

DIVISION 1. GENERALLY*

***Editor's note:** Ord. No. 9380, §§ 1, 2, adopted July 11, 2002, repealed the former Div. 1, §§ 42-131--42-146, and enacted a new Div. 1 as set out herein. The former Div. 1 pertained to similar subject matter and derived from Code 1967, §§ 13-1--13-11, 13-11.1, 13-22--13-25; Ord. No. 4640, § 1, adopted Feb. 12, 1987; Ord. No. 5805, § 1, adopted March. 14, 1991; Ord. No. 6723, § 1, adopted Aug. 12, 1993; and Ord. No. 7990, § 1, adopted June 12, 1997.

Sec. 42-131. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abattoir or slaughterhouse means any establishment within the city in which cattle, sheep, swine, goats or any such animals are slaughtered for meat for human consumption. The term includes stockyards and all other operations and facilities necessary, useful or incidental to such abattoir or slaughterhouse.

Adulterated food means a food containing any poisonous or deleterious substance as specified in V.T.C.A., Health and Safety Code § 431.081.

Approved means acceptable to the regulatory authority based on his determination of conformity with principles, practices, and generally recognized standards that protect public health.

Base of operation means an operating base location to which a mobile food establishment or transportation vehicle returns as needed for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

Caterer establishment or operation means a food service establishment where food is completely or partially prepared for delivery to a single customer where it is meant to be served and consumed.

Commissary means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored. It also includes a central preparation facility that mobile food units report to for supplies and for cleaning and servicing operations.

Daycare or childcare means any facility licensed by the Texas Department of Protective and Regulatory Services to receive 13 or more children for childcare that prepares or serves food for on-site consumption.

Failing score means when an establishment receives an accumulation of violations resulting in 30 demerits or more or a score of 70 or less.

Farmer's market means a place that sells or serves whole vegetables, fruits, nuts, berries, and melons in their natural state that are grown and supplied by local farmers. The term shall not include food processed or manufactured from such named items or a produce stand that is supplied by a wholesale produce distributor.

Food establishment or food service establishment means an operation that stores, prepares, packages, serves, or otherwise provides food for human consumption such as a

food service establishment; retail food store; daycare, satellite or catered feeding location; catering operation; market; remote catered operations; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders; restaurant take-out orders; or where consumption is on or off the premises; and regardless of whether there is a charge for the food. The term does not include a kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function, such as a religious or charitable organization's bake sale; bed and breakfast limited facility; or a private home.

Food processing plant means a commercial operation that manufactures, packages, labels or stores food for human consumption and does not provide food directly to a consumer. The term does not include a food establishment as previously defined.

Fresh means recently made, produced or harvested.

Garbage means every accumulation of animal, vegetable and other waste matter associated with the preparation, handling or consumption of food or food products and waste wrappers or containers.

Health authority means the legally appointed health officer or director of the health department.

High-risk food establishment means an operation that prepares and sells/serves potentially hazardous food, such as, but not limited to, restaurants, cafeterias, fast-food restaurants, hospitals, schools, daycares, and grocery stores that pre-package potentially hazardous food on site.

Livestock means cattle, sheep, swine, goats, horses, mules, other equine, poultry, domesticated rabbits, exotic animals, and domesticated birds or any such animals offered for human consumption. Livestock are amenable to inspection.

Low-risk food establishment means an operation that sells/serves only prepackaged non-potentially hazardous food or whole uncut produce, such as, but not limited to, convenience stores, bars, and establishments that serve only prepackaged non-potentially hazardous food.

Meat means the flesh of animals used as food, including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and exotic animals as specified in the TFER.

Medium-risk food establishment means an operation that sells/serves prepackaged potentially hazardous food and/or prepares limited types of food, such as, but not limited to, grocery stores, convenience stores that heat and serve deli type food (hot dogs, sausage, etc.) and/or package ice.

New establishment means any food service establishment which is newly erected or constructed at a given location or it may be such an establishment newly organized or started at an old location, which will also include establishments remodeled from other construction. Any change in ownership will be considered a new establishment.

Permit means the document issued by the regulatory authority that authorizes a person to operate a food service establishment.

Person in charge means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

Personal items mean articles belonging to employees.

Plumbing code means the plumbing code adopted in section 18-461 and all amendments thereto contained in section 18-462.

Potable water means water that is fit for drinking.

Poultry means any domesticated bird whether live or dead as defined in V.T.C.A., Health and Safety Code §433.003. The term also includes ratites, which are amenable to inspection as poultry.

Refuse means all putrescible and nonputrescible solid and semisolid wastes, including garbage, rubbish and ashes.

Regulatory authority means the director of health.

Rendering plant means any establishment at which any animal or part thereof or the proteins and fats from animals, poultry, fish or any other waste organic material, in whole or in part, is processed for commercial use. The term "rendering plant" includes related industry or other operations and facilities necessary, useful or incidental to such rendering plant.

