

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES, CHAPTER 6 “HEALTH AND ENVIRONMENT,” ARTICLE VIII “ENVIRONMENTAL HEALTH” BY AMENDING VARIOUS PROVISIONS OF SECTION 6-235 “AMENDMENTS TO THE TEXAS FOOD ESTABLISHMENT RULES” SETTING FORTH THE REGULATION OF FOOD ESTABLISHMENTS AND BY AMENDING SECTION 6-242 “PERMITS AND INSPECTIONS” RELATING TO THE ISSUANCE OF PERMITS AND CONDUCT OF INSPECTIONS OF FOOD SERVICE ESTABLISHMENTS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000); AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Allen, Texas, has enacted an ordinance amending the Allen Land Development Code to provide for the development and use of property within the City for the operation of mobile food establishments; and,

WHEREAS, City Administration has reviewed the current regulations within the Code of Ordinances governing food service establishments and has recommended the adoption of various amendments relating to the regulation of the preparation and service of food by mobile food establishments as well as other amendments that are designed to protect the health and safety of those consuming food served by food service establishments within the City; and,

WHEREAS, the City Council of the City of Allen, Texas, has determined that it is in the best interest of the public health, safety and welfare to address the health concerns to the citizens of the City of Allen by adopting the recommended amendments to the Code of Ordinances.

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

SECTION 1. The Code of Ordinances of the City of Allen, Texas, be and the same is hereby amended by amending Chapter 6 “Health and Environment,” Article VIII “Environmental Health,” Section 6-235 “Amendments to the Texas Food Establishment Rules” as follows:

A. Subsection (a) is amended to read as follows:

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

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. Mobile Food Establishment includes operations defined in the Allen Land Development Code Sec. 6.06.16. For purposes of this article, the phrase “Mobile Food Establishment” shall be synonymous with the phrase “Mobile Food Unit” as used in the Texas Food Establishment Rules.

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. Temporary Events are further defined and regulated by Allen Land Development Code Sec. 6.04.1.

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

B. Subsection (b) is amended to read as follows:

(b) Subchapter B, Section 228.33 Certified Food Protection Manager and Food Handler Requirements of the Texas Food Establishment Rules is amended to replace paragraphs (a) and (d) 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.

- (d) A certified food manager shall not be required for Temporary Food Establishments, except operations that prepare PHF/TCS food. All food employees, including every person involved in the handling of food, utensils, food service equipment and food contact surfaces, shall successfully complete an accredited food handler training course, within 30 days of employment.

C. Subsection (s) is amended to read as follows:

- (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. Grease traps shall be located outside the building unless otherwise approved by the regulatory authority. Interceptors are to be located outside the building and must not be in fire lanes, so that they are readily and easily accessible for cleaning and inspection.

D. Subsection (t) is amended to read as follows:

- (s) Subchapter F. Section 228.173 Floors, Walls, and Ceilings of the Texas Food Establishment Rules is amended by amending paragraphs (c), (f)(2) and (f)(3), and adding paragraph (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, dressing rooms, locker rooms, toilet rooms and vestibules shall be light in color 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 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.

(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.

SECTION 2. The Code of Ordinances of the City of Allen, Texas, be and the same is hereby amended by amending Chapter 6 “Health and Environment,” Article VIII “Environmental Health,” Section 6-242 “Permits and Inspections,” subsection (b) “Permit Required” to read as follows:

(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. Annual permits shall be issued for:
 - (i) Grocery stores, and similar retails businesses, offering retail food sales. A separate permit shall be required for food operations within the store, such as a deli, bakery, sushi bar, coffee shop and similar.
 - (ii) Heavy Food Preparation, including where foods are prepared using a grill, griddle, deep-fat fryer, commercial oven, and any similar food preparation equipment, and including any area subject to flooding or wet cleaning procedures due to the cutting or processing of fish, pork, beef, poultry or other potentially hazardous foods.
 - (iii) Light Food Preparation, including where foods are prepared without the use of fryers, grills, or other similar cooking equipment. Light Food Preparation is usually limited to the preparation of hot dogs, sandwiches, salads, coffee, fountain drinks, and similar foods.
 - (iv) No Food Preparation, including any entity in which foods are provided pre-wrapped or canned from an approved source. These include those that use microwaves or convection ovens for heating pre-wrapped foods, or cold holding units for chilling pre-wrapped foods.
 - (v) Mobile Food Establishment, except those operating at a temporary event, which receive a permit as a Temporary Food Establishment.
 - (vi) Child Care Facility.
 - (vii) Bed and Breakfast.
- (4) Temporary food establishment permits.
 - (i) 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.

- (ii) Application and fees must be submitted not later than two (2) working days prior to the event, or not later than fourteen (14) working days prior to the event if five (5) or more booths are to be permitted for the same vendor.
 - (iii) At events where vendors may have more than one (1) booth, each booth will be required to obtain a separate permit.
 - (iv) 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, except for Mobile Food Establishments.
 - (v) 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.
- (i) 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.
 - (ii) Seasonal food establishment permit applications must be submitted at least two (2) working days prior to the start date.
 - (iii) 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, except for Mobile Food Establishments.

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) for each offense.

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

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 22ND DAY OF MAY 2018.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:5/8/18:99115)

Shelley B. George, TRMC, CITY SECRETARY