

DECATUR TEXAS CODE OF ORDINANCES

ARTICLE VI – FOOD ESTABLISHMENT RULES

AN ORDINANCE OF THE CITY OF DECATUR, TEXAS, AMENDING CHAPTER 7 LICENCES AND BUSINESS REGULATIONS, BY DELETING ARTICLE VI, IN ITS ENTIRETY INCLUDING (SECTIONS 7.211 THROUGH 7.219); ADOPTING THE TEXAS FOOD ESTABLISHMENT RULES PROMULGATED BY THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES OR OTHER AGENCY AS DESIGNATED BY THE STATE;(DELETING CHAPTER 229 AND REPLACING IT WITH CHAPTER 228 OF THE TAC; TITLE 25; PART 1); AND MAKING RELATED DELETIONS AND AMENDMENTS THERETO; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED \$2,000.00 FOR VIOLATIONS OF THIS ORDINANCE AND PROVIDING AN EFFECTIVE DATE.

THE COUNCIL OF THE CITY OF DECATUR, TEXAS HEREBY ORDAINS:

ARTICLE VI, SECTIONS 7.211 THROUGH 7.219 OF THE DECATUR CODE OF ORDINANCES ARE HEREBY DELETED IN THEIR ENTIRETY AND REPLACED WITH ARTICLE VI; NEW SECTIONS 7.220-7.230

SEC. 7.220. RULES ON FOOD SERVICE – ADOPTED; COMPLIANCE PROCEDURES

The City of Decatur adopts the amendments to the Texas Food Establishment Rules (TFER) found in Title 25 Texas Administrative Code, Chapter. 228, which establishes regulations regarding Food Establishments in this jurisdiction, and is hereby adopted as the minimum standards for food service operations within the corporate limits of the City of Decatur, Texas. Wherever in these rules the word “City” appears, it shall be understood to refer to the City of Decatur and the words “Regulatory Authority” shall refer to the City of Decatur City Council. The TFER, save and except the amendments set forth below are made a part of this Article as if fully set forth herein. A copy of the TFER, along with these City amendments, shall be kept on file in the office of the City Secretary of the City of Decatur. Any revision, addition, or deletion to the TFER by the Department of State Health Services or other agency as designated by the state; or the United States Food and Drug Administration (FDA) shall be deemed to be an amendment to this Article and adopted at the time it goes into effect or is published.

SEC. 7.221. DEFINITIONS

Administrator: The authority or designated representative administering this Article. The administrator shall have the authority to render interpretations of this Article and to adopt policies and procedures consistent with the intent of the Article. The Administrator shall have supervisory oversight over the Health Officer.

Backflow Prevention Assembly: Any effective assembly used to prevent backflow into a potable water system. The type of assembly used should be based on the existing or potential degree of hazard and backflow condition.

Bona Fide Educational Purpose: A cooking demonstration made with earnest intent to instruct and educate.

Catering Establishment: A Food Establishment where food is completely or partially prepared for delivery to a separate location where it is meant to be served and consumed by a person or that person’s guests or invitees.

Certificate of Occupancy: A document issued by a local government agency indicating that a building, complies with zoning and building laws.

Certified Food Protection Manager (CFPM): A person in charge who demonstrates knowledge by being a food protection manager who is certified by a food protection manager certification program recognized by the Department of State Health Services or other agency as designated by the State.

Change of Ownership: A change of owner or operator of a Food Establishment business, and does not refer to a change of owner of the property or building in which the business is operated.

Change of Use: That which changes the occupancy type of an establishment.

Commercially Manufactured: Produced or built, for commercial gain, by a person or company showing a high degree of skill or competence, using commercial grade products. Able to meet National Sanitation Foundation (NSF) standards.

Commissary: Also known as a central preparation facility. A Commissary is a site approved by the City of Decatur Health Officer at which food preparation, storage and cleaning or servicing of Mobile Food Units occur. State law prohibits the use of a private residence as a central preparation facility or warehouse.

Community/Farmer's Market: A designated location used primarily for the distribution and sale directly to consumers of raw agricultural products grown by farmers; or home-grown fruits, vegetables, produce or food products; meat; plants and flowers; art and craft items; and bakery goods; beverages; dairy products; delicatessen; and grocery items.

Cooking Demonstration: Food prepared for educational purposes that is not to be offered, sold, or otherwise distributed to the public.

Cottage Food Production Operation: A cottage food production operation is defined as an individual, operating out of the individual's home, who:

- a. Produces a baked good, candy, coated and uncoated nuts, unroasted nut butters, fruit butters, a canned jam or jelly, a fruit pie, dehydrated fruit or vegetables, including dried beans, popcorn and popcorn snacks, cereal, including granola, dry mix, vinegar, pickles, mustard, roasted coffee or dry tea, or a dried herb or dried herb mix.
- b. Has an annual gross income of \$50,000 or less from the sale of the described foods; and
- c. Sells the foods produced directly to consumers at the individual's home, a farmers' market, a farm stand, or a municipal, county, or nonprofit fair, festival or event.
- d. Delivers products to the consumer at the point of sale or another location designated by the consumer.

Farmer's Market Food Vendor: Any person(s) who operate(s), offers, or sells food typically known as "farm grown", "farm originating" or "farm obtained" from an approved location. Foods included in "farm grown" are, but are not limited to, whole produce, plants, nuts, certain meats, honey, eggs and pasteurized dairy products. These vendors and any foodservice operations shall comply with the TFER as set forth by the Department of State Health Services or other agency as designated by the state.

Fixed Commercial Location: A building that can obtain a certificate of occupancy; not mobile in nature.

Food Establishment: Any place, structure, premises, or vehicle, or any part thereof, in which any food intended for human consumption is manufactured or prepared by any manner or means, or in which any food is stored, sold, offered or displayed for sale or served.

Food Handler: Any person who works in a food establishment and performs any duties that brings them into contact with the handling of food, utensils, or food service equipment.

Food Handler Card: Proof of certification required of all Food Handlers.

Food Truck Park: A location where three (3) or more mobile food units stop and sell food on a lot. A park shall provide all commercially required facilities for a Food Service Establishment.

Foraged Food: Gathering or harvesting of wild foods.

Grease Interceptor: A plumbing appurtenance that is installed in a sanitary drainage system to intercept oily and greasy wastes from a wastewater discharge.

Health Officer: The officer or other designated authority charged with enforcement of this code.

Health Permit: A document issued by the Health Officer that authorizes a person to operate a Food Establishment.

Heavy Food Preparation: Any area in which foods are prepared utilizing a grill, griddle, deep-fat fryer, commercial type oven, and/or any similar food preparation equipment, or any area used for cutting/processing of meat, poultry, fish or pork. Heavy Food Preparation includes but is not limited to: cafeterias, fast food restaurants, full service restaurants, pizza preparation, donut preparation, meat and fish markets and similar establishments.

Light Food Preparation: Any area in which foods are prepared exclusive of the use of fryers, grills, or similar equipment. Light food preparation is usually limited to the preparation of hot dogs, sandwiches, salads or other similar foods. Light Food Preparation includes but is not limited to sandwich shops, limited menu concession stands and similar establishments.

Mobile Food Unit (MFU): A self-contained and readily movable Food Establishment that serves, sells, or distributes any food or beverage to the public, with or without a charge.

Mobile Food Unit Classes Based on Type of Menu Served:

- a. **CLASS I** - Limited Mobile Food Units may provide hot and cold holding display areas from which packaged foods are displayed. Self-service by customers of unpackaged food is not allowed. Preparation, assembly or cooking of foods is not allowed for this type of unit. Non-TCS beverages must be provided from covered urns or dispenser heads only. No dispensed ice is allowed.
- b. **CLASS II** - General Mobile Food Units may serve a full menu as approved by the Health officer.
- c. **CLASS III** - Pushcarts shall serve only a limited menu as approved by the Health Officer.

No Food Preparation: Any area in which foods are provided pre-wrapped, from a source approved by the Department of State Health Services or other agency as designated by the state with microwave oven type heating being the maximum handling involved. No Food Preparation is limited to: prepackaged sandwiches, candies, similar foods and containerized beverages.

