the inspection and report its findings to the Texas Department of Protective and Regulatory Services for enforcement.

**MINIMUM STANDARDS FOR SANITATION
AND HEALTH PROTECTIVE MEASURES**

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PURPOSE: ESTABLISHING MINIMUM STANDARDS OF SANITATION AND HEALTH PROTECTIVE MEASURES; PROVIDING FOR DEFINITIONS; PROVIDING FOR PUBLIC HEALTH NUISANCES AND GENERAL SANITATION AND MAINTENANCE OF BUSINESSES, RESIDENCES, AND FACILITIES USED BY THE PUBLIC; PROVIDING RESPONSIBILITY FOR SANITATION AND MAINTENANCE; PROVIDING ENFORCEMENT PROCEDURES; PROVIDING FOR CITATION, FINES (MAXIMUM OF \$2000) AND ABATEMENT OF VIOLATION AND RECOVERY OF COSTS; PROVIDING FOR APPEALS; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

ARTICLE 1. Purpose and Intent: The purpose and intent of this code is to regulate and control public health nuisances, sanitation and other conditions and circumstances, that adversely affect the life, health, safety and welfare of the general public; It is not intended that this code be interpreted or enforced to require the City to intervene on behalf of any party in matters which are primarily personal or private in nature and which may appropriately be resolved between or among private parties without danger to the public health, safety or welfare.

ARTICLE 2. Definitions: Words in the masculine gender include the feminine , and the feminine the masculine.

“Carrion” - Dead or decaying animal, fowl or fish.

“Enforcement Authority” - means the local health enforcement authority, Environmental Health Inspector/Sanitarian or authority to whom the City Manager may delegate.

“Hazardous Waste” - Toxic, caustic, or flammable materials.

“Infectious/Medical Waste” - A solid, medical waste containing pathogens or biologically active material capable of transmitting disease such as animal and human blood or body parts, microbiological and pathological waste, needles, syringes and sharps.

“Nuisance” - Any object, place or condition which constitutes a possible and probable medium or transmission of disease to or between human being animals and birds or any other object, place or condition which may be specifically declared by this code to be a nuisance.

“Objectionable or unsanitary matter” - Any matter or object which is offensive to ordinary sensitivities of a person or is a health or is a health or safety hazard or a potential health or safety hazard.

“Owner” - Owner shall mean any person claiming or in whom is vested: the ownership, dominion or title of real or personal property, including but not limited to:

1. Holder of simple title,
2. Holder of life estate or leasehold estate,
3. A buyer in possession, or having right of possession under a contract or deed,
4. A mortgagee, receiver, executor or trustee in possession or control of real property,
5. Any agent who is responsible for managing, leasing or operation of property.

“Pool” - a permanent swimming pool, spa, hot tub over 18" deep if public or semi public, and 3' deep if private, located at ground level, above or below ground, filled or empty.

“Premises” - any parcel, lot or tract of land, including any structure, building, landscaping or trees thereon or other structure or improvement located thereon.

“Sanitarian/Environmental Health Inspector”- Any trained worker who has a practical knowledge of sanitation as it pertains to disease control.

“Structure” - shall mean any residential or non residential building, dwelling, condominium, townhouse, apartment, detached garage, shed, swimming pool, excavation, edifice, erection or material placed or located on and any improvements of any property.

“Tenant” - means any person or their agent who occupies a structure or property.

“Unwholesome/Impure Matter” - Any condition, object or matter, weather decaying or non decaying, which may produce injury, disease or death to human beings directly or indirectly.

ARTICLE 3 ENFORCEMENT AND INSPECTION.

1. The Enforcement Authority for this ordinance shall be the City Manager or the person or department to whom the City Manager delegates the enforcement responsibility. He or his designated representative shall have citation authority.
2. Whenever it is necessary to make an inspection to enforce this Code, or whenever the enforcement authority has reasonable cause to believe that there exists in any building or structure or upon any property a condition or violation which is unsafe, unhealthy, unwholesome, dangerous or hazardous or detrimental to the public interest, the enforcement authority may enter such building or structure or property at all reasonable times to inspect same; provided that if such building, structure or property is occupied, the enforcement authority shall first present proper credentials and request entry, and if such entry is refused, the enforcement authority shall have recourse to every remedy provided by law to secure entry and protect the public health.