Rubbish means nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, waste metal, tin cans, yard clippings, wood, glass, crockery, plastics and similar materials.

Sound condition means free from defect, decay or damage; healthy.

Temporary event means a single event or celebration, being of short duration lasting no more than 14 days.

TFER means the "Texas Food Establishments Rules," 25 Texas Administrative Code §§ 229.161, et seq.

Wholesome means in sound condition, clean, free from adulteration and otherwise suitable for use as human food.

(Ord. No. 9380, § 2, 7-11-02)

Cross references: Definitions generally, § 1-2.

Sec. 42-132. Purpose.

The function and purpose of this article is to protect and safeguard public health, ensure that food is safe, unadulterated, and honestly presented when offered to the consumer.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-133. Adoption of state rules.

(a) The following statutes, as they now exist and as hereinafter amended, are adopted and incorporated into this article as if they were set forth at length herein:

- (1) Chapters 431--438 of V.T.C.A., Health and Safety Code, and
- (2) Chapter 341, V.T.C.A., Health and Safety Code.

(b) The following regulations adopted by the Texas Board of Health, as they now exist and as hereinafter amended, are adopted and incorporated into this article as if they were set forth at length herein:

- (1) TFER.
- (2) Current Good Manufacturing Practice and Good Warehousing Practice in Manufacturing, Packing, or Holding Human Food, 25 Texas Administrative Code §§ 229.211, et seq.
- (3) Seafood Safety, 25 Texas Administrative Code §§ 229.121-129

- (4) Regulation of Food, Drug, Device, and Cosmetic Salvage Establishment and Brokers, 25 Texas Administrative Code §§ 229.191-208.
- (c) The regulatory authority will assure that a copy of the laws and rules adopted in this section are on file in the office of the city clerk.
- (d) A food establishment's owner, manager or operator commits an offense if an employee, owner, manager, or operator of the food establishment violates a rule adopted pursuant to subsections (a) and (b). An offense shall be punishable as provided in section 1-14.
- (e) If there is a conflict between a rule adopted in this section and any other section of this article, the more restrictive provision shall apply.
(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-134. Exceptions and affirmative defenses.

The requirements for the operation of all food service establishments shall be the same, except as noted within this article. Within this article, the health authority may waive certain requirements at his discretion.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-135. Food from outside city.

Food from food service establishments outside the jurisdiction of the regulatory authority may be sold within the city if such food service establishment conforms to the provisions of this article or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the regulatory authority may accept reports from responsible authorities in other jurisdictions where such food service establishments are located.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-136. Plan approval.

(a) When a food service establishment is newly constructed, or extensively remodeled, or when a food service establishment has a change of ownership, or when an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, change of ownership, or conversion shall be submitted to the health department for review and approval before a food service establishment permit may be issued. These plans are in addition to any plans required to be submitted elsewhere in the code.

(b) The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, types of construction material in work areas and the type and model of proposed fixed equipment to be installed. No food service establishment shall be constructed, extensively remodeled or converted except in accordance with plans and specifications approved by the regulatory authority. Food service establishment owners/operators shall ensure during plans review, construction, and operation that their facilities comply with all applicable ordinances and regulations of the city, including, but not limited to, the city's adopted and amended plumbing, mechanical, electrical, building, fire prevention codes and its zoning and subdivision ordinances.

(c) The regulatory authority shall inspect the food service establishment prior to the start of operations to determine compliance with the approved plans and specifications, and the requirements of this article.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-137. Food preparation area.

Food preparation will not be permitted in sinks used for hand washing.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-138. Equipment and food tagging.

(a) Whenever the regulatory authority shall find any article or piece of equipment or food item to be detrimental to public health, such article shall be tagged or otherwise marked, giving notice that the article is not to be used until approved and warning all persons not to remove the tag or dispose of this article in violation of this section.

(b) Equipment in new or extensively remodeled establishments shall meet National Sanitation Foundation standards or equivalent as approved by the regulatory authority.

(c) Existing equipment and facilities.

(1) Refrigeration equipment shall meet the 41-degree Fahrenheit requirement or replaced as specified in the TFER.

(2) Equipment and facilities which were installed prior to July 21, 2002, and which do not meet fully all of the design and fabrication requirements of this article, shall be deemed acceptable in that establishment as long as there is no change of ownership of the food establishment, and the equipment is in good repair, of sufficient capacity to properly hold food, and capable of being maintained in a sanitary condition, and the food-contact surfaces are nontoxic. Replacement equipment and new equipment acquired after July 21, 2002, shall meet the requirements of this article.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-139. Manual cleaning and sanitizing.