Non-Temperature Control for Safety (Non-TCS) Food or Beverage: A food or beverage intended for consumption that does not require temperature or time control for safety.

Non-Profit Organization: All government entities, political subdivisions, public school districts, organizations chartered under the Texas Non-Profit Corporation Act, or operations recognized by the IRS as a 501 organization or corporation.

Perishable Food: Food or beverage of a type or in a condition that may spoil.

Priority Item: Application of a provision of this Article that contributes directly to the elimination, prevention, or reduction of hazards associated with food borne illness or injury to an acceptable level. Includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling and handwashing.

Re-inspection: Any inspection other than a routine inspection, conducted at a permitted Food Establishment, after notice has been given to correct a violation, to ensure that the violation has been corrected. Subject to a re-inspection fee.

Regulatory Authority: The City of Decatur City Council.

Remodeling: Any change in the structure of a food preparation area or any change in the establishment which would increase or decrease size requirements for the food preparation or food storage areas as specified in Section 7.224 of this Code. The term may also include any construction which requires a building permit from the Planning and Development Department of the City of Decatur. It does not include expenditures for the replacement of moveable equipment.

Routine Inspection: An unannounced inspection conducted of a permitted Food Establishment for the purpose of determining compliance of the establishment with the rules of this Article and the TFER.

Seasonal Food Establishment: Any Food Establishment which is permitted to operate for a period more than fourteen (14) days but not more than one hundred eighty (180) days, provided that such operation shall occur once during any twelve (12) consecutive month period.

Seasonal Food Establishment Permit: A health permit issued after fulfilling all City requirements for a Food Establishment selling or serving food at an approved location for more than fourteen (14) days but not more than one hundred eighty (180) days in any twelve (12) consecutive month period.

Temporary Event/Community Based Event: Transitory gatherings, such as traveling fairs, carnivals, multi-cultural celebrations, special interest fundraisers, restaurant food shows, grand openings, customer appreciation days, etc. also called special events. These are single events or celebrations.

Temporary Event Food Permit: A health permit issued after fulfilling all City requirements for a Food Establishment selling or serving food at a temporary event. The temporary food permit is valid until the temporary event concludes, or for 14 consecutive days, whichever is less. A Temporary Event Food Permit is valid for only one event location at a time.

Temporary Food Establishment: Any Food Establishment which operates under a Temporary Event Food Permit during a Temporary or Community Based Event.

Time/Temperature Control for Safety (TCS) Foods or Beverage: A food or beverage that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

Toilet Facilities: Flush toilets with hand washing sinks that have hot and cold running water connected to an approved system.

Vendor/Supplier: A business establishment approved by the Health Officer that sells or supplies food and food related products to Food Establishments.

Wholesome: In sound condition, clean, free from adulteration and otherwise suitable for use as human food. Food which is packaged shall be deemed wholesome if it meets the foregoing requirements and it is used or sold prior to the expiration date marked on the package.

SEC. 7.222. AUTHORITY

1. The Administrator shall be the Planning Director or their designated representative. The Administrator is hereby authorized to enforce the provisions of this Article.
2. **Destruction of Unwholesome Food Authorized:**
 - a. Whenever the Health Officer discovers any food or drink displayed for sale or kept for sale, which is unwholesome or unsafe for human consumption, the Health Officer shall order the food or drink to be destroyed or removed, and the owner or the responsible person in charge shall immediately destroy or remove such unwholesome or unsafe food at his or her own expense.
 - b. It shall be unlawful for any person, association of persons, firm, Food Establishment, Temporary Establishment or corporation to offer for sale or give away any food or drink for human consumption which has been pronounced by the Health Officer to be unfit for such use.
 - c. No person shall prepare TCS Foods for sale to the public from a private residence.
3. **Authority to Inspect:**
 - a. The Health Officer, after proper identification, may inspect any and all things offered for sale, given in exchange or given away for use as food or drink for human consumption, and he or she shall have the authority to enter any Food Establishment in the City, as authorized by law for the purpose of such inspection. The Health Officer shall be permitted to examine the records of the establishment to obtain information pertaining to food and food supplies purchased, received or used, or as to persons employed.
 - b. The following types of establishments are exempt from inspection requirements by the City:
 1. Group homes;
 2. Establishments selling only commercially packaged; non-TCS Foods;
 3. Vending machines that sell only commercially packaged; non-TCS Foods; and
 4. Facilities operated by nonprofit organizations for their members, families and invited guests.
 - c. Facilities are not exempt when food is provided in conjunction with a child care facility, retirement center, hospital, school, indigent feeding program, or public fundraising events.
4. **Re-Inspection:**
 - a. Any Food Establishment inspected by the Health Officer, which receives a critical violation or a score of seventy-five (75) or below on any inspection shall be re-inspected and pay the re-inspection fee for each re-inspection.
 - b. If upon re-inspection the Health Officer finds that sufficient measures were not taken to correct any violation, he or she may issue a citation and schedule a date for another inspection. At the discretion of the Health Officer an establishment may be closed upon the third Re-inspection if the same or similar violation is not corrected. The issuance of a citation for failure to meet the required score upon re-inspection shall not in any way limit the ability of the Health Officer to issue any other citation for any violation of this Article.
 - c. Re-inspection shall be performed within fourteen (14) calendar days immediately following the original inspection, or as soon as possible thereafter, except where an establishment is closed under this Article in which case the Health Officer shall determine the time of the Re-inspection.

- d. Any inspection other than a routine inspection, conducted at a Food Establishment after notice has been given to correct a violation, to ensure that the violation has been corrected, is subject to the re-inspection fee.

5. Fee for Re-Inspection:

- a. Payment of the re-inspection fee shall be made within five (5) business days after the re-inspection is deemed necessary.
- b. A re-inspection fee will be charged for each re-inspection necessary to verify compliance with this Article.
- c. Payment of the re-inspection fee shall not void, or in any way affect the responsibility of the owner or permit holder for payment of any fines for any other violations of this Article.
- d. The person, partnership, or corporation listed as owner on the original application shall be responsible for payment of any and all fees, including re-inspection fees.
- e. A Health Permit shall not be renewed if re-inspection fees are owed at the time of renewal.

6. Authority to Close:

- a. The Health Officer shall close, without warning, any building or place described in this Article and prevent its use for the storage, manufacture, or sale of food or drink for human consumption whenever:
 - 1. Sufficient violations exist which cause the score of the establishment to be below a total of sixty (60) points.
 - 2. An establishment is operating with no working refrigerator units.
 - 3. An establishment is operating without running water or hot water for a period of more than one (1) hour.
 - 4. An establishment is operating without a functioning ware-washing machine or adequate sinks for ware-washing.
 - 5. An establishment is infested with rodents or insects.
 - 6. An establishment has a backup of sewage on or in the property.
 - 7. An establishment is operating without a current health permit.
- b. It shall be the duty of the Health Officer to post a notice of closure for such condition at the entrance of such building or place and to maintain the same until such conditions or practices have been removed or abated.
- c. No person shall remove, or alter in any way, a sign which has been posted by the Health Officer.

SEC. 7.223. PERMITS

1. Permits Required:

It shall be unlawful for any person, association of persons, firm or corporation to operate a Food Establishment, in the City of Decatur, without having obtained a permit under the terms of this Section.

Any person desiring to operate a Food Establishment shall submit a completed application for permit at the office of Building Inspections. If multiple Food Establishments are operated from one location, separate applications and fees shall be submitted for each Food Establishment. If the application is for a Temporary or Seasonal Food Establishment, it shall include the inclusive dates of the proposed operation.

Failure to provide all required information, or falsifying information, may result in denial or revocation of the permit.

