

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 IN ITS ENTIRETY DIVISION 2 “FOOD ESTABLISHMENTS” ADOPTING THE TEXAS FOOD ESTABLISHMENT RULES AND LOCAL AMENDMENTS THERETO; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE OF \$2,000 PER VIOLATION; 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 “Health and Environment,” Article VIII “Environmental Health” of the Code of Ordinances of the City of Allen, Texas, is amended by amending in its entirety Division 2 “Food Establishments” as follows:

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:

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, serves, 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. An approved and permitted food service facility, excluding a restaurant or food establishment, at which food is prepared, stored, and wrapped; and the Mobile Food Unit is supplied with fresh water and ice; and emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food-contact surfaces or items not capable of being immersed in the Mobile Food Unit utensil-washing sink. Use of a private residence as a commissary is

prohibited. A restaurant or food establishment that also operates a Mobile Food Unit, may be used as the commissary only for that Mobile Food Unit.

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 NSF / ANSI approved 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. Temporary events are further defined and regulated by Allen Land Development Code section 6.04.1.

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 (d) 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.

- (d) Except in a temporary food establishment, all food employees, including every person who comes in contact with the handling of the food, utensils, food service equipment and food contact surfaces, shall successfully complete an accredited food handler training course, within thirty (30) days of employment.
- (c) Subchapter C. Food. Section 228.61 Condition Safe, Unadulterated, and Honestly Presented of the TFER is amended to read as follows:

228.61 Condition Safe, Unadulterated, and Honestly Presented.

 - (a) Food Safety. 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.
- (d) 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.
- (e) 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.

- (f) 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 TCS/PHF on display.

- (g) 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 dispensing 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.

- (h) 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 seventy-four (74) degrees Celsius (one hundred sixty-five (165) degrees Fahrenheit) for fifteen (15) seconds. Steam tables, bain-maries, warmers, and similar hot food holding facilities are prohibited for the rapid reheating of TCS/PHF.
- (i) 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 +/- one (1) degree 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 TCS/PHF.
- (j) Subchapter D. Section 228.106 Functionality of Equipment (l)(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.
- (k) 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 NSF or 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.
- (l) 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.

- (m) 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.

- (n) 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.

- (o) 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.

- (p) 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.

- (q) 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 (1) 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.

- (r) 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 and storage area 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.

- (s) Subchapter F. Section 228.173 Floors, Walls, and Ceilings of the Texas Food Establishment Rules is amended by replacing subsections (c), (f)(2) and (f)(3) and adding subsection (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 used by employees, mop sink areas, and vestibules shall be light in color and constructed of materials that are smooth, durable, nonabsorbent and easily cleanable. Flooring that is considered smooth, durable, nonabsorbent, and easily cleanable includes terrazzo, ceramic or quarry tile, epoxy, or the equivalent as approved by the regulatory authority. Grout between tiles shall be sealed so it is water resistant. Epoxy and other durable seamless flooring systems shall be installed to a finished project thickness of a minimum of one-quarter inch and shall be approved by the regulatory authority prior to installation. Flooring that is not smooth, durable and easily cleanable includes VCT (vinyl composite tile), sealed concrete, cardboard, sawdust, wood shavings, peanut hulls, or similar materials, and are not acceptable. All flooring shall be maintained in good repair. Nothing in this section shall prohibit the use of anti-slip floor covering in areas where necessary for safety reasons.

(1) Floor junctures. Floors shall be coved at the juncture of the floor and wall, and shall utilize a six (6) inch coved tile base installed integral and flush with the finished floor. Epoxy and seamless floor systems may be installed with an integral six (6) inch coved base. An aluminum cove shaped tile edge trim, installed integral

and flush with the finished floor, may be used in dry storage areas, dressing rooms, locker rooms, toilet rooms used by employees, mop sink areas, and vestibules.

