

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 6, ARTICLE VIII, “ENVIRONMENTAL HEALTH” IN ITS ENTIRETY RELATING TO FOOD ESTABLISHMENT RULES AND REGULATIONS BY ADOPTING THE TEXAS FOOD ESTABLISHMENT RULES, TEXAS ADMINISTRATIVE CODE TITLE 25, CHAPTER 228, ADOPTED BY THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES, EFFECTIVE OCTOBER 11, 2015, WITH AMENDMENTS; ESTABLISHING FOOD ESTABLISHMENT RULES FOR CHILD CARE FACILITIES; ESTABLISHING REGULATIONS FOR SWIMMING POOLS, SPAS AND PUBLIC INTERACTIVE WATER FEATURES; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. Chapter 6, Article VIII the Code of Ordinances of the City of Allen, Texas, is amended in its entirety to read as follows:

“ARTICLE VIII. – ENVIRONMENTAL HEALTH

DIVISION 1. - IN GENERAL

Sec. 6-233. - Purpose.

The purpose of this article is to establish specific regulations for food service establishments, bed and breakfast establishments, child care facilities and public and semi-public swimming pools located within the City of Allen in addition to the requirements contained state and federal law for the purpose of further protecting the public from health hazards and nuisances. The regulatory authority shall enforce all state, federal, and or local law and regulation applicable to the above-referenced establishments operating within the City of Allen, as permitted by law.

DIVISION 2. – FOOD ESTABLISHMENTS

Sec. 6-234. Adoption of the Texas Food Establishment Rules.

The Texas Food Establishment Rules codified at Texas Administrative Code Title 25 Chapter 228 adopted by the Texas Department of Health Services, effective October 11, 2015, as amended from time to time, with the exceptions of such sections thereof as are herein after deleted, modified or amended pursuant to this article are hereby adopted as the minimum standards for food service operations within the corporate limits of the city, and shall constitute the regulations governing the preparation, service and sale of food within the city. For purposes of this Division, the phrase “Food Establishment Rules” means collectively (i) the Texas Food Establishment Rules as adopted by this Section and the local amendments adopted pursuant to Section 6-

235. The City Manager, or authorized representative, is hereby authorized and directed to enforce all provisions of the Food Establishment Rules.”

Sec. 6-235. Amendments to the Texas Food Establishment Rules.

The following sections, paragraphs, definitions and sections of the Texas Food Establishment Rules are hereby amended to read as follows:

(a) The following definitions are amended or added to read as follows:

Catering Truck. A vehicle that is used to transport food from a licensed facility to an offsite area where it will be consumed or sold.

Child care facility. Any facility licensed by the Texas Department of Family and Protective Services (DFPS) to provide care for less than twenty-four (24) hours a day for thirteen (13) or more children and which prepares or receives food for on-site or off-site consumption. These facilities may be titled nursery school, kindergarten, child development center, day care center, private school, Montessori, etc.

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

Easily movable. Portable, mounted on casters, gliders, or rollers, or provided with a mechanical means to safely tilt a unit of equipment for cleaning. Also, having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area. Also, it is small and light enough to be moved easily by one (1) person.

Lavatory. A sink. This includes but is not limited to: hand-wash sinks, 3-compartment sinks, and preparation sinks.

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

Outdoor grilling. Outdoor grilling by all permitted food establishments on a permanent basis must comply with food establishment standards as required in the Texas Food Establishment Rules, October 11, 2015 and in this Article. Outdoor grilling at temporary food events must be approved and permitted by the regulatory authority in accordance with temporary food establishment guidelines. Outdoor grilling for personal and residential use is permitted and outside the scope of this regulation.

Potable water. Water that is fit for drinking.

Seasonal food establishment. A food establishment that operates at a fixed location for a period greater than fourteen (14) consecutive days, but less than thirty (30) consecutive days in conjunction with a single event or celebration.

TAC. Texas Administrative Code.

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

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

- (b) Subchapter B. Section 228.33 Certified Food Protection Manager and Food Handler Requirements of the Texas Food Establishment Rules is amended to replace (a) and to read as follows:
 - (a) There shall be a certified food manager on duty at all times at each permitted food establishment. Certification must be obtained by passing an examination approved by the state department of state health services and the regulatory authority.
- (c) Subchapter B. Section 228.42 Food Contamination Prevention of the Texas Food Establishment Rules is amended to replace (a) (1) and (2) and add (3) and (4) to read as follows:
 - (a) Eating, Drinking, or Using Tobacco.
 - (1) Employees shall consume food and drink only in designated dining areas. An employee dining area shall not be so designated if consuming food and drink there may result in contamination of other food, equipment, utensils, or other items needing protection.
 - (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 nor areas that may result in contamination of other food, equipment, utensils, or other items needing protection.
 - (3) Employees shall handle soiled tableware in a way that minimizes contamination from their hands.
 - (4) Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.
- (d) Subchapter C. Food. Section 228.61 Condition Safe, Unadulterated, and Honestly Presented of the TFER is amended to read as follows:
 - (a) Condition Safe, Unadulterated, and Honestly Presented. Food shall be safe, unadulterated, and wholesome. Food shall be obtained from sources that comply with all laws relating to food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.
 - (b) General. Food shall be protected from potential contamination at all times, including while being stored, prepared, displayed, served or transported. Potential contamination to food includes but is not limited to: dust, insects, rodents, unclean equipment and utensils, unnecessary handling by the use of sanitary disposable gloves, coughs and sneezes, flooding, drainage, and overhead dripping from condensation.
 - (c) Emergency occurrences. In the event of an emergency situation, such as a fire, flood, extended power outage of thirty (30) minutes or longer, or similar event which might result in the contamination of food, or which might prevent potentially hazardous foods/time and temperature control for safety (PHF/TCS) from being held at required temperatures, the person in charge shall immediately contact the regulatory authority. Upon receiving notice of an emergency situation, the regulatory authority shall take whatever action that it deems necessary to protect the public health.
- (e) Subchapter C. Section 228.66 Preventing Food and Ingredient Contamination of the TFER is amended to add (f) and read as follows:

- (f) Proper separation and identification of employee's personal food and items must be stored in a manner that will prevent contamination of items intended for public consumption.
- (f) Subchapter C. Section 228.69 Preventing Contamination from the Premises of the TFER is amended to add (e) and read as follows:
 - (e) Food, whether raw or prepared, if removed from the container or package in which it was obtained shall be stored in a clean covered container intended for food storage except during necessary periods of preparation or service. Container covers shall be impervious and 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.
- (g) Subchapter C. Section 228.70 Preventing Contamination by Consumers (a) Food display is amended to read as follows:
 - (a) Food display. Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means. The minimum height requirement for sneeze guards is eighteen (18) inches unless otherwise specified by the regulatory authority. Enough hot or cold food facilities shall be available to maintain the required temperatures of PHF/TCS on display.
- (h) Subchapter C. Section 228.70 Preventing Contamination by Consumers (c) Consumer self-service operations is amended to add (2) (A) and (B) and read as follows:
 - (2) Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect food from contamination.
 - (A) A person may sell unpackaged food that is not potentially hazardous that is displayed, and sold in bulk from a self-service container if:
 - (i) The self-service container has tight-fitting lid that is securely attached to the container; and
 - (ii) The container, lid and any utensil are constructed of nontoxic materials that provide for easy cleaning and proper repair.
 - (iii) The lid of a gravity feed type container shall be kept closed except when the container is being serviced or refilled.
 - (iv) The lid of a scoop utensil type container shall be kept closed except during customer service. The container must have a utensil, equipped with a handle, to be used in dispersing the food.
 - (B) The seller shall:
 - (i) Keep the container, lid, and any utensil sanitary to prevent spoilage and insect infestation; and
 - (ii) Post in the immediate display area a conspicuous sign that instructs the customer on the proper procedure for dispensing the food.
- (i) Subchapter C. Section 228.73 (a) Reheating for Hot Holding is amended and added to and to read as follows:
 - (a) Except as specified under paragraphs (2), (3) and in (5) of this subsection, time/temperature controlled for safety food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74 degrees Celsius (165 degrees Fahrenheit)

for 15 seconds. Steam tables, bain-maries, warmers, and similar hot food holding facilities are prohibited for the rapid reheating of PHF/TCS.

- (j) Subchapter D. Section 228.105 Accuracy of Temperature Measuring Device (a) Temperature Measuring Device, Food (1) of the Texas Food Establishment Rules is amended to add and to read as follows:
Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to +/- 1 degrees Celsius in the intended range of use. A metal stem type numerically scaled indicating thermometer shall be provided and used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all PHF/TCS.
- (k) Subchapter D. Section 228.106 Functionality of Equipment (1) (3) Temperature Measuring Devices is amended to read as follows:
 - (3) Paragraph (2) of this subsection does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bain-maries, steam tables, insulated food transport containers, and salad bars. Where it is impractical to install thermometers on such equipment, a product thermometer must be available and used to check internal food temperatures.
- (l) Subchapter D. Section 228.106 Functionality of Equipment (x) Acceptability, Food Equipment certification, classification of the Texas Food Establishment Rules is amended to add and to read as follows:
 - (x) Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program is deemed to comply with SS228.101-228.106 of this title. Any other equipment is subject to approval by the regulatory authority. The regulatory authority may direct the replacement of equipment and utensils if they constitute a public health hazard or nuisance or no longer comply with the following criteria upon which the facilities and equipment are acceptable.
- (m) Subchapter D. Section 228.107 Equipment, Numbers and Capacities (b) Manual ware-washing, sink compartment requirements of the Texas Food Establishment Rules is amended and replaced to read as follows:
 - (b) A three-compartment sink shall be used for washing, rinsing and sanitizing of utensils and equipment done manually. Existing establishments not having a three-compartment sink that can demonstrate an acceptable procedure for washing, rinsing and sanitizing utensils and equipment may be exempted from this requirement by the regulatory authority. Sinks shall be large enough to permit the complete immersion of the utensils and equipment and each compartment sink shall be supplied with hot and cold potable running water. Suitable equipment shall be made available if washing, rinsing and sanitizing cannot be accomplished by immersion. Two-compartment sinks are not acceptable.
- (n) Subchapter D. Section 228.107 Equipment, Numbers and Capacities (d) Ventilation hood systems, adequacy of the Texas Food Establishment Rules is amended to add (d) (1) and to read as follows:
 - (d) Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.
 - (1) Ventilation hoods are required for any cooking, grilling, baking, and frying areas or as required by the latest edition of the International Mechanical Code adopted and amended pursuant to Article III of the Allen Land Development Code.
- (o) Subchapter D. Section 228.109 Location and Installation, Equipment, Clothes Washers and Dryers, and Storage Cabinets, Contamination Prevention of the Texas Food Establishment Rules is amended to add (d) to read as follows:
 - (d) Aisles and working spaces. Aisles and working spaces between units of equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without

contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

- (p) Subchapter D. Section 228.121 Laundering Methods (c) Use of laundry facilities of the Texas Food Establishment Rules is amended to add (c) (3) to read as follows:
 - (c) Use of Laundry Facilities
 - (3) Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles. If items necessary to the operation are laundered on the premises, an electric, gas or steam dryer shall be provided and used.
- (q) Subchapter E. Section 228.143 Water Quantity and Availability (c) Hot water of the Texas Food Establishment Rules is amended to read as follows:
 - (c) Hot water. Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment. Water under pressure at the required minimum temperature of one hundred (100) degrees Fahrenheit must be provided to all hand-wash sinks and lavatories throughout the food establishment.
- (r) Subchapter E. Section 228.147 Plumbing, Numbers and Capacities, (b) Toilets and Urinals, of the Texas Food Establishment Rules is amended to read as follows:
 - (b) Toilets and urinals. At least one toilet and not fewer than the toilets required by the Plumbing Code shall be provided. If authorized by the Plumbing Code and urinals are substituted for toilets, the substitution shall be done as specified in the Plumbing Code. Restrooms must be made available to the public in establishments with on-site consumption.
- (s) Subchapter E. Section 228.150 Sewage Retention, Drainage, and Delivery (d) Grease Trap of the Texas Food Establishment Rules is amended to read as follows:
 - (d) Grease trap. If used, a grease trap shall be located to be easily accessible for cleaning, operation, and maintenance. Grease traps shall be located outside the food preparation area unless otherwise approved by the regulatory authority.
- (t) Subchapter F. Section 228.173 Floors, Walls, and Ceilings of the Texas Food Establishment Rules is amended to replace (c) and (f) (2) and (f) (3) and to add (f)(4) to read as follows:
 - (c) Floor construction. Floors and floor coverings of all food preparation, food service, food storage, and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth durable material such as terrazzo, ceramic or quarry tile, epoxy, or the equivalent as approved by the regulatory authority and shall be maintained in good repair. A coved base tile must also be used in these areas. Sealed concrete and VCT (vinyl composite tile) are not acceptable as a floor surface for areas mentioned above. The use of cardboard, sawdust, wood shavings, peanut hulls, or similar materials as a floor covering is prohibited. Nothing in this section shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.
 - (1) Floor junctures. In all new or extensively remodeled establishments utilizing stainless steel, terrazzo, ceramic or quarry tile or similar materials, and where water flush cleaning methods are used, the junctures between walls and floors must be of the same material and coved.
 - (2) Floor drains. Properly installed, trapped floor drains shall be provided in floors that are water flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Properly trapped floor drains are required in all restrooms unless deemed not necessary by the regulatory authority. Such floor drains shall be constructed of stainless steel, terrazzo, ceramic or quarry tile or similar material and shall be graded to drain.

- (3) Sealed concrete in walk-in freezer units. Sealed concrete may be used in walk-in freezer units maintaining a temperature of zero (0) degrees Fahrenheit or below.
- (f) Walls and Ceilings
 - (2) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.
 - (A) Walls. The walls, including non-supporting partitions and wall coverings of walk-in refrigerating units, food preparation areas, dry storage areas, food storage areas, equipment washing and utensil washing areas, toilet rooms and vestibules shall be light-colored, smooth, nonabsorbent and easily cleanable, such as FRP (fiberglass reinforced paneling), stainless steel, ceramic, quarry or terrazzo tile, or the equivalent approved by the regulatory authority. Walls located adjacent to cooking equipment that utilizes high heat require stainless steel sheeting or equivalent as approved by the regulatory authority.
 - (B) Ceilings. The ceilings of walk-in refrigerating units, food preparation areas, dry storage areas, food storage areas, equipment washing and utensil washing areas, toilet rooms and vestibules shall be light colored, smooth, nonabsorbent and easily cleanable, such as vinyl coated ceiling tiles. Alternate materials will be subject to regulatory approval.
 - (C) Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be clean and maintained in good repair.
 - (3) Walls including non-supporting partitions, wall covering and ceilings of the walk-in refrigeration units, food preparation areas, equipment washing and utensil washing areas, toilet rooms and vestibules shall be light in color.
 - (4) The walls of toilet rooms shall be constructed of a smooth, durable, and easily cleanable surface such as FRP (fiberglass reinforced paneling), or ceramic, quarry, or terrazzo tile, or the equivalent as approved by the regulatory authority, and must be installed to a height of at least four (4) feet above the floor.
- (u) Subchapter F. Section 228.174 Functionality (a) Light bulbs, protective shielding of the Texas Food Establishment Rules is amended and replaces (1) and (2) to read as follows:
 - (a) Protective Shielding.
 - (1) Shielding to protect against broken glass falling onto food shall be provided and maintained in good repair for all artificial light fixtures located over, by, or within food storage, food preparation, food service, and food display facilities and facilities where utensils and equipment are cleaned and stored. Teflon coated safety bulbs are permitted.
 - (2) All light fixtures must be maintained clean, operational, and in good repair.
- (v) Subchapter F. Section 228.174 Functionality (e) Outer openings, protected of the Texas Food Establishment Rules is amended to replace (3) and to add (4)(D) to read as follows:
 - (e) Outer openings, protected.
 - (3) Exterior doors used as exits need not be self-closing if they are:
 - (A) designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
 - (B) limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.
 - (4) Except as specified in paragraphs (2) and (5) of this subsection, if the windows or doors of a food establishment, or of a larger structure within which a food establishment is located, are kept open for ventilation or other purposes or a temporary food establishment is not provided with windows and doors as specified under paragraph (1) of this subsection, the openings shall be protected against the entry of insects and rodents by:
 - (A) 16 mesh to 54.4mm (16 mesh to 1 inch) screens;
 - (B) properly designed and installed air curtains to control flying insects
 - (C) other effective means