2. Certified Food Protection Manager (CFPM):

- a. All Food Establishments shall employ at least one CFPM. A CFPM registration shall be submitted with the applicable fee at the time of application.
- b. The following Food Establishments are exempt from the requirements of this Section:
 1. Establishments selling only uncut produce or commercially packaged hermetically sealed foods.
 2. A Food Establishment that provides only beverages or prepackaged food that is not a TCS Food.
 3. A food processing plant or dairy that is inspected at least once each week by a state or federal food sanitation inspector or that only stores prepackaged foods that are not TCS foods.
 4. Concession stands that are run by volunteers (subject to Food Handler Card requirements).
 5. A Non-Profit Organization that serves food only to members of the organization.
 6. A vending machine that offers only prepackaged food.
 7. A Temporary Event Food Vendor (subject to a Food Handler Card holder being present).
- c. A CFPM may be required of establishments having one of the above exemptions if they have repeated or Priority Item food violations, or if determined by the Health Officer to be capable of causing food borne illness.
- d. The owner or operator of a new Food Establishment shall provide verification to the Health Officer, prior to the opening of the establishment, that the establishment meets the CFPM requirement.
- e. If a Food Establishment cannot meet the requirements of this Section because of the termination or permanent transfer of their CFPM, the Food Establishment shall employ another CFPM within ten (10) days of the effective termination or transfer of the previous CFPM. When an existing Food Establishment has a change of ownership, the new owner or operator of the establishment shall provide verification to the Health Officer within ten (10) days of the effective date of the change of ownership that it is in compliance with the CFPM requirements of this Article.
- f. A person commits an offense if the person is the owner or operator of a Food Establishment and violates a provision of this Section. A person commits an offense if the person is the CFPM of a Food Establishment and violates a provision of this Section.
- g. A Food Establishment shall ensure that at least one person holding a CFPM certificate has registered a copy of that certificate with the office of Development Services at the time the Health Permit is issued, upon renewal, at any time throughout the year when the CFPM changes, and at the request of the Health Officer.
- h. The CFPM certificate shall be prominently displayed, along with the establishment's Health Permit, Certificate of Occupancy and the Sales Tax ID.

3. Food Handler Cards Required:

- a. Every person whose work brings them into contact with the handling of food, utensils, or food service equipment must possess a valid Food Handler Card that is approved by the Texas Department of State Health Services or other agency as designated by the state. A cashier for a retail food store shall not be required to possess a Food Handler Card. Every person who owns, manages or otherwise controls any

Food Establishment shall not permit any person to be employed therein who does not possess a valid Food Handler Card within ten (10) days from the date of their employment.

- b. The permit holder of the Food Establishment shall place copies of Food Handler Cards where they can be easily seen by the Health Officer. Food Handler Cards shall not be transferable.
- c. The Health Officer shall have the authority to confiscate a Food Handler Card that has expired or is otherwise invalid.

4. Application Fees:

The applicant shall submit the applicable, non-refundable fees as set forth by the City Council by Ordinance. The Fee Schedule shall be available for public inspection at the offices of Development Services or the City Secretary.

An applicant shall not be entitled to a refund of application or permit fees after an application has been accepted. Application fees shall not be pro-rated.

5. Fee Exemptions:

- a. Food Establishments operated by a public entity may be exempt from paying the permit fee, when approved by the Regulatory Authority.
- b. A Temporary Food Vendor that is not permanently permitted by the Regulatory Authority, but provides documentation with the application of recognition as a Non-Profit Organization as defined by this Article, may be exempt from paying the Temporary Food Establishment permit fee, if approved by the Regulatory Authority.
- c. Fee exemptions granted do not exempt any Food Establishment from the requirements of applying for, obtaining, and displaying a Health Permit or from complying with the provisions of this Article or any other applicable law.

6. Health Permit Issuance:

- a. Upon receipt of an application and payment of the applicable fee, the Health Officer shall make an inspection of the premises where the business is to be conducted. If the premises comply with the terms of this Article and with all current requirements of the Zoning Ordinance, other ordinances and state law, a permit shall be issued to the applicant.
- b. In the event a Health Permit application is rejected, the Administrator shall notify the applicant of the rejection in writing. The notice shall specify the reasons why the permit is denied. The decision of the Administrator is final unless the applicant files an appeal as provided for in this Section. The decision of the Administrator shall remain in effect until the final decision of the Regulatory Authority.
- c. Health Permits shall not be transferable from one location to another.
- d. If the establishment changes the name of the business only, they shall have ten (10) calendar days from the date of the name change to apply for a new Health Permit.
- e. Acceptance of a Health Permit issued by the Regulatory Authority constitutes agreement by the establishment to:
 - 1. Comply with all conditions of the permit and all applicable provisions of this Article.
 - 2. Allow the lawful inspection of its facility and operations.

3. Allow inspections of newly constructed establishments prior to opening at the following times: when equipment is set, at least 2 weeks prior to opening and again at least 2 days prior to opening.
4. Post current permits in a location that is conspicuous to the public.

7. Expiration and Renewal of Health Permits:

- a. A Health permit lapses and is void unless a complete permit application and associated fees are received prior to the expiration date of the existing permit.
- b. A Health Permit is void if the Food Establishment operating under the permit constructs a new facility or changes the name of the establishment.
- c. Health Permit renewal fees that are not received by the expiration date will be assessed an additional administrative fee and the establishment closed until all fees are paid in full.
- d. Unless otherwise specified on the permit a Health Permit a permit shall expire on the last calendar day of the year issued.

8. Revocation of Permits:

- a. The Administrator may, after providing opportunity for a hearing, revoke a Health Permit if the Administrator determines that a Food Establishment has:
 1. Interfered with the Health Officer in the performance of his/her duties; or
 2. Been cited twice within a twelve-month period for a violation of this Article; or
 3. Failed to comply with a hold order or a condemnation order; or
 4. Failed to comply, within the time specified, with an order to correct or abate an imminent and serious threat to the public health or safety; or
 5. Intentionally or knowingly impeded a lawful inspection by the Health Officer; or
 6. Closed two (2) or more times within a twelve-month period for conditions that constituted an imminent and serious threat to public health.
- b. Prior to revocation, the Health Officer shall notify the holder of the permit in writing of the reason the permit is being revoked, and that the permit shall be revoked at the end of five (5) days following the proper service of such notice, unless a written request for a hearing is filed with the Administrator by the holder of the permit. If no request for hearing is filed, a final notice of revocation shall be served and the Food Establishment shall immediately cease operation and the permit shall be considered finally revoked.
- c. A notice provided for in this Article is properly served when it is delivered to the holder of the permit, or the person in charge of the Food Establishment, or when it is sent by registered or certified mail, return receipt requested, to the address provided on the permit application.

9. Hearing:

The hearing provided for in these rules shall be conducted by the Regulatory Authority at a time and place designated by the Regulatory Authority. Based upon the recorded evidence of such hearing, the Regulatory Authority shall make final findings, and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the Regulatory Authority.

10. Application After Revocation:

Whenever revocation of a permit has become final, the holder of the revoked permit may make written request to the Administrator to consider application for a new permit. A new permit application may be submitted provided evidence that corrective action to remedy any deficiency, or previous violations has been taken. If the Regulatory Authority revokes a permit, the Regulatory Authority shall determine conditions for application for a new permit.