(a) In food service establishments, a three-compartment sink shall be used if washing and rinsing and sanitizing of utensils and equipment is done manually. Sinks shall be large enough to permit the complete immersion of the utensils and equipment, and each compartment of the sink shall be supplied with hot and cold potable running water.

Equipment, as approved by the regulatory authority, shall be made available if washing, rinsing and sanitizing cannot be accomplished by immersion.

(b) Two-compartment sinks are not acceptable unless:

(1) It is approved by the regulatory authority per the TFER,

(2) The use of a cleanable approved receptacle to act as the third compartment for sanitizing, and

(3) Written standard operating procedures are posted at the two-compartment sink for effectively sanitizing utensils and equipment.

All such sinks shall be attached to an approved sanitary sewer collection system. This section shall apply to all food service establishments regulated by this article.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-140. Garbage and refuse.

Garbage containers stored outside the food service establishment shall be conveniently located and easily accessible to the establishment. All containers shall have lids and said lids shall be in place at all times unless containers are being filled or emptied.

(Ord. No. 9380, § 2, 7-11-02)

Cross references: Solid waste generally, ch. 86.

Sec. 42-141. Restroom facilities.

(a) All food service establishments, required to be permitted, pursuant to this article must have at least one approved restroom facility for employees. All food service establishments where both sexes are employed must have at least two approved restroom facilities, except where there are five or fewer employees on any one shift.

(b) All food service establishments with a dining area must have at least two approved restroom facilities available for use by the public, one for each sex. Restrooms for public use shall not be located in the food preparation, food storage, or ware washing areas. The number of fixtures shall comply with the applicable provisions of the plumbing code.

(c) It shall be an exception to subsections (a) and (b) of this section if the food service establishment is an approved mobile food service establishment that handles only prepackaged, non-potentially hazardous foods.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-142. Notice of communicable disease.

If any manager or person in charge of a food service establishment has reason to suspect that any employee has contracted any contagious or infectious disease, he shall notify the health authority immediately.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-143. Inspected and approved products.

No person shall sell, offer to sell or expose for sale within the city any meat, meat food product, poultry, poultry food product or domestic game birds unless state or federally inspected and passed.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-144. Uninspected foods.

No establishment where food is prepared or sold for human consumption shall have any uninspected meat or wild game products on the premises at any time.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-145. Dairy products.

Unpasteurized milk or milk products shall not be allowed for sale within the city.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-146. Plumbing, sewage, grease traps, garbage grinders, drains.

(a) *Plumbing.*

(1) *General.* Plumbing shall be sized, installed and maintained in accordance with the plumbing code. There shall be no cross-connection between the potable water supply and

any non-potable or questionable water supply nor any source of pollution through which the potable water supply might become contaminated.

(2) *Non-potable water system.* A non-potable water system is permitted only for purposes such as air conditioning and fire protection and only if the system is installed according to law and the non-potable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any non-potable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

(b) *Sewage.* Sewage, including liquid waste, shall be disposed of by a public sewage system. Non-water carried sewage disposal facilities are prohibited, except as permitted by TFER §229.170.(h) relating to temporary food service establishments or as permitted by the regulatory authority.

(c) *Grease traps.*

(1) *Effect of section.*

a. The maintenance requirements of this section shall apply to all commercial food preparation and food service establishments that are equipped with some type of grease trap.

b. Both the construction and maintenance requirements of this section shall apply to all new construction, changes in permit ownership or changes in occupancy.

(2) *Construction requirements.*

a. Every commercial food preparation and food service establishment, including, but not limited to, abattoirs, bakeries, boardinghouses, butcher shops, cafes, clubhouses, delicatessens, ice cream parlors, hospitals, hotels, restaurants, schools or similar places where meat, poultry, seafood, dairy products or fried foods are prepared or served shall discharge all wastes from sinks, dishwashers and drains into an approved and properly maintained and functioning grease trap before entering the sanitary sewer drain.

b. No frying vats shall discharge into a grease trap.

c. The grease-retaining capacity of each grease trap in pounds of grease shall be equal to twice the rate of flow capacity in gallons per minute of wastewater to remove and retain 90 percent of the grease discharged. Manufactured grease traps shall be selected to fit the flow rate requirements of the connected fixtures from the manufacturer's rating schedule, but not to exceed a total flow rating of 50 gallons per minute. In addition to the minimum retention rates above, the size, type and location of each grease trap shall be designed and installed in accordance with the manufacturer's instructions and the requirements of the plumbing code.

d. When maximum efficiency grease removal is necessary, a dual chambered trap that separates then stores grease shall be utilized. The primary compartment shall hold seven times the maximum gallons-per-minute flow rate and the secondary shall hold five times this flow rate.

e. The grease trap shall be easily accessible for cleaning and shall be installed as close as possible to the grease source and shall be equipped with a sample well for ease in sampling unless the construction of such trap makes the sample well unnecessary.

f. Grease traps shall be located outside the food preparation area unless otherwise approved by the regulatory authority.