- (D) If the opening to the outside is near an exterior trash receptacle, grease-trap or other insect attractant, the regulatory authority may require an automatic air curtain above the door, or other effective means, to prevent flying insect infestation.
- (w) Subchapter F. Section 228.175 Handwashing Sinks of the Texas Food Establishment Rules is amended to replace (a) and (b) and (c) to read as follows:
- (a) Hand-sinks. A separate sink assigned for handwashing providing hot and cold running water tempered through a mixing valve shall be located to be accessible to each food preparation and utensil washing area. A hand-sink shall be located within twenty-five (25) linear feet of food preparation and utensil washing areas so it is convenient for employees to wash hands. Floor pedals, knee pedals, electronic eye and metered faucets are allowable. Hand-sinks located within 18 inches of food preparation areas are required to have splash guards. Hand-sinks in restrooms are permitted to have electronic eye faucets in addition to the types listed above.
 - (b) Liquid soap dispensers and individual sanitary hand towels are required at all hand-sinks. Blow dryers are not permitted in food preparation areas. Blow dryers are permitted in restrooms. Each handwashing sink shall be provided with individual, disposable towels.
 - (c) Lavatories, soap dispensers, hand-drying devices, and all related fixtures shall be kept clean and in good repair.
- (x) Subchapter F. Section 228.179 Dressing Areas and Lockers (b), of the Texas Food Establishment Rules is amended to read as follows:
- (b) Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions. Personal items shall not be stored in food storage, food preparation, or food service areas.
- (y) Subchapter F. Section 228.186 Premises, Buildings, Systems, Rooms, Fixtures, Equipment, Devices, and Materials (o) (2) (A) Prohibiting animals of the Texas Food Establishment Rules is amended to read as follows:
- (o) Prohibiting animals
 - (2) Live animals may be allowed in the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles cannot result:
 - (A) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;
 - (i) Live fish tanks are subject to removal by the regulatory authority if not maintained in clean sanitizing condition.
- (z) Subchapter F. Section 228.204 Presence and Use (b) Conditions of Use (3) of the Texas Food Establishment Rules is amended to read as follows:
- (3) A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC 136(e), Certified Applicator of the Federal Insecticide, Fungicide and Rodenticide Act, or a person under the direct supervision of a certified applicator. Preventive application for insect and rodent control shall be performed by a certified pest control operator.
- (aa) Subchapter G. Section 228.208 Pesticides of the Texas Food Establishment Rules is amended to add (c) Tracking Powders, Pest Control, and Monitoring (3)
- (3) Any establishment that does not meet the requirements specified in this section is subject to regulatory approval.
- (bb) Subchapter H. Section 228.221 Mobile Food Units of the Texas Food Establishment Rules is amended to add (a) (2) (A) and (a) (4) (F) and to replace (a) (7) and to read as follows:
- (a) Mobile Food Units

- (2) Restricted operation.....
 - (A) Food prepared in a private residence may not be used or offered for human consumption from a mobile food establishment. A catering service shall comply with the requirements of this article as the regulatory authority determines is necessary to protect public health and safety. Catering services must prepare all food items in a commercial facility as approved by the regulatory authority. A person shall not engage in a catering service unless the service is affiliated with a food establishment operating from a fixed facility that is permitted by the regulatory authority.
- (4) Initial Permitting Inspection.....
 - (F) Mobile food units must comply with all state and local laws pertaining to registration of the vehicle. In addition to compliance with this article, the owner or operator of a mobile food establishment must comply with applicable provisions of the Allen Land Development Code regarding the authorized location and times of operation of a mobile food establishment. A regulatory authority may require that mobile food establishments that violate this section go for re-inspection to a location designated by the regulatory authority.
- (7) Mobile water system materials, design, and operation. Mobile Food Unit water systems shall meet the requirements of §228.149(f) of this title (relating to Water, Plumbing, and Waste). A mobile food establishment requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning, sanitizing, and handwashing.
- (cc) Subchapter H. Section 228.222 (a) (1) Temporary Food Establishments of the Texas Food Establishment Rules is amended to read as follows:
 - (a) General.....
 - (1) All food shall be prepared in a permitted food establishment or on the premises. No food or beverage stored or prepared in a private home may be offered for sale, sold, or given away from a temporary food or seasonal establishment.
 - (A) All food and beverages shall be protected at all times from unnecessary handling and shall be stored, displayed, and served so as to be protected from contamination.
 - (B) The regulatory authority may establish additional structural or operational requirements as necessary to ensure that food is of safe and sanitary quality.
 - (C) In addition to compliance with this article, the owner or operator of a temporary food establishment must comply with applicable provisions of the Allen Land Development Code regarding the authorized location and times for operation of temporary food establishments.
 - (D) All refuse shall be disposed of in a manner approved by the regulatory authority.
- (dd) Subchapter H. Section 228.222 (f) Water Temporary Food Establishments of the Texas Food Establishment Rules is amended to read as follows:
 - (f) Water. Water from an approved source shall be made available in a temporary food establishment for food preparation, handwashing, and for cleaning and sanitizing utensils and equipment. Water need not be under pressure but shall come from approved sources which include: commercially bottled drinking water, closed portable water containers, enclosed vehicular water tanks, on premise water storage tanks, or piping, tubing or hoses connected to an approved source. Enough potable water shall be made available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment, and for hand washing. A heating facility located on the premises and capable of producing enough hot water for these purposes shall be provided.
- (ee) Subchapter H. Section 228.222 Temporary Food Establishments of the Texas Food Establishment Rules is amended to add (l) Correction of Violations and to read as follows:

- (l) In the case of temporary food establishments, all violations shall be corrected immediately.
- (ff) Subchapter I. Section 228.255 Examination and Detention of Food of the Texas Food Establishment Rules is amended to add (a) Hold Order to read as follows:
 - (a) The regulatory authority may examine and collect samples of food as often as necessary for the enforcement of these rules. A receipt for samples shall be issued by the regulatory authority. The department shall, upon written notice to the owner or person in charge specifying the reason therefore, place under detention any food which it has probable cause to believe is adulterated or misbranded in accordance with the provisions of the Texas Food, Drug, and Cosmetic Act, Health and Safety Code, Chapter 431.
 - (b) Hold order. The regulatory authority shall, upon written notice to the owner or person-in-charge specifying the reason, condemn, denature or destroy or place under detention any food, which it has probable cause to believe, is unapproved, adulterated or misbranded. Under a hold order, food shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag placed on food by the regulatory authority, and neither food nor the containers shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without the permission of the regulatory authority. On the basis of examination or evidence produced, the regulatory authority may cancel the hold order or may oversee the disposal of the food placed under the hold-order or direct the owner or person-in-charge to bring it into compliance with the provisions of this article. Upon notice of the hold order, the owner or person-in-charge will have five (5) days to submit an appeal and request review of the hold order.

Secs. 6-236—6-240. - Reserved.

Sec. 6-241. – Child Care Facilities

- (a) The purpose of this section is to establish uniform requirements for food preparation and service at commercial child care facilities. The regulatory authority shall only be responsible for monitoring the health and safety of the food preparation, service and overall kitchen sanitation at child care facilities located within the city. The regulatory authority will act as a liaison with applicable state agencies with respect to compliance with state minimum requirements. If State minimum requirements are more stringent than the city's requirements, the facility shall adhere to the state mandated requirements. The director or owner of the child care facility has absolute responsibility for the operation of the child care facility under this article.
- (b) Any commercial child care facility, as defined by this article, shall conform to all applicable food service rules, construction requirements, permitting requirements, inspections and other provisions required by this article. Licensed childcare homes, and other in-home childcare facilities, are not regulated by this article.
- (c) Existing facilities. When remodeling or changing ownership, existing child care facilities shall be required to comply with all current applicable codes.
- (d) Any child care facility receiving food from off-site food establishments must have a permit, and must maintain documentation regarding off-site food sources.

Sec. 6-242 – PERMITS and INSPECTIONS

- (a) Authority.
 - (1) The provisions of this article shall be enforced by the regulatory authority. It shall be unlawful for any person to interfere with the regulatory authority, or its representatives and designees in the performance of their duties as prescribed in this article.

- (2) Variance. A variance from this article may be granted by the regulatory authority in accordance with the provisions set out in TFER § 228.243.
 - (3) Additional requirements. As necessary to protect against public health hazards or nuisances, the regulatory authority may impose additional requirements in addition to the requirements contained in this article that are authorized by law set out in TFER 228 § 242.
- (b) Permit required.
- (1) It shall be unlawful for any person to operate a food establishment, food processing establishment, mobile food establishment, temporary food establishment, seasonal food establishment, bed and breakfast food establishment, child care facility subject to this article, within the city without a valid permit issued by the regulatory authority. Only a person who complies with the requirements of this article shall be entitled to receive and retain such a permit. Permits shall not be transferable from one (1) person or entity to another person, location, or entity. A valid permit shall be posted in every establishment. Permits for temporary food establishments shall be issued for a period of time not to exceed fourteen (14) calendar days. Seasonal food establishment permits may be issued for a period not to exceed thirty (30) calendar days.
 - (2) Any person desiring to operate a food establishment or food processing establishment shall make written application on a form provided by the regulatory authority and pay the appropriate fee.
 - (3) Annual Permits.
All permits issued under this article, excluding temporary food establishment permits and seasonal food establishment permits, shall be valid for a period of one (1) year from its date of issuance, unless otherwise revoked or suspended under this article.
 - (4) Temporary Food Establishment Permits.
 - (1) The operation of a temporary food establishment may not exceed fourteen (14) consecutive days per event and must be in conjunction with a special event or celebration as approved by the regulatory authority. A limit of eight (8) temporary permits per calendar year per vendor, group or organization will be enforced. Vendors with multiple booths at a single event will be recorded as participating in one (1) event towards the eight (8) maximum allowed per calendar year.
 - (2) Application and fees must be submitted not later than two (2) working days prior to the event, or not later than fourteen (10) working days prior to the event if five (5) or more booths are to be permitted for the same vendor.
 - (3) At events where vendors may have more than one booth, each booth will be required to obtain a separate permit.
 - (4) Vendors with a valid Annual Permit issued under subsection (a) of this section must obtain a separate temporary food establishment permit when participating in an event.
 - (5) A permit fee waiver may be obtained if proof of charitable nonprofit status, i.e. school district or nonprofit with 501(c)(3) status, is submitted with application.
 - (5) Seasonal Food Establishment Permits.
 - (1) The operation of a seasonal food establishment is greater than fourteen (14) days but less than thirty (30) consecutive days per event per vendor. Seasonal permits are limited to two (2) per calendar year per vendor per location, or such shorter time as may be established pursuant to the Allen Land Development Code, as amended.
 - (2) Seasonal food establishment permit applications must be submitted at least two (2) working days prior to the start date.
 - (3) Vendors with a valid annual permit issued under subsection (a) of this section must obtain a separate temporary food establishment permit when participating in an event.
 - (6) Suspension of Permits.
 - (1) Permits may be suspended temporarily by the regulatory authority for failure of the holder to comply with the requirements of this article.
 - (2) Whenever a permit holder or operator has failed to comply with any provisions of this article, the permit holder or operator shall be notified in writing that the permit is, upon service of

the notice, immediately suspended, and all food operations are immediately to be discontinued. An opportunity for an appeal will be provided if a written request for an appeal is filed with the regulatory authority by the permit holder within five (5) days of the date of the notice.