SEC. 7.224. PLAN SUBMITTAL

1. The owner shall submit plans and specifications for construction of work areas intended for use in the operation of a Food Establishment, and the location, size, and type of fixed equipment and interior finishes of such areas to the Health Officer for approval when a Food Establishment is:
 - a. Constructed;
 - b. The nature of the operation changes;
 - c. The establishment is extensively remodeled;
 - d. When an existing structure is converted for use as a Food Establishment; or
 - e. When the menu is changed to include more, or different menu items.
2. In a Food Service Establishment,
 - a. The food preparation area shall constitute a minimum of twenty-five percent (25%) of the total square footage of the occupied, permitted area or the minimum size deemed necessary by the Health Officer.
 - b. Dry storage areas shall constitute a minimum of fifteen percent (15%) of the total square footage of the kitchen or food preparation area or the minimum size deemed necessary by the Health Officer.
3. All plans submitted shall include information on the following specifications:
 - a. Aisles and working spaces: shall be unobstructed and of sufficient width, a minimum of thirty-six inches (36"), to permit employees to readily perform their duties without contaminating food or food contact surfaces by clothing or personal contact.
 - b. Auxiliary equipment: Water heaters, washing machines, dryers, remote connected refrigerators, compressors and air conditioners must be located outside of food preparation areas.
 - c. Equipment and utensils: Food equipment that is certified or classified for sanitation by an accredited certification program (e.g. American National Standards Institute (ANSI) or National Sanitation Foundation (NSF)) will be deemed to comply with current standards. All approved equipment must be used as the manufacturer intended. Equipment labeled, "for household use only," may not be used with the exception of small crockpots for holding food utensils in hot water storage.
 - d. Floors: In food preparation areas, storage areas, utensil washing areas and restrooms floors shall be constructed of smooth, durable, easily cleanable, non-absorbent material of commercial grade. Flooring must be light colored, without texture or patterns that create difficult places to clean. In child care centers floors in food service areas of classrooms shall also meet these requirements.
 1. The Health Officer shall establish approved floor surfaces in food preparation areas based upon the degree of the preparation expected.
 2. An approved sealer (such as rubber cove base) shall be required at the floor/wall interface.

- e. Ice machines: Shall be of adequate size and located in areas that meet the wall, floor and ceiling design standards for food preparation areas. An ice machine may not be located near sources of potential contamination, such as sewer line clean outs or open stairwells and shall have proper air gaps at drain discharges.
- f. Refrigerators/Freezers: Each mechanical refrigeration unit storing TCS Foods must be of commercial type and each unit must have a numerically scaled indicating thermometer. Walk-in coolers must be commercially built and have interiors of impervious, non-absorbent materials. Shelves must be resistant to rust. Mechanical refrigeration is required for cold food storage. Holding TCS Foods and Beverages in ice is not allowed. Remote access refrigeration shall be in compliance with current TFER regulations.
- g. The processing and packing of meat and poultry shall be conducted in a refrigerated room where the temperature is kept at fifty degrees Fahrenheit (50 °F) or less.
- h. Sinks: Stainless steel hand sinks shall be located within every twenty-five linear feet (25') of unobstructed space in food preparation and utensil washing areas. If a sink is too close to other equipment or sinks, a splashguard may be required. Sinks are to be of adequate size to allow for the thorough washing of hands and forearms. Liquid soap and paper towels are required at the hand sinks. Lavatories, soap dispensers, hand drying devices and all related fixtures shall be permanently mounted and kept clean and in good repair.
 - 1. Air dryers or cloth towels are not allowed as a means for drying hands in food preparation or dishwashing areas.
 - 2. A stainless steel three (3) compartment sink with basins large enough to allow immersion of the largest utensil being washed shall be required for manually washing, rinsing and sanitizing equipment and utensils. If a commercial dishwashing machine is installed, a three (3) compartment sink unit shall also be required.
 - 3. A stainless steel, four (4) compartment sink with integral self-draining drain-boards shall be installed in all bar areas. This requirement may be modified if glassware is sanitized in a commercial dishwashing machine.
 - 4. At the discretion of the Health Officer, additional sinks such as pot sinks, and produce washing sinks may be required.
 - 5. Grease interceptor: Where required, must be located outside of the Food Establishment. Waste hauler trip tickets shall be submitted to the Health Officer to verify service of the interceptor at least every three (3) months. A hydro-mechanical interceptor may be approved for point of use in place of a gravity interceptor based on submitted information and approval. Grease interceptors shall comply with the adopted Plumbing Code.
- i. Storage rooms: Wood shelving, finished with varnish or high-gloss enamel type paint to make shelving smooth, non-absorbent, and easy to clean, may be used for dry storage. Rooms are to have finished walls and commercial flooring with rubber cove base at the floor/wall intersect. Dry storage rooms may contain refrigerators or freezers not requiring drains to the sewer for condensate removal.
- j. Wait areas: Shall comply with the following requirements if remote from food preparation areas or service areas, and used only for Non-TCS beverage preparation:
 - 1. Flooring shall be Vinyl Composition Tile (VCT) or equivalent as approved by the Health Officer.

2. Counters shall be a laminate surface, solid surface, or equivalent.
 3. Shelving below countertops shall be sealed, smooth, and easily cleanable.
 4. A hand wash sink may be required in this area.
- k. Toilet Facilities:
1. Public access shall not be through the kitchen,
 2. Shall be equipped with solid, self-closing doors,
 3. Covered trash cans are required for the:
 - a. Ladies room,
 - b. The men's room, if a diaper deck is available.
 4. A sign must be posted at each employee and public restroom facility stating "Employees Must Wash Hands Before Returning to Work".
- l. Walls and Ceilings:
1. In food preparation areas, storage areas, utensil washing areas and restrooms:
 - a. Walls, ceilings and other architectural features shall be smooth, easily cleanable, non-absorbent, light in color, and durable.
 - b. Fibrous acoustical drop-in ceiling panels are prohibited in these areas.
 - c. Wall areas behind sinks or places that receive heavy use must be finished with fiberglass reinforced panels (FRP), ceramic tile, epoxy type paint or similar materials to withstand moisture.
 - d. Bathroom walls shall be finished (as those listed above) behind plumbing fixtures to a height of at least four feet (4') from the floor.
 - e. Heavy food preparation areas behind stove, grills and fryers shall be of stainless steel from floor to ceiling.
 2. Surface mounted pipes shall not be installed tightly against the surface of the walls. There shall be a gap of at least two inches (2") between the pipe and the finished surface of the wall. All holes cut into walls and ceilings for pipes and conduits shall be sealed and comply with wall and ceiling finish requirements.
 3. The clearance between the floor surface and the bottom edge of exterior doors shall be tight fitting.
- m. Water heater: Shall provide enough hot water for all hand washing, ware-washing and cleaning. Minimum size shall be fifty (50) gallons. Commercial tankless water heaters may be used.
- n. When a Food Establishment is extensively remodeled it must be closed during any demolition and construction. If remodeling pertains to only a portion of the establishment, the food preparation and storage areas shall be protected by solid walls that prevent any construction debris or other contaminants from entering the kitchen or food service areas.

SEC. 7.225. PREMISES

1. Garbage and refuse shall be kept in durable, easily cleanable, insect and rodent proof containers that do not leak or absorb liquids. Containers used in food preparation and utensil-washing areas shall be kept covered when not in use.
2. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates during operation of the Food Establishment. The Health Officer may require additional containers, dumpsters or larger dumpsters to accommodate the garbage and refuse that accumulates.
3. Suitable facilities, including hot water and detergent, shall be provided and used for washing garbage containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage. Power washing and contracted cleaning services shall be performed according to applicable law.
4. Cardboard or other packaging materials, which do not contain food residues, waiting regularly scheduled delivery to a recycling or disposal site may be stored outside in a covered receptacle that does not create a rodent harborage problem.
5. Food Establishments and all parts of the property used in connection with operations of the establishment shall be kept free of litter.
6. Only articles necessary for the operation and maintenance of the Food Establishment shall be stored on the premises.

SEC. 7.226. TEMPORARY HEALTH PERMITS

1. A permit for a Temporary Food Establishment shall be issued when:
 - a. The Health Officer finds that the operation will not result in a health or safety hazard or nuisance;
 - b. The operation is limited to a single, fixed location;
 - c. The operation is:
 1. Limited to a time of not more than fourteen (14) consecutive calendar days; and
 2. The Food Establishment complies with the other requirements of this Article.
 - d. An application and non-refundable fee for a Temporary Health Permit, per food booth, shall be submitted at least three (3) working days prior to the event. Acceptance of an application after the deadline is at the discretion of the Health Officer and will be charged an administrative late fee in addition to the permit fee.
 - e. A Temporary Event Health Permit is required if any TCS Foods are available, including samples.
 - f. Food manufacturers must submit a copy of their State of Texas manufacturer license with their application.
 - g. Permits for Temporary Food Establishments that are not operating in conjunction with a City sponsored special event or community based event shall be limited to six (6) permits per year per establishment.
 - h. A Food Establishment with a current City of Decatur Annual Health Permit will be required to obtain a Temporary Health Permit if the event is at a location outside their permitted premises.
 - i. A Temporary Food Establishment shall not prepare, sell, serve or distribute any food not approved in advance by the Health Officer. Storage and preparation of food from a private residence is prohibited. Any slicing, dicing or cutting of TCS foods must be done in a commercial kitchen and brought to the event

under proper temperature control; this includes, but is not limited to, raw hamburger meat that must be brought in as commercially prepared frozen patties.