(3) *Maintenance requirements.*

- a. All commercial food preparation and food service establishment operators shall cause the grease trap to be completely cleaned when full. Every grease trap shall be completely cleaned not less than once every three months.
 - b. The operator shall post trip invoices with his food service establishment permit. The trip invoices shall contain the name and address of the food service establishment; the name and address of the licensed waste carrier; the name and address of the licensed disposal site; the signature of the operator of the establishment, the waste carrier and the disposal site; and the quantity and date of grease removal and disposal.
 - (d) *Garbage grinders*. If used, garbage grinders shall be installed and maintained according to law.
 - (e) *Drains*. Except for properly trapped open sinks, there shall be no direct connection between the sewage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. Floor drains must be properly covered with drain grates.
- (Ord. No. 9380, § 2, 7-11-02)

Sec. 42-147. Lavatory/hand sink facilities.

- (a) *Hand sinks*. A separate sink assigned for hand washing provided with hot and cold running water tempered through a mixing valve shall be located to be accessible to each food preparation and utensil washing area. Floor pedals, knee pedals, electronic eye and metered faucets are allowable as long as they are convenient and effective.
 - (b) *Lavatory supplies*. Blow dryers are not allowed in food preparation areas.
 - (c) *Sign*. A sign or poster that notifies food employees to wash their hands shall be provided at hand-washing lavatories used by food employees and shall be clearly visible to food employees.
- (Ord. No. 9380, § 2, 7-11-02)

Sec. 42-148. Food supplies.

- (a) Food prepared in a private home may not be used or offered publicly for human consumption.
 - (b) It is an exception to subsection (a) if a person:
 - (1) Sells or serves at temporary events non-potentially hazardous baked goods; and
 - (2) Maintains a master log with the providers name, address, and phone number, which must be presented to the regulatory authority upon demand; and
 - (3) Complies with all requirements of section 42-149.
 - (c) Potentially hazardous foods can only be sold from a permitted fixed facility, an approved mobile vending unit, or an approved temporary food establishment.
- (Ord. No. 9380, § 2, 7-11-02)

Sec. 42-149. Temporary food service establishments, general.

- (a) A temporary food service establishment shall comply with the requirements of this article and the TFER except as otherwise provided in this section. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food service establishment, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of this chapter. The operation of a temporary food service

establishment may not exceed 14 consecutive days per event and shall not be renewable within 30 days of expiration.

(b) If the temporary food service establishment is outdoors, every food preparation and serving area must have a fire-resistant overhead covering that protects the interior of the facility from the weather. Floors must be constructed of concrete, asphalt, tight wood or other similar easily cleanable material, and kept in good repair.

(c) All potentially hazardous food shall be prepared in a permitted food establishment or on the premises. No potentially hazardous food or beverage stored or prepared in a private home may be offered for sale, sold or given away from a temporary or seasonal food facility. Notwithstanding any provision of this article to the contrary, food prepared in a kitchen of a private home that is not licensed hereunder may be offered for sale or service for human consumption, subject to full compliance with the following requirements:

(1) The items offered for sale or given away shall be limited to baked food products that are not potentially hazardous;

(2) The items are offered for sale at a function conducted by or under the auspices of a sponsoring organization, which may be a school or religious or non-profit organization;

(3) The sale shall not be conducted in a food establishment except that if the sponsoring organization is a food establishment then the sale may be conducted on its premises, provided that the sale is conducted separately and apart from the sponsoring organization's food sales or service;

(4) The consumer is informed by a clearly visible placard at the sales or service location that the food was prepared in a kitchen that is not subject to regulation and inspection by the city or any other health inspection agency. The person conducting the bake sale shall provide the placard, which shall be in a form approved by the regulatory authority; and

(5) A master list shall be maintained by the sponsoring organization with the name, address, and phone number of the person providing the baked food products.

(d) The regulatory authority may establish additional structural or operational requirements as necessary to ensure that food is of a safe and sanitary quality.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-150. Restricted operations.

(a) These provisions are applicable whenever a temporary food service establishment is permitted, under the provisions of section 42-149, to operate without complying with all the requirements of this article.

(b) Only those potentially hazardous foods requiring limited preparation, such as hamburgers, sausage, fajitas, and frankfurters that only require seasoning and cooking, shall be prepared or served unless otherwise approved by the health authority. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads or sandwiches containing meat, poultry, eggs or fish are prohibited. This prohibition does not apply, however, to any potentially hazardous food that has been prepared or packaged under conditions meeting the requirements of this chapter, is obtained in individual servings, is stored at a temperature of 41 degrees Fahrenheit (five degrees Celsius) or below, or at a temperature of 140 degrees Fahrenheit (60 degrees Celsius) or above, in facilities that

meet the requirements of this article, and is served directly in the unopened container in which it was packaged.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-151. Farmer's markets.