- (3) Notwithstanding the other provisions of this article, whenever the regulatory authority finds unsanitary or other conditions in the operation of the establishment which in its judgment constitutes a substantial hazard to the public health, it may without warning, notice or hearing, issue a written notice to the permit holder or operator citing such conditions and, if deemed necessary, shall state that the permit is immediately suspended, and all food operations are immediately to be suspended. Any person to whom such an order is issued shall comply immediately therewith.
- (7) Reinstatement of Suspended Permits.
Any establishment whose permit has been suspended may not continue food operations until the permit is reinstated. At any time, a request may be made for reinspection for the purpose of determining compliance and reinstatement of the permit. Such reinspection shall be completed within five (5) days of the such request. If, following the reinspection, the establishment is determined to be in compliance with the requirements of this article, the permit shall be reinstated.
- (8) Revocation of Permits.
For serious or repeated violations of any of the requirements of this Article, or for interference with the regulatory authority in the performance of its duties, and after an opportunity for an appeal has been provided by the regulatory authority, the permit may be permanently revoked. Prior to revocation of the permit, the regulatory authority shall notify the permit holder in writing, stating the reasons for which the permit shall be permanently revoked at the end of ten (10) days following service of this notice, unless a request for an appeal is filed with the regulatory authority, by the permit holder within such ten-day period. A permit may be suspended for cause pending its revocation or an appeal relative thereto.
- (9) Appeals.
The appeals provided for in this section shall be reviewed by the Community Development Director at a time and place designated by the regulatory authority. Based upon the results of the appeal, the regulatory authority shall sustain, modify or rescind any official notice or order. The results of the appeal decision shall be furnished to the permit holder by the regulatory authority within ten (10) days after the date of the appeal review.

(c) Access.

Representatives of the regulatory authority, after proper identification, shall be permitted to enter any food establishment or entity subject to this article at any reasonable time, for the purpose of making inspections to determine compliance with this article as set out in TFER § 228.250.

(d) Inspections.

Whenever an inspection is made of a food establishment or entity subject to this article, the findings shall be recorded as set out in TFER § 228.251.

Secs. 6-243-245 Reserved.

DIVISION 5. - SWIMMING POOLS, SPAS, AND PUBLIC INTERACTIVE WATER FEATURES (PIWFS)

Sec. 6-246. - Purpose.

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

Sec. 6-247. - Definitions.

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

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

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

pH. A value expressing the relative acidic or basic tendencies of a substance, such as water, as indicated by the hydrogen ion concentration. The pH is expressed as a number on the scale of 0 to 14, 0 being most acidic, 1 to 7 being acidic, 7 being neutral, 7 to 14 being basic and, 14 being most basic.

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

Public pool. A swimming pool or spa to which the general public has access.

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

Residential pool/spa. A pool or spa that is located on private property under the control of the owner or lessee, the use of which is limited to swimming, diving and/or recreational bathing by not more than two (2) resident families and their guests. It includes a pool or spa serving only a single-family home or a duplex.

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

Spa. A constructed permanent or portable structure that is two (2) feet or more in depth and that has a surface area of two hundred fifty (250) square feet or less or a volume of three thousand two hundred fifty (3,250) gallons or less and that is intended to be used for bathing or other recreational uses and is not drained and refilled after each use. It may include, but is not limited to, hydro jet circulation, hot water, cold water, mineral baths, air induction bubbles, or any combination thereof. A spa, as is defined in these rules, does not refer to a business establishment such as a day spa or a health spa. Industry terminology for a spa includes, but is not limited to, "hydrotherapy pool," "whirlpool," "hot spa," "hot tub," etc.

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

Unblockable drain. Any drain with an ASME/ANSI A112.19.8. approved covering with dimensions that exceed eighteen (18) inches × twenty-three (23) inches or have a diagonal measurement greater than twenty-nine (29) inches.

Sec. 6-248. – Standards and Requirements.