2. Inspections shall be performed by the Health Inspector for each Temporary Event Health Permit. The initial inspection shall be covered by the permit fee. If additional or Re-inspections are required an additional fee shall be paid as prescribed in the Fee Schedule found in Appendix A.
3. All TCS Foods shall be held in mechanical refrigeration that maintains the foods at forty-one degrees Fahrenheit (41°F) or less if the event is four (4) hours or longer. "Sterno" heating units are not allowed for use at outdoor events to maintain food temperatures.
4. Frozen products may be stored in ice only if approved in advance by the Health Officer and the duration of the event and items offered for sale are limited to four (4) hours.
5. All foods are to be kept properly protected during storage, preparation and service and includes the floor, wall, screening requirements as described in TFER Chapter 228.222.
6. Bare hand contact of ready-to eat foods is prohibited. Single use gloves must be worn over clean hands.
7. Animals are prohibited from being within the food preparation areas of a Temporary Food Establishment.
8. A Temporary Food Establishment shall comply with all liquid waste disposal ordinances, solid waste disposal ordinances and fire codes.
9. Food safety training is required for Temporary Food Establishment workers. At least one person with a valid Food Handler Card issued by the State of Texas shall be in each booth at all times of operation. Depending on the duration of the event and the extent of the food being offered, the Health Officer may mandate a CFPM certification for a minimum of one or a maximum of all personnel involved in food preparation during an event.
10. Cottage Food Operations exempt. To the extent set forth in chapter 437 of the Texas Health and Safety Code and in Title 25, Part 1, Chapter 229, Subchapter EE, Section 229.661, a Cottage Food Production Operation is exempt from the requirements of this Section; provided, however, that the Health Officer has authority to act to prevent an immediate and serious threat to human life or health. The Health Officer shall maintain a record of complaints made by a person against a Cottage Food Production Operation. An individual who operates a Cottage Food Production Operation must have successfully completed a basic food safety education or training program for Food Handlers accredited under Subchapter D, Chapter 438 of the Texas Health and Safety Code. A Cottage Food Production Operation is required by state regulations to meet certain labeling requirements as set forth in Title 25, Part 1, Chapter 229, Subchapter EE, Section 229.661(d). A Health Permit shall be required if original packaging is opened for providing samples.
11. Mobile Food Units shall comply with Section 7.228.

SEC. 7.227. REQUIREMENTS FOR SNOW CONE VENDORS AND ICE CREAM VENDORS

1. **General**
 - a. Vendors shall obtain a Seasonal Food Establishment Permit or a Temporary Food Establishment Permit.
 - b. Vendors shall submit an application and other documents as required by the Health Officer along with the required fees for approval.
 - c. Food Handler Cards shall be required for all personnel selling or handling product being sold.
 - d. All applicable requirements for permitting as listed in 7.222 through 7.223 of the Article shall apply.

2. **Snow Cone Vendors** - A snow cone vendor shall be limited to the sale of snow cones and pre-packaged Non-TCS Foods and shall have:
 - a. Commercially approved sources for ice and syrup;
 - b. Hand wash sink with hot and cold running water under pressure, liquid soap, and paper towels;
 - c. A 3-compartment sink with hot and cold running water under pressure for washing and sanitizing utensils; and
 - d. Waste-water holding tank shall be fifteen percent (15%) larger than the potable water capacity for operation.
 - e. A snow cone vendor may also be required to meet any provisions required for a Food Establishment, which the Health Officer deems necessary to protect the public health and safety. This type of establishment may be a fixed location capable of obtaining a Certificate of Occupancy.
 - f. A water heater capable of providing water at one hundred degree Fahrenheit (100°F) interconnected with the potable water supply. A minimum of fifteen (15) gallons of water must be available.
 - g. Adequate, conveniently located and accessible toilet and lavatory facilities shall be available to the snow cone stand personnel when the vendor is selling from a fixed location or a mobile unit is stationary for more than one (1) hour. A notarized letter signed by the owner/operator of the establishment where the facilities are located, must be submitted with the permit application giving written permission for the snow cone personnel to use such facilities and that the facilities will be available for use at all time during the snow cone stand's hours of operation. The path of travel to such facilities shall not exceed a distance of five hundred feet (500').
 - h. A notarized letter signed by the owner of the property from which the snow cone stand will sell from shall be provided to the Health Officer stating that the snow cone stand may utilize the property and the time frame the agreement covers.
3. **Ice Cream Vendors**
 - a. A person shall not sell ice cream, frozen desserts or other novelties from a vehicle before sunrise or after sunset.
 - b. Ice cream, frozen desserts, and other novelty frozen food items shall be individually wrapped by the manufacturer before being placed in the vehicle from which they are sold and shall be sold in the original wrapping.
 - c. Such items as described above may be sold from a pushcart that meets all the requirements as listed under the Mobile Food Unit Section of this Article and TEFR Chapter 228.221.
4. **All vehicles offering ice cream or snow cones for sale shall have:**
 - a. An automatic flashing device consisting of two (2) lamps at the front and rear of the vehicle, mounted at the same level and as widely spaced laterally as possible and displaying simultaneously flashing amber lights, to be used at all times while each vehicle is in use for food service or solicitation of sales.
 - b. Signs in front and rear of vehicle bearing the word "SLOW" in letters not less than six inches (6") high.
 - c. A mechanical freezer unit that is capable of maintaining a constant temperature for frozen food storage; each freezer unit must have an easily visible thermometer that allows verification of food temperatures.

SEC. 7.228. REQUIREMENTS FOR MOBILE FOOD UNITS:

1. Permitting Requirements:

- a. In order to obtain a Health Permit to operate a Mobile Food Unit within the City limits of Decatur, an applicant shall submit application and information as required in this Section to Development Services and pay all required fees.
- b. The application shall include a complete itinerary. The itinerary shall provide adequate information for the Health Officer to determine that the locations specified will comply with this Article. The itinerary locations shall be approved by the Administrator.
- c. Changes to an approved itinerary shall be submitted for review at least three (3) business days prior to a change in location. Notice shall be given to the Health Officer when the Mobile Food Unit will cease operation at an approved location.
- d. A Commissary as required under Subsection 7 shall be listed along with a copy of the most recent inspection report by the Texas Department of Health or other agency as designated by the state, or the local Health Authority over the Commissary shall be provided with the application for permit.
- e. Adequate, conveniently located and accessible toilet and lavatory facilities shall be available to the Mobile Food Unit personnel at all times. A notarized letter signed by the owner/operator of the establishment where the facilities are located, giving written permission for the Mobile Food Unit personnel to use such facilities and that the facilities will be available for use at all time during the hours of operation must be submitted with the permit application. The path of travel to such facilities shall not exceed a distance of five hundred feet (500').
- f. Mobile Food Units shall be inspected twice per year, or when the unit has left the jurisdiction for more than five (5) months and notifies the Health Officer they intend to return.
- g. Provide any other documentation deemed necessary by the Administrator to enforce this Article or otherwise protect the public health.

2. Permit Issuance:

- a. Upon receiving a proper application for a Health Permit, the Health Officer shall make appropriate inspections of the vehicle and equipment of the Mobile Food Unit and shall issue a permit when:
 1. An approved Decatur Fire Department Inspection is submitted with the application; and
 2. The inspection reveals compliance with the applicable requirements of all federal and state statutes and regulations and City Ordinances governing the proposed Mobile Food Unit operation, including current vehicle registration and insurance regulations.
- b. Mobile Food Units shall comply with all requirements of TFER Chapter 228.221.
- c. The Health Permit for a Mobile Food Unit shall not be transferable and shall expire on the last day of the calendar year issued.