(a) No person shall vend fresh fruits, vegetables, or other produce or operate a farmer's market without a valid food establishment permit issued by the regulatory authority.

(b) Farmer's markets shall be located only on properly zoned private property. An active business other than the farmer's market shall be currently operating on the property. The owner or operator of the farmer's market shall obtain a notarized letter from the business owner stating that the market has permission to vend fresh fruits, vegetables or other produce on the property. The notarized letter shall be submitted to the regulatory authority at the time of a food establishment permit application.

(c) Fresh fruits, vegetables or other produce displays shall be confined to the bed of a vehicle or to tables that are at least six inches above the ground. Fresh produce shall not be cut or sliced. Displays shall be located on acceptable smooth, hard, paved surfaces such as concrete or machine laid asphalt.

(d) Conveniently located toilet facilities shall be available for market vendors. A notarized letter from the business owner granting the market vendors access to toilet facilities during all hours of the farmer's market operation shall be submitted with the food establishment permit application. A copy of the letter shall be made available to the regulatory authority upon request. All toilets shall conform to the city code and shall have tight fitting, self-closing solid doors. Toilet rooms and fixtures shall be clean and in good repair. Toilet paper shall be available and easily accessible at all times. Toilets accessible to women shall have a trash receptacle that is covered with a lid.

(e) A hand wash lavatory with hot and cold water under pressure and tempered through a mixing valve shall be provided in or immediately adjacent to the toilet room. A soap dispenser and disposable paper towels shall be available at all times. All wastewater shall be captured and disposed of in an approved sewage disposal system.

(f) The permit holder shall ensure that all trash, refuse and garbage are removed from the site at the end of each day or that trash, refuse and garbage is placed in appropriate containers for later disposal. The premises occupied by the farmer's market shall be kept clean and free of accumulated trash, refuse or garbage during and after the hours of operation. All discarded fresh fruits, vegetables or other produce that remains at the market site shall be sealed in plastic bags and discarded in waste containers. Sufficient durable, nonabsorbent and easily cleanable, leak proof, rodent and insect-proof refuse and garbage containers shall be available on site.

(g) Individual vendors selling produce at a permitted farmer's market are exempt from obtaining a food establishment permit.

(h) The owner or operator of a farmer's market commits an offense if the farmer's market is operated in violation of any provision of this section.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-152. Ventilation.

(a) *General.* All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation

systems shall be installed and operated according to the city's building code, kept clean, maintained in good repair, vented to the outside, and shall not create an unsightly, harmful or unlawful discharge.

(b) *Special ventilation.*

(1) Intake and exhaust air-ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

(2) In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors, or fumes originate shall be mechanically vented to the outside.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-153. Mobile food establishments.

(a) *General.*

(1) Pushcarts shall be limited to pre-packaged ice cream or pre-packaged non-potentially hazardous food as approved by the regulatory authority.

(2) Food prepared in a private home may not be used or offered for human consumption from a mobile food establishment. Food must comply with all labeling laws.

(b) *Water system.* 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 and sanitizing and hand washing, in accordance with the requirements of this chapter. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil or grease, and it shall be kept capped when not being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of this chapter.

(c) *Waste retention.* If liquid waste results from operation of a mobile food establishment, the waste shall be stored in a permanently installed retention tank that is of at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food establishment is in motion. All liquid waste shall be disposed of in compliance with all existing laws and regulations of or applicable to the city. All connections on the vehicle for servicing mobile food establishment waste disposal facilities shall be of different size and type than those used for supplying potable water to the mobile food establishment. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

(d) *Registration.* Mobile food establishments must comply with all state and local laws pertaining to registration of the vehicle.

(e) *Restroom required.* At least one toilet shall be provided as specified in section 42-141 and the TFER section 229.166(g)(2) and installed as specified in TFER section 229.169 on each mobile food establishment that prepares and serves potentially hazardous food. Mobile food establishments that do not prepare potentially hazardous foods but only serve pre-packaged non-potentially hazardous foods prepared off premise from an approved source are exempt from this requirement. Mobile food establishments that do not sell or serve potentially hazardous foods are also exempt from this requirement.

(f) *Overnight parking prohibited.* All mobile food establishments shall move and vacate the premise of the business location on a daily basis; overnight parking at the business location is prohibited. At the end of each business day, the mobile food establishment shall return to the commissary or other service location as approved by the regulatory authority.

(g) *Operation from a commissary required.* Mobile food establishments shall operate from a commissary or other fixed food service establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations. A letter from the commissary is required at the time of permit application and at each renewal of the permit.