- (a) All public and semi-public swimming pools and spas shall comply with the Texas Department of State Health Services Standards set forth in Title 25, Part 1, Chapter 265, Subchapter L of the Texas Administrative Code, as amended.
- (b) All PIWFs shall comply with the Texas Department of State Health Services Standards set forth in Title 25, Part 1, Chapter 265, Subchapter M of the Texas Administrative Code, as amended.
- (c) The following requirements shall be applicable in addition to those established by the state department of state health services and are intended to further protect the public health and prevent disease and injury:
 - (1) Pool and spa enclosure.
 - (i) All residential pool and spa enclosures shall comply with Section 4.10 of the City of Allen Land Development Code regarding zoning regulations, as amended.
 - (ii) All pools and spas shall be enclosed by a solid wall, fence, or other structure six (6) feet high without openings greater than four (4) inches other than doors or gates used for ingress and egress to the pool or spa. Such enclosure shall be designed and constructed in a manner without protrusions, ledges or gaps that would assist a person in being able to climb the enclosure.
 - (iii) Entries to pool and spa area shall have a gate or door equipped with a self-closing and self-latching device attached. Such latching device must be located not less than four and one-half (4.5) feet from the ground. All self-latching mechanisms must be approved by the regulatory authority.
 - (iv) The pool and spa enclosure shall be in good condition and maintained in proper working order at all times to protect public health. If the enclosure is damaged, or doors or gates do not self-close and latch, the pool or spall shall be immediately secured with temporary fencing or chains to provide compliance with this article.
 - (2) Certified operator.
 - (i) No person shall operate a public or semi-public swimming pool, spa, or PIWF without obtaining and maintaining certification as a certified aquatic facility operator (A.F.O.), certified pool/spa operator (C.P.O.), pool operator on location (P.O.O.L.) or other certification deemed equivalent by the regulatory authority. All certifications shall be approved by the regulatory authority.
 - (ii) On days the pool and spa will be open, a certified operator shall test swimming water for pH, disinfectant, water clarity, stabilizer, and temperature to assure safety and protect public health. If test results are not within required limits, the pool or spa shall be immediately closed and a closure sign posted in a highly visible area. Prior to opening the pool or spa for use, all test results shall be within approved state limits and findings documented to include initial results, corrective actions and final readings.
 - (3) Public and semi-public swimming pool and spa regulations.
 - (i) No person shall knowingly allow a condition to exist that endangers the life, health or safety of a swimmer.
 - (ii) No person shall knowingly permit swimmers in a pool that have skin abrasions, open sores, cuts, skin disease, eye disease, nasal or ear discharge, diarrhea or other communicable disease.
 - (iii) No person shall allow glass containers in a pool enclosure or area.
 - (iv) No person shall exceed permissible bather loads of pools and spas.
 - (v) No person shall remove or alter safety equipment from a pool except in an emergency situation.
 - (vi) No person shall urinate or defecate in swimming pool water.
 - (vii) No person shall allow children under age thirteen (13) into pool area unless accompanied at all times by an adult, parent, or guardian.
 - (4) Public and semi-public swimming pool and spa signs.
 - (i) All required signs must be maintained in good condition and posted in conspicuous places within pool area or enclosure. Signs shall be posted in English and also any language predominantly spoken by the majority of users.

- (ii) Every public or semi-public pool shall have a sign posted within the enclosure in a highly conspicuous place visible to the public containing the physical address of the pool in at least four-inch letters.
- (5) Safety equipment/personnel at public and semi-public swimming pools and spas.
 - (i) A life pole that is light, strong, non-telescoping, and not less than twelve (12) feet long with an attached shepherd's crook must at all times be available near pool-side and accessible to the public. The pole must be constructed of fiberglass or other electrically non-conducting material and in good working condition.
 - (ii) A United States Coast Guard approved ring buoy with an outside diameter of fifteen (15) to twenty-four (24) inches with attached throwing rope not less than two-thirds (2/3) the maximum width of the pool must at all times be maintained in good working condition crook and available near pool-side and accessible to the public.
 - (iii) A functional telephone capable of dialing directly to 911 or emergency answering service must be permanently mounted within the pool enclosure or accessible to the public from inside the enclosure.
 - (iv) A functional safety vacuum release device (SVRD), gravity drainage system, automatic pump shut-off system, or other suction-limiting vent system shall be installed as required to prevent a suction entrapment hazard.
 - (v) Drains in pools and spas, except unblockable drains, must be fitted with secure drain covers or grates compliant with ASME/ANSI A112.19.8-2007 or newer standards and be in good condition.
 - (vi) Certified lifeguards and trained second responders shall be available at all pools hosting competitive events and pools with an unsecured diving board, slide, or starting block. Additionally, these pools must be equipped with one (1) or more backboards having a minimum of three (3) tie-down straps and head immobilizer for neck and back injuries, and an OSHA approved twenty-four-unit First Aid kit.

Sec. 6-249. – Permit required.

- (a) No person shall operate a public or semi-public swimming pool, spa, or PIWF without a valid and current permit issued by the regulatory authority. Only a person who complies with the requirements of this division shall be entitled to receive or retain such a permit. Permits are not transferable, and must be displayed in an area visible to the public.
- (b) The permit required by subsection (a), above, will be issued in accordance with the following:
 - (1) A written application for a pool permit shall be submitted annually before January 31 on a form provided by the regulatory authority. Such application shall include the full name and mailing address, telephone number, an indication of whether the applicant is an individual, corporation, partnership, or other type of business entity, the names of their officers, directors, and general partners, as appropriate, their addresses, location and type of business establishment, identification of certified operator, signature of each applicant, as well as other information deemed necessary.
 - (2) An application and permit fee in the amount set by the city council for the city is required for each body of water. A permit that is issued will be valid from date of issuance until January 31 of the immediately following calendar year, unless suspended or revoked. Permits must be renewed on an annual basis by filing a renewal application and payment of the permit fee. The fee is not refundable. An administrative late fee in the amount set by the city council for the city may be required if an application for a renewal permit is made more than thirty (30) days after the previous permit has expired. No fees shall be charged to any public or semi-public swimming pool facility owned and operated by a government agency or independent school district; however, such establishments must comply with all other requirements of this division.
 - (3) Prior to final approval of an application for permit and issuance of such permit, the regulatory authority shall inspect the swimming pool facility to determine compliance with the requirements of this division. If a permitted swimming pool facility fails inspection at anytime during the year

and a re-inspection is required, a re-inspection fee in the amount set by the city council for the city may be charged.

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

Sec. 6-250. - Revocation or suspension of permits.