3. Location of Operation

- a. Any location where Mobile Food Units stop and sell food shall be located as prescribed by Section 6.12 Allowed uses and Permit Requirements Table & Permitted Use Chart of the Zoning Ordinance, unless otherwise authorized by this Section.

- b. A notarized letter signed by the owner of the property from which the Mobile Food Unit will sell from shall be provided to the Health Officer stating that the Mobile Food Unit may utilize the property and the time frame the agreement covers.
- c. Mobile Food Units shall not stop and sell food in residential zoned districts as defined in the Zoning Ordinance without notarized written permission from the Homeowner's Association or a Neighborhood Association. Mobile Food Units shall not stop and sell food in any residential zoned district that does not have an active Homeowner's or Neighborhood Association.
- d. Mobile Food Units shall not remain at a location of operation when the unit is not operating unless permitted by the Regulatory Authority or in a legal food truck park.
- e. Mobile Food Units shall not block any required parking spaces, fire lane, entrance or exit from a property.
- f. Mobile Food Units shall be no less than fifteen feet (15') away from any building or structure when in operation.
- g. Each Mobile Food Unit shall provide a trash receptacle at the location of operations. Mobile Food Units and all parts of the property used in connection with operations shall be kept free of litter.
- h. A Mobile Food Unit operating with a Health Permit issued under this Section may stop and sell food at community based temporary events if written notification is provided to the Health Officer three (3) days prior to the event. No other fees will apply when a current permit is in effect.
- i. A Mobile Food Unit that does not have a Health Permit under this Section may stop and sell food at community based temporary events when:
 1. A Temporary Event Food Permit Application and applicable fee are received; and
 2. An inspection reveals compliance with all other requirements of this Section.

4. Operation on Public Property

No Mobile Food Unit shall operate a business from a public park or publicly owned property, site, or right of way without written permission from the Regulatory Authority.

5. Signage

- a. Each Mobile Food Unit must be readily identifiable by business name as it appears on the Mobile Food Unit permit, permanently affixed, and prominently displayed on at least two sides of the unit, in letters and numbers not less than three inches (3") in height.
- b. Each Mobile Food Unit shall prominently display the Health Permit issued in a location that is readily observable by the public and the Health Officer.

6. Mobile Food Vehicle Types

- a. **Class I - Limited Mobile Food Unit** may provide hot and cold packaged food holding display areas. Self-service by customers, of unpackaged foods, is not allowed. Preparation, assembly, or cooking of foods is not allowed on the unit. Non-TCS Beverages must be provided from covered urns or dispenser heads only.

Examples of foods that are allowed:

1. Food that was prepared and packaged for individual servings at an approved Commissary and transported and stored under conditions meeting the requirements of this Article.
 2. TCS Beverages such as individual servings of milk, milk products and coffee creams that have been packaged at a pasteurizing plant. All foods offered shall meet proper labeling requirements.
 3. The vendor selling prepackaged foods shall provide a copy of the commercial Food Establishment's Texas Food Manufacturing permit or Meat Safety Assurance permit, if applicable, from the Texas Department of State Health Services or other agency as designated by the state
- b. **Class II - General Mobile Food Unit** may prepare and serve a full menu as approved by the Health Officer.
- c. **Class III - Pushcarts** shall serve only a limited menu as approved by the Health Officer. Menu items are limited to non-TCS Foods Beverages.
1. Class III - Mobile Food Units Shall Not:
 - a. Use a vehicle that exceeds six feet (6') in height by four feet (4') in length or width.
 - b. Enter or occupy a public roadway to solicit or conduct a sale.
 - c. Place any signs or other advertising devices on public property other than those signs that are allowed to be affixed to the vehicle itself.
 - d. Physically or visibly obstruct pedestrian or vehicular traffic.
 - e. Sell, distribute, or offer for sale goods or services that have not been approved by the Health Officer.
 - f. Be located within a construction area.
 - g. Conduct business in the street right-of-way.

7. Servicing at Commissaries:

- a. Mobile Food Units shall report to an approved Commissary or central preparation facility for supplies, cleaning, storage, off site food preparation and servicing operations as follows:
 1. The interior of the Mobile Food Unit shall be thoroughly cleaned at least daily.
 2. The Mobile Food Unit shall acquire needed supplies from an approved Commissary, central preparation facility, or other approved vendor/supplier. Storing or preparing food from a residence is prohibited by state law.
 3. An existing Food Establishment may serve as a Commissary or central preparation facility for a Mobile Food Unit, when approved by the Health Officer.
 4. A Mobile Food Unit shall be serviced from its Commissary or central preparation facility at least once per week. The Mobile Food Unit shall provide documentation of each visit to a Commissary or central preparation facility and shall have that documentation readily available for inspection. This documentation shall be provided by the Commissary providing the services, and shall specify when and which service was provided.

8. Vehicle Construction:

- a. The interior of the vehicle shall be commercially manufactured, or be approved by the Health Officer.
- b. The food preparation area of the vehicle shall be completely enclosed and protected.

- c. Mobile Food Units shall be required to provide an on-board power source, such as battery or generator, to assure maintenance of TCS Foods at proper temperatures during transit, preparation and service. The vehicle must be equipped with commercial grade equipment meeting ANSI or NSF Standards.
- d. All cooking equipment and hot holding units must be located outside the cab of a Mobile Food Unit. Covers for deep fryers must be provided and installed over fryer units while the vehicle is in motion.

e. **Exterior Surfaces**

- 1. Exterior surfaces of a Mobile Food Unit shall be of weather resistant materials and shall comply with all applicable laws. Any additional equipment or the arrangement thereof shall be prohibited unless approved in advance by the Health Officer.
- 2. The Mobile Food Unit shall be kept clean and free of rust.

f. **Operation Capacity**

The operator of a Mobile Food Unit shall prepare, serve, store and display food and beverages on or in the Mobile Food Unit itself, and shall not attach, set up, or use any other device or equipment intended to increase the selling, serving, storing or displaying capacity of the Mobile Food Unit. It shall be unlawful for the operator of a Mobile Food Unit to:

- 1. Allow items such as, but not limited to, brooms, mops, hoses, equipment, containers, boxes or cartons to remain adjacent to or beneath the Mobile Food Unit.
- 2. Provide or allow any sign or banner to remain that is not attached to the unit and solely supported by the Mobile Food Unit.
- 3. Sell food or provide samples outside of the Mobile Food Unit or from under a free-standing canopy.
- 4. Use of tables and chairs or picnic table shall not be allowed unless approved in writing by the Health Officer in advance.

g. **Utility Connections and Fire Protection**

- 1. Utility connections shall be limited to only electrical service and shall be in full compliance with the adopted Electrical Code. All electrical extension cords shall be of industrial grade quality and shall be utilized in a safe manner as to not be a nuisance or a trip hazard. Mobile Food Units shall not be connected to any potable water service, sanitary sewer service, or fuel gas service while in the operation of preparing or vending food.
- 2. Sewage, wastewater and solid waste must be disposed of according to law.
- 3. Liquefied Petroleum Gas (LP) systems shall be in compliance with the adopted Fire Code and Fuel Gas Code.
- 4. Fire extinguishers shall be provided in quantity and type as required by the Fire Marshal.
- 5. An approved ventilation and fire suppression system, with current inspection tags, shall be installed when:
 - a. Grease laden vapors are produced; or
 - b. Any open flame is used; or
 - c. When required by the Fire Marshal.

h. **Damage Report**

Any accident involving a Mobile Food Unit that results in damage to the water system, waste retention tank, food service equipment, or any facility that may result in the contamination of the food being transported, or any damage that results in a violation of this Section, shall be reported to the Health Officer prior to food service operations.

i. **Food Truck Parks**

A Food Truck Park shall be located as prescribed by Section 6.12 Allowed uses and Permit Requirements Table & Permitted Use Chart of the Zoning Ordinance. The park shall provide Toilet Facilities, electrical connections, sanitary sewer disposal facilities with an approved Grease Interceptor, improved parking surfaces for the Mobile Units and customer parking, and meet any applicable requirements for a Food Establishment under this Article. All requirements for the Zoning District in which the Food Truck Park is located shall be observed.