ARTICLE 4 RESPONSIBILITY

1. **OWNER.** Every owner of the premises shall be responsible to maintain such premises in compliance with this Code even though an obligation is also imposed on the tenants or occupants of his building. An owner shall not let, rent or lease a premises for occupancy or use, which does not comply with the provisions of this Code.
2. **OWNER AND TENANT.** Every owner and every tenant of the premises shall maintain the premises in a clean, sanitary, and safe condition, as written in this code, including but not limited to, the disposal of rubbish, garbage, organic or inorganic waste, or other waste in a lawful manner.

ARTICLE 5. NUISANCES AND GENERAL SANITATION. Each of the following are nuisances dangerous to the public health:

1. Any condition or place allowed to exist in a populous area which constitutes a breeding place for flies
2. Any place, condition or building controlled or operated by any governmental agency, state or local, which is not maintained in a sanitary condition.
3. All sewage, human excreta, waste water, garbage or other organic matter deposited, stored, discharged or exposed in such a way as to be a potential instrument or medium in the transmission of disease to or between any person or persons.
4. Any vehicle or container that is used to transport garbage, grease, human excreta, chemicals or other organic material and that is defective and allows leakage or spillage of contents.
5. Any collection of water in which mosquitoes can/are breeding in a populous area.

6. Any place or condition attracting or harboring rats in a populous area.
7. The presence of ectoparasite, including but not limited to, bed bugs, lice and mites, carriers in a place in which sleeping accommodations are offered to the public.
8. Any object, place, or condition that is a possible and probable medium of disease transmission to or between humans.
9. Whatever renders air, food, or drink unwholesome or detrimental to the health, safety and welfare of human beings or in violation of the codes and ordinances of the City and State.
10. Maintaining premises in a manner that creates an unsanitary condition likely to attract, or harbor mosquitoes, rodents, vermin or other disease carrying insects.
11. Any attractive nuisance and whatever is dangerous to human life or is detrimental to health and is contrary to the public health, safety and welfare.
12. The meddling with garbage, trash or rubbish and their containers, or in any way pilfering, and scattering of same.
13. Maintaining a building in a manner that is structurally unsafe, unsanitary, or otherwise constitutes a hazard to health, safety, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard.
14. **INADEQUATE SANITATION.** Inadequate sanitation in a dwelling unit shall include, but not limited to, the following:
 - A. Lack of, or improper repair or installation of, or sanitary water closet, lavatory, bathtub or shower.
 - B. Lack of, or improper repair or installation of, kitchen sink in a private dwelling unit.
 - C. Lack of running water, under pressure, to plumbing fixtures.
 - D. Lack of, or improper operation of ventilation equipment.
 - E. Lack of minimum amounts of natural light and ventilation that may cause unhealthy or unsanitary conditions..

Floors, walls (including windows and doors), ceiling, and other interior surfaces of every building or structure shall be maintained in good, clean, sanitary condition not showing any evidence of peeling paint, cracked, crumbling or loose plaster, decayed material or other defective surface.

ARTICLE 6. GARBAGE, REFUSE AND OTHER WASTE

1. Premises occupied or used as residences or for business or pleasure shall be kept in clean and sanitary condition.

2. Kitchen waste, laundry waste, or sewage shall not be allowed to accumulate on, discharged into or flow onto any property, street or alley.
3. Waste products, polluting material, chemicals, brines, garbage, rubbish, refuse, used tires, petroleum products, or other waste of any kind shall not be stored, deposited, or disposed of in a manner that may cause the pollution or contamination of the surrounding land and water, cause the breeding of insects and rodents, or endanger life or property.
4. The draining or discharging of pesticides, grease, petroleum products, paints, toxic chemicals onto any property, street, or alley is prohibited.
5. No infectious/medical or hazardous waste shall be deposited at any location regardless of consent of property owner. Infectious/medical waste from businesses shall not be placed in polycarts, pickup point or dumpsters. Infectious/medical waste from residences shall not be placed in polycart unless properly contained. Hazardous waste from any location shall not be placed into polycarts, pickup point or dumpsters unless approved by the regulatory authority.