(h) *Compliance; approval of regulatory authority.* The commissary or other fixed food service establishment, used as a base of operation for mobile food establishments, shall be constructed and operated in compliance with the requirements of this article or by the approval of the regulatory authority.

(Ord. No. 9380, § 2, 7-11-02)

Secs. 42-154--42-175. Reserved.

DIVISION 2. PERMIT*

***Editor's note:** Ord. No. 9380, §§ 1, 2, adopted July 11, 2002, repealed the former Div. 2, §§ 42-176--42-185, and enacted a new Div. 2 as set out herein. The former Div. 2 pertained to similar subject matter and derived from Code 1967, §§ 13-12--13-21; Ord. No. 4640, § 1, adopted Feb. 12, 1987; Ord. No. 5640, § 1, adopted Sept. 27, 1990; and Ord. No. 7639, § 1, adopted Feb. 22, 1996.

Sec. 42-176. Application.

(a) Any person desiring to operate a food service or food processing establishment shall make written application and pay the non-refundable fee as provided in section 42-178 of this article. Such application shall include, but not be limited to, the following:

- (1) The applicant's full name, post office address and street address;
- (2) Whether such applicant is an individual, firm or corporation and, if a partnership, the name of each partner and his address;
- (3) The location and type of the proposed food service establishment;
- (4) The signature of the applicant; and
- (5) All other information deemed necessary by the director of the department of health.

(b) If the application is for a temporary food service establishment, it shall also include the inclusive dates of the proposed operation. The application must be received at least 48 hours in advance of the event. If the application is received less than 48 hours in advance of the event, the required fee will be twice the normal fee as required in section 42-178 of this article.

(c) The regulatory authority may not issue a permit or conduct a plans review until all requisite fees have been paid.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-177. Food manager certification.

(a) The owner or operator of an establishment which handles open food and which has seven or more food handlers on duty at any time shall make certain that at least one certified food manager is on duty during all hours of operation. This manager shall have completed a food service manager's certification course from any accredited institution or firm of his choice as approved by the regulatory authority.

(b) The owner or operator of an establishment which handles open food and which has six or less food handlers on duty at any time shall not be required to have a certified manager on duty during all hours of operation but are required to have at least one certified food manager employed per establishment. In the event when the certified food manager is not on duty all of the food handlers on duty shall have completed a food handlers course from any accredited institution or firm as approved by the regulatory authority.

(c) Establishments that have fluctuations in employee staffing such as retail grocery stores and convenience stores with fewer than seven food handlers shall not be required to have a certified food manager on duty during all hours of operations but are required to have at least one certified food manager employed per establishment.

(d) Temporary food establishments and establishments that serve, sell, or distribute only prepackaged non-potentially hazardous foods are exempt from this section.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-178. Fees.

(a) The fee schedule shall be as follows:

(1) Food or food service establishment permit application types and fees:

High-risk

1-9 employees: \$250.00

10+ employees: \$400.00

Medium-risk: \$250.00

Low-risk: \$100.00

Daycare facilities: \$100.00

Food Processing Plant: \$400.00

(2) Temporary food establishment permit: \$15.00 application fee and \$30.00 per day of the event up to 14 days.

(3) Permit renewal late fee: \$25.00 for renewal applications received after January 31.

(4) Plans review: \$25.00

(5) Mobile food units:

High-risk: \$300.00

Medium-risk: \$250.00

Low-risk: \$100.00

(b) Except as provided in subsection (c) below, no fee shall be charged relating to any food establishment owned and operated by a governmental agency; an institution of purely public charity, or a church; however, such establishments shall comply with all other requirements of this article.

(c) Subsection (b) shall not apply to any food establishment owned and operated by an independent school district or a parochial or private school, as such establishments shall comply with subsection (a) as well as all other requirements of this article.

(Ord. No. 9380, § 2, 7-11-02; Ord. No. 10,159, § 3, 9-27-05)

Sec. 42-179. Inspection of premises.

Upon receipt of an application for a permit required under this division, the regulatory authority shall make an inspection of the food service establishment to determine compliance with the provisions of this article and article III of this chapter.

(Ord. No. 9380, § 2, 7-11-02; Ord. No. 10,167, § 1, 9-27-05)

Sec. 42-180. Issuance.

When inspection reveals that the applicable requirements of this article and article III of this chapter have been met, a food service establishment permit shall be issued to the applicant by the health authority. Only a person who complies with the requirements of this article shall be entitled to receive and retain such a permit.

(Ord. No. 9380, § 2, 7-11-02; Ord. No. 10,167, § 2, 9-27-05)

Sec. 42-181. Term.

Permits for food service establishments shall be issued for a period not to exceed one year, expiring on December 31st of each year.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-182. Term for temporary establishment.

A permit for a temporary food service establishment shall be issued for a period not to exceed 14 days and for a specific location. This permit shall not be renewable within 30 days of expiration.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-183. Posting.