SEC. 7.229. COMMUNITY/FARMER'S MARKET REQUIREMENTS

1. **Purpose.** Community/Farmer's Markets are exempt from the requirements of a Food Service Establishment. The Health Officer shall require Farmer's Market Food Vendor Permits and enforce temperature requirements governing TCS Foods as required by this Section. The purpose of this Section is to provide adequate health protection for the public through regulations including permitting and food safety regulations pertaining to persons who sell TCS Foods at Farmer's Markets.
2. **Regulations adopted.** To the extent applicable to a Farmer's Markets, there is hereby adopted by reference Title 25, Part 1, Chapter 229, Subchapter FF, of the Texas Administrative Code, as amended, which regulate Farmer's Markets. Chapter 433, "Texas Meat and Poultry Inspection Act," applicable provisions of Chapter 437, "Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors" and Chapter 438, "Public Health Measures Relating to Food" of the Texas Health and Safety Code.
3. **Location.** Community/Farmer's Markets shall be located as prescribed by Section 6.12 Allowed uses and Permit Requirements Table & Permitted Use Chart of the Zoning Ordinance. A notarized letter from the owner of the property shall be provided with the permit application allowing the use of the property for a Community/Farmer's Market and specifying the dates the Market will operate.
4. **Permit Requirements**
 - a. **Coordinator.** For every Community/Farmer's Market Event, a Coordinator must be identified on the permit application. The Coordinator of the Market shall provide a current CFPM certificate with the application for a Community/Farmer's Market. The Coordinator shall insure adequate facilities for the Community/Farmer's Market Food Vendors are provided based on the items to be sold, and that bathroom and handwashing facilities are available for vendors. The Coordinator is responsible for the day-to-day operations and monitoring of all Farmer's Market Food Vendors, including TCS Food vendors and Non-TCS Food vendors. The Coordinator must submit to the Health Officer a list of all vendors participating, identify each vendor, state the extent to which a vendor will sell or distribute TCS Foods, provide food samples, or conduct cooking demonstrations. Vendors that are added or removed shall be submitted by the Coordinator to the Health Officer when changes are made, but not less than three (3) days prior to any changes requiring a Farmer's Market Food Vendor Permit. It is the Coordinator's responsibility to notify the Health Officer of any potential violations observed. Permits expire on the last day of the calendar year. The fees for the permits under this Section are established by the Fee Schedule, found in Appendix A of this Article.

- b. **Farmer's Market Food Vendor Permit.** A person who intends to sell TCS food at a Community/Farmer's Market in the City must obtain a Farmer's Market Food Vendor Permit. Permits expire on the last day of the calendar year. The fees for the permits under this Section are established by the Fee Schedule, found in Appendix A of this Article.
- c. **Certain activities exempt from permit fee.** The permit fee required under Subsection b above, is waived solely for cooking demonstrations that are conducted for Bona Fide Educational Purposes. A participant must pay the permit fee if the participant:
 - 1. Sells TCS foods at the Community/Farmer's Market; or
 - 2. Provides samples or performs cooking demonstrations other than for Bona Fide Educational Purposes.
- d. Cottage Food Operations exempt. To the extent set forth in chapter 437 of the Texas Health and Safety Code and in Title 25, Part 1, Chapter 229, Subchapter EE, Section 229.661, a Cottage Food Production Operation is exempt from the requirements of this Section; provided, however, that the Health Officer has authority to act to prevent an immediate and serious threat to human life or health. The Health Officer shall maintain a record of complaints made by a person against a Cottage Food Production Operation. An individual who operates a Cottage Food Production Operation must have successfully completed a basic food safety education or training program for Food Handlers accredited under Subchapter D, Chapter 438 of the Texas Health and Safety Code. A Cottage Food Production Operation is required by state regulations to meet certain labeling requirements as set forth in Title 25, Part 1, Chapter 229, Subchapter EE, Section 229.661(d). A Health Permit shall be required if original packaging is opened for providing samples.
- e. **Violations, penalty.** Establishments or persons who do not hold a Farmer's Market Food Vendor Permit as required under this Section may not sell or distribute food at a Community/Farmer's Market. Any violation of this Section or of the regulations set forth in other provisions of this Article shall subject a violator to penalties as set forth in Section 7.230 of this Article and closure of the Community/Farmer's Market.

5. Food Requirements

- a. Except for plants, nuts in the shell, and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption, food shall be protected from contamination by packaging or must be located under a tent, or other cover approved by the Health Officer and at least six inches (6") above the ground.
- b. Approved Source: Foods from an unlicensed food manufacturer or wholesaler and Foraged Foods shall not be offered. Food found to be adulterated shall be condemned and properly disposed of.
- c. Meat; non-poultry:
 - 1. Meat such as game animals, ratites or equine meats, as designated in the TFER may not be sold.
 - 2. Whole muscle meat shall be stored frozen and held under mechanical refrigeration capable of maintaining the meat in a hard, frozen state. Each unit must have a numerically scaled indicating thermometer. Meat shall be packaged and properly labeled ready to offer or sell. Separating, cutting or otherwise removing meat from an intact package is prohibited.

3. Meat shall be processed, stored, and labeled in compliance with United States Department of Agriculture (USDA) rules and regulations. Proof of license or exemption shall be provided to the Health Officer at time of application.
- d. Poultry:
 1. Poultry shall be stored frozen and held under mechanical refrigeration capable of maintaining the meat in a hard, frozen state. Each unit must have a numerically scaled indicating thermometer. Poultry shall be packaged and properly labeled in a form ready to offer or sell. Separating, cutting or otherwise removing poultry from intact packaging is prohibited.
 2. Poultry shall be processed, stored and labeled in compliance with USDA rules and regulations. Proof of license or exemption shall be provided to the Health Officer at time of application.
 - e. Seafood prohibited: The sale of seafood is prohibited at Community/Farmer's Markets.
 - f. Sampling: A Health Permit as provided for under this Section shall be obtained to provide samples. Sampling will be allowed only where approved by the Health Officer.

Where allowed, sampling shall comply with all of the following:

1. Non-TCS Foods shall be offered to the consumer in individual servings or bites and shall not be made available for self-service. Portioning of foods on-site is prohibited. Portions shall be completely enclosed until given to the consumer or shall be unpackaged by the consumer.
 2. TCS Foods temperatures shall be maintained according to TFER (41°F or colder; 135°F or hotter).
 3. Where TCS Foods are stored on ice, dry ice, or other items intended for use to cool or keep foods frozen, these items shall be obtained from an approved source and a thermometer shall be present in the container holding such foods. If at any time food stored in this manner is not being held at proper temperatures, the food shall be disposed of by the permit holder.
 4. Ice shall be properly drained and water or melting ice shall not come into contact with stored food.
 5. Foods that are constituted on site such as soups, dips, relish, condiments and sauces shall be maintained at 41° Fahrenheit or below and the process used must comply with TFER regarding proper use of equipment and utensils (also see g-i below).
 6. Digital thermometer(s) accurate to +/- 2°F shall be on site for use by the vendor. One thermometer shall be provided for each piece of equipment used to hold TCS Foods at proper temperatures.
- g. Equipment and Utensils: All equipment used to hold TCS Foods in compliance with TFER requirements shall be ANSI or NSF approved type equipment capable of maintaining TCS Foods for the duration of the operation. Mechanical refrigeration shall be required for events lasting more than four (4) hours. Holding TCS Foods on ice shall be prohibited if event is more than four (4) hours.
 - h. Display tables used for food vending shall be made of non-porous materials and be easily cleanable.
 - i. Utensils: When used for sampling, utensils shall be made of non-wood material and disposable; unless compliance for cleaning and sanitizing under TFER Section 228.107(b)(1) is provided and approved by the Health Officer.
 - j. Sinks: At least one (1) hand wash sink or facility complying with TFER Section 228.175, shall be located within the immediate selling area of each food vendor that is approved to offer samples of foods or where otherwise required by the Health Officer.