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

- (a) All notices or orders issued shall be either delivered personally or sent by certified mail to the person or corporation to whom the permit was issued or to the person in charge of the subject premises. Except in cases of emergency or urgent public necessity, such notice shall be delivered or mailed at least ten (10) days before any operating permit is revoked or suspended and shall state the reason(s) for such proposed revocation or suspension and notify that person of a right to appeal the decision of the regulatory authority to the Director.
- (b) An operating permit which has been revoked or suspended may be reissued upon proper application and upon presentation of evidence that the deficiencies and/or irregularities which caused the revocation or suspension have been corrected.
- (c) If the regulatory authority determines that the operation or maintenance of any swimming pool is such as to constitute an imminent hazard to the health and safety of the public, the operating permit shall be suspended immediately and the swimming pool shall be closed for use and shall remain closed until the necessary remedial action has been completed.

Sec. 6-251. - Inspections.

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

- (1) Consent and authorization. Application for and operation of a swimming pool inside the City of Allen constitutes consent for the regulatory authority to inspect the pool to determine compliance with this division. In addition to the criminal punishment authorized by V.T.C.A., Health and Safety Code § 391.091, as amended, should any owner, person in charge, employee, or agent of the public or semi-public swimming pool, spa, or PIWF hinder, physically prevent, interfere with or otherwise obstruct the lawful inspection of a swimming pool establishment by the regulatory authority, such action may also constitute reason for suspension or revocation of permit.
- (2) Inspection reports.
 - (i) Whenever an inspection is conducted at a public or semi-public swimming pool, spa, or PIWF, the findings shall be recorded on the inspection report form provided by the regulatory authority. The original of the inspection report form shall be furnished to the owner or person in charge at the completion of the inspection and constitutes a written notice. The inspection report form shall summarize the requirements of these rules, and shall set forth a pass or fail ranking for the pool. The completed inspection report form is a public document that should be posted at a conspicuous location for consumers.
 - (ii) Violations noted on the inspection report by the regulatory authority shall be corrected within the time frame given. A reasonable time frame for compliance shall be given for violations unless the health, welfare, or safety of persons using the swimming pool is at risk. If the

regulatory notes any condition that endangers public health the swimming pool shall immediately be closed, and the permit temporarily suspended.

Sec. 6-252. – Construction requirements.

- (a) Whenever a swimming pool, spa or PIWFs is constructed or extensively remodeled, or whenever an existing structure or part of a pool enclosure is changed, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the regulatory authority for review and approval before construction is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of this division. No swimming pool, pool enclosure, pool structure, or pool equipment shall be constructed, extensively remodeled, or converted except when a permit has been granted by the regulatory authority demonstrating compliance with this division. A pre-operational inspection will be conducted at the swimming pool facility prior to the start of operations to determine compliance with approved plans and with the requirements of this division.
- (b) The regulatory authority may direct the replacement of the facilities and equipment because of a change of ownership and all requirements of this division shall be met prior to resuming normal course of operations.
- (c) The regulatory authority shall require the replacement of equipment and facilities if they are discovered to be in poor condition, fail to function properly, do not meet current requirements, or endanger the health and safety of the public.

Sec. 6-253. - Water quality and disposal standards.

- (a) All swimming pools, spas, and PIWFs in the City of Allen, including those intended for private residential use, shall comply with the water requirements of this section to protect public health.
 - (1) Water quality.
 - (i) All swimming pools and spas shall be maintained and kept free of algae to provide sufficient clarity of the main drain from outside the pool at all times. No person shall allow a pool under their control to violate this standard unless the pool has a cover installed meeting the requirements of the regulatory authority.
 - (ii) All swimming pools, spas, and PIWFs shall use make-up water from an approved source suitable for drinking as deemed acceptable by the regulatory authority.
 - (2) Water disposal.
 - (i) All swimming pools, spas, and PIWFs containing disinfectant shall discharge filter backwash and overflow lines into an approved septic tank system or sanitary sewer. Additionally, no person shall allow water containing disinfectant from pools, spas, or PIWFs to be discharged into the storm sewer.
 - (ii) It shall be unlawful for any person to drain water from a swimming pool, spa, or PIWF onto public or privately-owned property at any time. Pools drained for repairs shall be discharged into the sanitary sewer or approved septic tank system.
 - (iii) Deck drains of all swimming pools and spas, including residential pools, shall be discharged to a lawn, leaching field, or natural drain

Secs. 244-245 Reserved.

DIVISION 3 – ENFORCEMENT AND FEES

Sec. 6-246. – Penalties

- (a) Any person who knowingly violates any provision of this article, or any order issued hereunder, shall, upon conviction be guilty of a misdemeanor, punishable by a fine of not more than two thousand dollars

(\$2,000.00) per violation. Each day a violation continues to exist shall be considered a separate offense.

- (b) In addition to and cumulative of all penalties, notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the City of Allen, the enforcement officer or both for injunctive relief as may be necessary to enforce the provisions of this article.
- (c) Additionally, the city shall be entitled to pursue any and all other civil and criminal remedies to which it is entitled under law.

Sec. 6-247. - Fees.

Any and all fees proscribed by this article shall be set by resolution by the city council of the city, a copy of which shall be on file in the city secretary's office for public inspection.

Secs. 6-248—6-400. - Reserved.”

SECTION 2. All ordinances of the City in conflict with the provisions of this ordinance shall be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect.

SECTION 3. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 4. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5. Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense.

SECTION 6. This ordinance shall take effect immediately from and after its passage and publication of the caption as the law and charter may require.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 13TH DAY OF JUNE 2017.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(PGS:5-18-17:36.83819)

Shelley B. George, TRMC, CITY SECRETARY