- (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 a durable material such as stainless steel, terrazzo, ceramic or quarry tile or similar material and shall be graded to drain.
 - (3) Sealed concrete. Sealed concrete may be used in dry storage areas and 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 used by employees, mop sink areas, and vestibules shall be light-colored, and constructed of smooth, nonabsorbent and easily cleanable materials, 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 used by employees, mop sink areas, and vestibules shall be light colored, and constructed of smooth, nonabsorbent and easily cleanable materials, such as vinyl clad ceiling tiles or the equivalent approved by the regulatory authority.
- (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), porcelain, ceramic, quarry, or terrazzo tile, or the equivalent as approved by the regulatory authority, installed to a height of at least four (4) feet above the floor. Wall areas above four (4) feet may be painted with an epoxy paint.
- (t) 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.
- (u) 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 54.4 mm (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.
- (v) 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 eighteen (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. In restrooms, blow dryers are permitted, and each handwashing sink shall also 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.
- (w) 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.
- (x) Subchapter F. Section 228.186 Premises, Buildings, Systems, Rooms, Fixtures, Equipment, Devices, and Materials (o) Prohibiting Animals of the Texas Food Establishment Rules is amended to by replacing paragraph (1), amending paragraph (2) and adding paragraph (4) to read as follows:
- (o) Prohibiting animals.

- (1) Except as specified in paragraphs (2), (3), and (4) of this subsection, live animals may not be allowed on the premises of a food establishment.
- (2) Live animals may be allowed in the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles cannot result:
 - (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.
- (4) Dogs on patios. A food service establishment may permit a customer to be accompanied by a dog in and outdoor dining area subject to the following:
 - i. A sign must be posted in a conspicuous location at the front entrance of the food establishment and the outdoor entrances to the outdoor dining area so that it is easily visible to the public stating, "DOG FRIENDLY PATIO. DOG ACCESS ONLY THROUGH OUTDOOR PATIO" in letters not less than four (4) inches high.
 - ii. A separate entrance must be provided from the outside of the food establishment to the outdoor patio so that a dog will have direct access to the patio without entering the interior of the food establishment.
 - iii. No dog may enter the interior of the food establishment. To prevent this, doors equipped with self-closing devices must be provided at all entrances to the outdoor patio from the interior of the food establishment and must be kept closed to ensure compliance.
 - iv. A dog must be kept on a non-retractable leash or in a secure bag or container specifically designed to carry and provide continuous restraint of the dog while providing adequate ventilation. The dog must remain under continuous physical control of the customer while in the outdoor patio. Control of the dog is demonstrated by complying with Allen Code of Ordinances section 3-3(b), relating to tethering of dogs.
 - v. A dog is not allowed on a seat, table, countertop, or similar surface in the outdoor patio.
 - vi. No food preparation, including mixing drinks, and no food storage, including storage of ice, may be performed

in the outdoor patio area, except drink glasses may be filled on the patio from a pitcher.

vii. A dog's bodily waste must be cleaned up immediately after each occurrence and thoroughly sanitized per Allen Code of Ordinances section 3-13. Disposal of all dog waste must occur outside of the food establishment's premises in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept/stored outside of the food establishment.

viii. In accordance with TFER§228.44, any service, wait staff or other food handlers at the establishment must not pet or have contact with any dog.

ix. A Service Dog, as defined by the Americans with Disabilities Act, is exempt from these requirements.

(y) Subchapter F. Section 228.186 Premises, Buildings, Systems, Rooms, Fixtures, Equipment, Devices, and Materials (k) Controlling pests (3) of the Texas Food Establishment Rules is amended to read as follows:

(k) Controlling pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by:

(3) using routine preventive pest control services and methods, in compliance with 228.204(b) and§228.208(b) and (c) of this title; and

(z) 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 Section 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.
- (aa) 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.
- (bb) 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 premises 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.

(cc) 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.

(dd) 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, V.T.C.A., 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.

SECTION 2. 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 3. 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 4. 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 \$2000.00 for each offense.

SECTION 5. 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 27TH DAY OF AUGUST 2019.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:8/12/19:110011)

Shelley B. George, TRMC, CITY SECRETARY