ARTICLE 7. DISPOSAL OF HUMAN WASTE

Human excreta in a populous area shall be disposed of through an approved sewage disposal system, treatment tanks, chemical toilets. The disposal system shall be sufficient to prevent the pollution of surface soil, the contamination of a drinking water supply, the infestation of insects and rodents or the creation of any other public health nuisance.

ARTICLE 8. INSECT AND RODENT CONTROL

1. Every owner and every tenant of a building, structure, or property shall prevent any condition which can provide harborage and breeding of insects, rodents or other pests which can create a hazard or a nuisance to said building, structure, property, or occupants and are otherwise detrimental to the public health, safety and welfare.
2. A person who possesses an enclosed structure and knows that the structure is infested with insects/rodents shall:
 - a. Attempt to exterminate the insects/rodents by poisoning, trapping, fumigating, or other appropriate means; and
 - b. Provide every practical means of eliminating insects/rats in the structure; and
 - c. Incorporate insect/rat proofing features.

ARTICLE 9. NOTICE OF VIOLATION AND ABATEMENT OF NUISANCES

1. In the event a nuisance or violation as defined by this ordinance is found to exist upon any property within the city, or in the event that any person, firm or corporation owning, claiming, occupying or having supervision or control, of any property within the Allen City limits, fails to comply with the forgoing provisions of this ordinance, it shall be the duty of the regulatory authority to give a minimum of ten (10) days notice in writing to such person, firm, or corporation which is creating such nuisance or is violating the terms of this ordinance. If such person, firm or corporation fails or refuses to comply with the provisions of this ordinance within the specified period following notification, they shall be considered in violation and subject to citation, fine and penalties as provided by this ordinance.
2. The notice shall be in writing and may be served on the property owner, occupant, or agent of same by handing it to him in person, by United States certified mail, or regular mail, address to owner, occupant, agent at his post office address, or if the same cannot be found and/or letter is returned, then by posting such notice on the dwelling or establishment.
3. The provisions above shall apply to all properties occupied or unoccupied, except that the ten (10) day notification requirement shall be waived when, in the opinion of the regulatory authority, an eminent hazard to life and property exists.
4. The requirement of a ten (10) day official notification is met and fulfilled when the regulatory authority has given a ten (10) day notice in writing at least one (1) time in a year, in which case a citation may be issued without additional notice to the violator.
5. The City shall be further entitled to go upon such above properties and do or cause to be done the work necessary to abate any public nuisance or violations existing if such person, firm, or corporation fails or refuses to comply with the provisions of this ordinance within the specified period following official notification.
6. If a person, firm, or corporation having supervision or control of the premises cannot be located, or when immediate abatement is deemed necessary for health, safety or welfare of its citizens, the City of Allen may initiate the abatement process.
7. All costs for abatement of any nuisance or violation, or any part thereof, shall be actual costs but not less than \$25.00 plus a fee of \$50.00 for administrative costs in addition to costs for mailing notices and filing of a statement with the County Clerk and interest levied, assessed and collected against such property upon which such nuisance or violation or any part thereof is located. If any owner of such property refuses to pay the costs so assessed within thirty (30) days after being notified of such costs, the City shall file with the County Clerk of Collin County, Texas, a statement of said costs. The City of Allen, Texas shall have a privileged lien on the premises upon which work was done or improvements were made, second only to tax liens and liens for street improvements, to receive the costs so made and ten percent (10%) interest on the amount from the date payment is due. For any such costs, and interest, suit may be instituted in the name of the City of Allen, Texas, and the statement of costs, as provided previously in this ordinance, shall be prima facie proof of the costs expended in such work.