A valid permit issued under this division shall be conspicuously posted in every food service establishment. Every approved mobile food unit shall display a yearly mobile permit sticker on the rear of the vehicle. The latest inspection form shall also be conspicuously posted with or near the valid permit in every food service establishment.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-184. Transferability.

A permit issued under this article shall be nontransferable from one person or place to another person or place. Permits will remain the property of the health department.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-185. Suspension.

(a) A permit issued under this division may be suspended by the health authority for failure of the holder to comply with the requirements of this article or article III of this chapter. Whenever a permit holder or operator has failed to comply with any notice issued under this article, the permit holder or operator shall be notified in writing that the

permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the health authority by the permit holder within ten days of receipt of notice of suspension.

(b) Notwithstanding the other sections of this article, whenever the health authority finds unsanitary or other conditions in the operation of a food service establishment that in his judgment constitute a substantial hazard to the public health, he may, without warning, notice or hearing, issue a written notice to the permit holder or operator citing such condition, specifying the corrective action to be taken. If deemed necessary, such order shall state that the permit is immediately suspended, and all food service operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the health authority shall be afforded a hearing as soon as possible.

(c) The permit may also be suspended when food service establishment receives a failing score. The establishment shall not reopen until approved by the health authority.

(d) Any person whose permit has been suspended under this section may, at any time, make application for a re-inspection for the purpose of reinstatement. The application shall include a statement signed by the applicant that, in his opinion, the conditions causing suspension of the permit have been corrected. At that time the health authority shall make a re-inspection, during regular health department hours of operation. If the applicant is complying with all the requirements of this article, the permit shall be reinstated.

(Ord. No. 9380, § 2, 7-11-02; Ord. No. 10,167, § 3, 9-27-05)

Sec. 42-186. Revocation.

(a) For critical or repeated violations of any of the requirements of this article or article III of this chapter or for interference with the health authority in the performance of his duties, a permit issued under this division may be revoked with no right of reinstatement after an opportunity for a hearing has been provided by the health authority. Prior to such action, the health authority shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of ten days following service of such notice, unless a request for a hearing is filed with the health authority by the permit holder within such ten-day period. A permit may be suspended for cause, pending its revocation or a hearing relative thereof.

(b) The hearing provided for in this section shall be conducted by the city council at a time and place designated by it.

(Ord. No. 9380, § 2, 7-11-02; Ord. No. 10,167, § 4, 9-27-05)

Secs. 42-187--42-215. Reserved

DIVISION 3. INSPECTION AND ENFORCEMENT*

***Editor's note:** Ord. No. 9380, §§ 1, 2, adopted July 11, 2002, repealed the former Div. 3, §§ 42-216--42-220, and enacted a new Div. 3 as set out herein. The former Div. 3 pertained to similar subject matter and derived from Code 1967, §§ 13-33--13-37; Ord. No. 4640, § 1, adopted Feb. 12, 1987; and Ord. No. 5805, § 2, adopted March. 14, 1991.

Sec. 42-216. Authority/enforcement.

(a) The provisions of this article and article III of this chapter shall be enforced by the regulatory authority. The regulatory authority has the authority to issue citations to persons violating the provisions of this article as well as article III of this chapter. It shall be unlawful for any person to interfere with the regulatory authority in the performance of his duties as prescribed in this article or article III of this chapter.

(b) The regulatory authority, after proper identification, shall be permitted to enter any food service establishment at any reasonable time, for the purpose of making inspections to determine compliance with this article and article III of this chapter. The regulatory authority shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used, and to persons employed and to obtain sales data for the location, which shall include sufficient breakdown of sales into categories of food, alcoholic beverages, and other major categories of sales at the location. If a person denies access to the regulatory authority, the regulatory authority shall inform the person that:

(1) The food establishment is required to allow access to the regulatory authority as specified under this subsection;

(2) Access is a condition of the acceptance and retention of a food establishment permit to operate as specified under section 42-180; and

(3) If access is denied, the food establishment permit is automatically suspended and the business must immediately cease operations as specified under section 42-185.

(c) The regulatory authority shall have the right and power to request and require any person to give his true name and residence address to such regulatory authority when acting in an official capacity in matters connected with the health department. It shall be unlawful for any person to intentionally refuse to report to give false report of his name or residence address to the regulatory authority who has requested the information when acting in an official capacity in a matter connected with the health department.

(Ord. No. 9380, § 2, 7-11-02; Ord. No. 10,167, § 5, 9-27-05)

Sec. 42-217. Penalty.

A violation of any of the provisions of this article shall constitute an offense affecting public health and sanitation and upon conviction is punishable as provided in section 1-14.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-218. Inspections.