1. At least one three (3) compartment sink, with hot and cold running water under pressure, shall be provided for manually washing, rinsing, and sanitizing anything that is required to be washed on site.
 2. Alternate ware-washing equipment may be used by vendors only when approved by the Health Officer.
- k. Water, plumbing and waste: Where a hand sink is required, it may be a portable hand sink capable of producing hot water, having a waste tank at least 2/3 size greater than the potable source water tank. Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the operation. If approved by the Health Officer, other means of hand washing may be used.
1. Where used, a hard-plumbed three (3) compartment sink or hand wash sink system shall be inspected and approved prior to use. Backflow Prevention Devices may also be required.
 2. Waste water produced by food vendors must be properly disposed of in a sanitary sewer or on-site facility approved in advance by the Health Officer. Waste water shall not be disposed of on the ground. Grease shall be properly disposed of by the permit holder.
- l. Physical Facilities: Floors and floor coverings of all food vending areas in Community/Farmer's Markets shall meet the requirements as listed in TFER 228.222 (j) or be approved by the Health Officer.

SEC. 7.230. REMEDIES AND PENALTIES

1. Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a Food Service Establishment that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be fined not more than two thousand dollars (\$2,000.00) per violation. Each day a violation continues shall be considered as a separate offense.
2. The Health Officer is hereby granted the authority to issue citations for violations of these rules that are committed in their presence.

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EXHIBIT "A" TO ORDINANCE	Effective Date
RESTAURANT INSPECTION FEES:	
\$0.00 - \$49,999.99	\$200 Annual Fee
A No Food Prep	\$175 Annual Fee
\$50,000.00 - \$149,999.99	\$300 Annual Fee
Light Food Prep	\$275 Annual Fee
\$150,000.00 - or more	\$400 Annual Fee
Heavy Food Prep	\$375 Annual Fee
B Late Fee	\$50.00
Re-inspection Fee	\$50.00
Additional and Re-inspection Fee	\$50.00 per inspection
Temporary Event (Maximum 14 days)	\$40 per vendor
Temporary Event (Maximum 14 days)	\$50 per vendor/event
Seasonal Event (Maximum 180 days)	\$100.00
Schools, Daycares, and Nursing Homes	\$100.00
Public Schools and Non-Profit Daycares	\$125.00
MOBILE FOOD UNITS	
Class 1	\$150 Annual Fee
Class 2	\$250 Annual Fee
Class 3	\$100 Annual Fee
COMMUNITY/FARMER'S MARKET	
Community/Farmers Market Permit	\$150 Annual Permit
Farmer's Market Food Vendor Permit	\$50 Annual Permit
REGISTRATION OF CERTIFIED FOOD MANAGER	
Certified Food Manager Certification	\$10.00 per year
FOOD ESTABLISHMENT PLAN REVIEW FEE SCHEDULE (BASED ON SQUARE FOOTAGE OF PROPOSED ESTABLISHMENT)	
0 - 500 square feet	\$50.00
501 - 1,000 square feet	\$100.00
1,001 - 5,000 square feet	\$200.00
5,001 - 10,000 square feet	\$250.00
10,001 - or more	\$300.00
PUBLIC SWIMMING POOL & SPAS OPERATING PERMITS	
Swimming Pool (Outdoor)	\$200 Annual Fee
Spa (Outdoor)	\$100 Annual Fee

Section 6.1 - Use Chart

6.1.1 Conformance with the Use Chart

The use of land and/or buildings shall be in accordance with those listed in the following Use Chart. No land or building shall hereafter be used and no building or structure shall be erected, altered, or converted other than for those uses specified in the zoning district in which it is located. The legend for interpreting the permitted uses in the Use Chart is:

- Designates use permitted in the Zoning District indicated.
- (Blank) Designates use prohibited in the Zoning District indicated.
- S Designates use may be permitted by a Specific Use Permit.

6.1.2 Allowed Uses and Permit Requirements

Table 7. Permitted Use Chart

Type Use	SF-1	SF-2	TH	2F	MF	MHD	C-O	C-1	C-1A	C-2	LI	HI	PD	CD
Primary Residential Uses														
Dwelling, Accessory	S	S	S	S	S	S		S					S	
Dwelling, Single Family, Detached	•	•	•	•	•	•		•					•	
Dwelling, Single Family, Attached			•	•	•			•	•				•	
Dwelling, Two Family				•	•			•					•	
Dwelling, Multiple Family					•				•				•	
Manufactured Home						•							•	
Boarding or Rooming House								S		•			•	
Bed and Breakfast Inn	S	S	S	S	S			S	S	S			S	•
Hotel or Motel							S		•	•	•		•	•
Loft Apartments					•				•	S				
Caretaker or Security Guard Housing	•	•	•	•	•					•	•	•	•	

Automobile Dealer, Primarily Used Sales							S	S		•	•	•	•	
Automobile Repair, Major										•	•	•	•	
Automobile Repair, Minor							S	S		•	•	•	•	
Automobile Wash, Full-Service or Detail Shop										•	•	•	•	
Automobile Wash, Self-Service								S		•	•	•	•	
Convenience Store, without Gasoline Sales								•		•	•	•	•	
Wrecking or Salvage Yard											S	S	S	
Retail and Service Type Uses														
Antique Shop										•	•	•	•	•
Appliance Service and Repair										•	•	•	•	•
Bakery, Retail										•	•	•	•	•
Beer and Wine Sales (Off Premises Consumption Only)								S	S	•	S	S		
Convenience Store								S	S	•	•	•	•	S
Custom Personal Service Shop										•	•	•	•	•
Custom Reprographics, Letter, or Sign Shop										•	•	•	•	•
Community/ Farmers Market										•	•	S		
Food Truck Park									S	•	•	•	•	•
Funeral Home								S	S	•	•	•	•	

Home Improvement Center								•		•	•	•	•	
Laundromat or Washeteria, Self Service					S			•		•	•	•	•	
Mobile Food Units								S	•	•	•	•	•	•
Offices, Professional and General Business								•	•	•	•	•	•	
Pawn Shop								S		•	•	•	•	
Permanent Makeup Application (Secondary Use)								S	S	S	•			
Restaurant or Cafeteria								S	•	•	•	•	•	•
Restaurant, with Drive-in Service								S		•	•	•	•	•
Restaurant, with Drive-Thru Service										•	•	•	•	
Retail Stores, General								•	•	•	•	•	•	
Sale of Alcoholic or Mixed Beverages in Restaurants by Food and Beverage Certificate Holders Only								S	S	•	S	S		
Sale of Alcoholic or Mixed Beverages for On-Premises Consumption								S	S	•	S	S		
Sale of Alcoholic Beverages for Off-Premises Consumption; Liquor (Package) Store								S	S	•	S	S		
Studio, Art or Dance								•	•	•	•	•	•	
Tattoo or Body Piercing Studio										•				
Thrift or Secondhand Store									•	•	•	•	•	
Tool and Machinery Rental										•	•	•	•	

- B. Standards for new and unlisted uses may be interpreted by the Planning Director as being the same or similar to those of a similar use based upon the information provided by the applicant.
- C. If the Planning Director determines that the requested use does not fall within one (1) of the existing zoning district classifications, the Planning Director shall submit the request to the Planning and Zoning Commission for consideration as an amendment to the Zoning Ordinance pursuant to the procedures established herein. The Planning and Zoning Commission shall transmit its findings and recommendations to the City Council as to the classification proposed for any new or unlisted use.
- D. The City Council shall approve or disapprove the recommendation of the Planning and Zoning Commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. If approved, the new or unlisted use shall be added in the use charts of the Zoning Ordinance according to Section 4.4 Amendments to Zoning Ordinance and Districts.

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