8. The provisions of this ordinance shall be enforced by the City's Environmental Health Inspector/Sanitarian or whomever the City Manager delegates. Notwithstanding any provision of this section to the contrary, the Environmental Health Inspector/Sanitarian has the authority to issue immediate citations to persons violating any provision of this ordinance when an eminent hazard to life or property exists. It shall be unlawful for any person to interfere with an Environmental Health Inspector/Sanitarian in the exercise of their duties.

SECTION VI**ADMINISTRATION**

ARTICLE 1. SCHEDULE OF FEES. See Exhibit "A" attached hereto.

ARTICLE 2. PENALTY. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed guilty of a misdemeanor and conviction thereof shall be fined a sum not exceeding two thousand dollars (2,000.00) for each violation and that each day such violation shall continue to exist constitutes a separate offense.

ARTICLE 3. APPEAL

- (A) If the regulatory authority denies the issuance of a permit, or suspends a permit, he shall send to the applicant, or permit holder, by certified mail, written notice of his action and the right to appeal. The applicant, or permit holder, may appeal the decision of the regulatory authority to the City Manager or his designee by filling a written request for a hearing within 10 days after receipt of the notice from the regulatory authority. If a request for an appeal hearing is not made within the 10-day limit, the action of the regulatory authority is final.
- (B) The City Manager, or designee, shall serve as hearing officer at an appeal hearing and consider evidence offered by any interested person. The formal rules of evidence do not apply at any appeal hearing. The hearing officer shall make his decision on the basis of a preponderance of the evidence presented at the hearing. The hearing officer shall render a decision within 30 days after the request for an appeal hearing is filed. The hearing officer shall affirm, or modify the action of the regulatory authority and his decision is final.

ARTICLE 4. CONFLICT. Whenever the contents of this ordinance conflict with existing City ordinances, the most stringent requirement shall apply.

ARTICLE 5. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence or section of this ordinance shall be declared unconstitutional or invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining section, paragraph, sentence, clause or phrase of this ordinance; and the City Council hereby declared it would have passed the remaining portions even though it had known the affected parts would be held unconstitutional.

ARTICLE 6. INJUNCTIVE RELIEF. In addition to and cumulative of all penalties, the City shall have the right to seek injunctive relieve for any and all violations of this ordinance.

ARTICLE 7. DECLARING AN EMERGENCY. The fact that the present ordinances do not adequately regulate the sanitation and protective measures of public and private buildings in the City of Allen creates an urgency and an emergency in the preservation of health, life, and property and requires that this ordinance shall take effect after the passage and publication of the caption of said ordinance as the law in such cases provide.

DULY PASSED AND APPROVED by the City Council of the City of Allen, Texas, on this _____ day

of _____, 1998.

APPROVED:

Stephen Terrell, MAYOR

ATTEST:

Judy Morrison, CMC, CITY SECRETARY

APPROVED AS TO FORM:

A. Don Crowder, CITY ATTORNEY

EXHIBIT “A”**FEE SCHEDULE**

- | | | |
|----|---|---|
| 1. | Food Permits (Fees Should be Made Payable to City of Allen) | |
| | a. | Permanent Food Establishments, Catering Services |
| | | Grocery \$300/year |
| | | Heavy food preparation \$200/year |
| | | Light food preparation \$100/year |
| | | No food preparation \$50/year |
| | b. | Temporary Food Establishment \$50/event (1-14 days) |
| | | (Non-profit agencies are fee exempt) |
| | c. | Concession Stands \$100/season (15-180 days) |
| | d. | Catering Trucks \$100/vehicle |
| | e. | Ice cream/sno cone trucks \$100/vehicle |
| | f. | Itinerant Vendors \$100/vehicle |
| | g. | Food Carts \$100/year |
| 2. | Day Care | \$150/year |
| 3. | Swimming Pools | \$100/year |