The health authority shall inspect each food service establishment located within the city and shall make as many additional inspections and re-inspections as are necessary for the enforcement of this article. Whenever an inspection is made of a food service establishment, the findings shall be recorded on the inspection report form provided by the regulatory authority. A copy of the inspection report form shall be furnished to the owner or person in charge at the completion of the inspection and constitute a written notice. The inspection report form shall summarize the requirements of this article. The

completed form is a public document that shall be posted for public view with the food establishment permit and made available for public disclosure to any person who requests it. It shall be unlawful to remove the inspection form.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-219. Inspection period.

Under this article, inspection frequency shall be determined by the regulatory authority based on generally recognized standards that protect public health.

(Ord. No. 9380, § 2, 7-11-02)

Sec. 42-220. Inspection report form.

Under this article, inspection forms will be provided by the health department.

(Ord. No. 9380, § 2, 7-11-02)

Secs. 42-221--42-250. Reserved.

DIVISION 4. ABATTOIRS AND RENDERING PLANTS*

***Cross references:** Animals, ch. 14.

Sec. 42-251. Permit application for abattoir.

(a) Any person desiring to operate an abattoir shall make written application for a permit on forms provided by the health authority. Such application shall include the following:

- (1) The applicant's full name, post office address, street address;
- (2) Whether such applicant is an individual, firm, corporation and if a partnership the name of each partner and his address;
- (3) The location and type of the proposed abattoir; and
- (4) The signature of the applicant.

(b) If the application is for a temporary abattoir, it shall also include the inclusive dates of the proposed operation.

(Code 1967, § 13-31; Ord. No. 4640, § 1, 2-12-87)

Sec. 42-252. Fee and term of abattoir permit.

The fee for an abattoir permit shall be \$500.00. Permits shall be issued for a period not to exceed one year, expiring on January 1 of each year.

(Code 1967, § 13-32; Ord. No. 4640, § 1, 2-12-87)

Sec. 42-253. Prohibited locations of abattoirs.

(a) It shall be unlawful for any person to erect, establish, enlarge or expand an abattoir or slaughterhouse within the city limits within 3,000 feet of any:

- (1) Church;
- (2) Public park;

- (3) School;
 - (4) Hospital;
 - (5) College or university;
 - (6) Dwelling resided in by anyone other than the applicant or employees of such abattoir or slaughterhouse; or
 - (7) Food service establishment.
- (b) The measurement of such distance of 3,000 feet shall be in a straight line from the nearest property line of such church, public park, school, hospital, college, university, dwelling or food service establishment to the nearest exterior portion of any building, outbuilding, structure or facility used or useful in connection with such abattoir or slaughterhouse to be erected. No building permit shall be issued by the chief building official or city engineer for the erection or construction of any such abattoir or slaughterhouse within such 3,000-foot distance set forth in this section.
- (Code 1967, § 13-26; Ord. No. 4640, § 1, 2-12-87)

Sec. 42-254. Prohibited locations for rendering plants.

- (a) It shall be unlawful for any person to erect, establish, enlarge or expand a rendering plant within the city limits within 600 feet of any:
- (1) Church;
 - (2) Public park;
 - (3) School;
 - (4) Hospital;
 - (5) College or university;
 - (6) Established food service establishment; or
 - (7) Any dwelling resided in by anyone other than the applicant or employees of the rendering plant.
- (b) The measurement of such distance of 600 feet shall be a straight line from the nearest point on the nearest property line of the church, public park, school, hospital, college, university, eating establishment or dwelling to the nearest exterior portion of any building, outbuilding or structure or facility used or useful in connection with the rendering plant to be erected.
- (Code 1967, § 13-27; Ord. No. 4640, § 1, 2-12-87)

Sec. 42-255. Livestock handling.

It shall be unlawful for any person to suffer any livestock, for the purpose of slaughter, to remain on or near any livestock slaughterhouse or slaughter pen or anywhere else within the city at night between the hours of sunset and sunrise. During the day livestock shall not remain loaded or otherwise near any slaughterhouse or slaughter pen longer than is reasonably necessary to place such livestock within the slaughterhouse or slaughter pen.

(Code 1967, § 13-28; Ord. No. 4640, § 1, 2-12-87)

Sec. 42-256. Soundproofing required.

Each slaughterhouse or slaughter pen shall have a soundproof room. All livestock shall be slaughtered in this room, and any and all openings into this room shall be firmly closed during slaughter.

(Code 1967, § 13-29; Ord. No. 4640, § 1, 2-12-87)

Sec. 42-257. Unnecessary noises prohibited.

No person shall keep, care for or handle livestock in or near any slaughterhouse or slaughter pen in such a manner as to create unreasonably loud, disturbing and unnecessary noises.

(Code 1967, § 13-30; Ord. No. 4640, § 1, 2-12-87)

Secs. 42-258--42-285. Reserved.