

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, REPEALING ORDINANCE NO. 16-04-35; AMENDING THE FRISCO CODE OF ORDINANCES, ORDINANCE NO. 06-03-31, AS AMENDED, CHAPTER 22 (BUSINESSES AND BUSINESS REGULATIONS), ARTICLE II (FOOD ESTABLISHMENTS); ADOPTING BY REFERENCE THE PROVISIONS OF THE CURRENT RULE OR RULES AS AMENDED BY THE EXECUTIVE COMMISSIONER OF THE HEALTH AND HUMAN SERVICES COMMISSION FOUND IN 25 TEXAS ADMINISTRATIVE CODE, PART 1, CHAPTER 228, REGARDING THE REGULATION OF FOOD ESTABLISHMENTS, RETAIL SALE, COMMERCIAL AND INSTITUTIONAL SERVICE, AND VENDING OF FOOD FOR PUBLIC HEALTH CONCERNS; REQUIRING A PERMIT TO OPERATE A FOOD ESTABLISHMENT; PROVIDING PERMIT FEES; PROVIDING FOR SUSPENSION AND REVOCATION OF PERMITS; PROVIDING FOR AN ADMINISTRATION PROCESS TO ENFORCE THESE RULES; PROVIDING A PENALTY CLAUSE, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas (“City Council”) finds that it would be advantageous, beneficial and in the best interest of the citizens of the City of Frisco, Texas (“Frisco”) to repeal Ordinance No. 16-04-35 and to amend the Frisco Code of Ordinances, Ordinance No. 06-03-31, as amended (“Code of Ordinances”), Chapter 22 (Businesses and business Regulations), Article II (Food Establishments) to modify certain regulations relating to public health concerns of food establishments.

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of Frisco to adopt by reference the provisions of the Texas Food Establishment Rules, and is hereby adopted as, the City of Frisco Food Establishment Rules in the State of Texas; for regulating the design, construction, management and operation of food establishments, and providing for plans submission and approval and the issuance of permits and collection of fees therefore, save and except the deletions and additions set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Repeal of Ordinance No. 16-04-35. Ordinance No. 16-04-35 is hereby repealed in its entirety and replaced by this Ordinance. The effective date of the repeal discussed in this Section shall not occur until the effective date of this Ordinance, at which time Ordinance No. 16-04-35 shall be repealed. Such repeal shall not abate any pending prosecution or lawsuit or

prevent any prosecution or lawsuit from being commenced for any violation of Ordinance No. 16-04-35 occurring before the effective date of this Ordinance.

SECTION 3: Amendment to the Code of Ordinances, Chapter 22 (Businesses and Business Regulations), Article II (Food Establishments). The Code of Ordinances, Chapter 22 (Businesses and Business Regulations), Article II (Food Establishments) is amended as follows:

“ARTICLE II. FOOD ESTABLISHMENTS¹

Sec. 22-19 Purpose.

The purpose of these rules is to safeguard public health and provide to consumers food that is safe, unadulterated and honestly presented.

Sec. 22-20 Adoption of the Texas Food Establishment Rules (TFER).

Frisco hereby adopts by reference the provisions of the current Food Establishment Rules, as amended, which establish regulations regarding, among other things, food, food establishments, mobile food units, food trucks and temporary food establishments, save and except the deletions and additions set forth below. The Food Establishment Rules are made a part of this Ordinance as if fully set forth herein. Copies of the Food Establishment Rules are on file in the Office of the City Secretary of Frisco. The following deletions and additions to the TFER are hereby approved and adopted (deletions are evidenced by ~~strikethrough~~ and additions are evidenced by underline)²:

SUBCHAPTER A. GENERAL PROVISIONS. is amended as follows:

Rule §228.2 Definitions. is amended as follows:

...

- ~~(3) Bed and breakfast extended—An establishment with more than seven rooms for rent or an establishment that provides food service other than breakfast to overnight guests.~~
- ~~(4) Bed and breakfast food establishment—A bed and breakfast that provides food service to customers in addition to its overnight guests.~~
- ~~(5) Bed and breakfast limited—An establishment that has seven or fewer rooms for rent, serves breakfast to overnight guests, and is not a retail food establishment.~~
- (6) Central preparation facility--An approved and permitted facility or space where food is prepared, stored, packaged, and wrapped. Central preparation facility provides the following

¹ Unless otherwise expressly provided herein, all phrases, words and terms used herein shall have the same meaning ascribed to the same in the Texas Food Establishments Rules (TFER) (regardless of whether such phrases, words and terms are italicized herein).

² Other italicized and bold notations are provided throughout for informational purposes only. By way of example only, “[*Paragraph remains unchanged.*]”.

for Mobile Food Unit:

- a. Supply fresh water and ice;
- b. Wastewater disposal system;
- c. Facility for cleaning, including washing, rinsing, and sanitizing of food-contact surfaces or items not capable of being immersed in the Mobile Food Unit utensil-washing sink; and
- d. Food storage and preparation

...

(12) Event--A unique public gathering of persons at which food products will be are served and directly to consumers, such as a festival, bazaar, carnival, circus, fund-raiser, public exhibition, celebration, sporting event, or other public gathering which can be civic, political, public, or educational for which an appropriate regulatory authority is required to grants permission, for the operation of the event, whether by permit, license, or other official written document. An event may be private in nature and is defined as:

- a. Private Event. A private gathering held at a private property, where entry to the event is limited to a private invitation from an individual, or an event organization, group, club, association, or institution and the event is not open to the general public.

...

(19) Mobile food unit (MFU)--A vehicle-mounted, self or otherwise propelled, self-contained food service operation designed to be readily movable (including catering trucks, trailers, push-carts, and roadside vendors) and used to store, prepare, display, serve or sell food. An MFU must completely retain its mobility at all times. An MFU does not include a stand or a booth. A roadside food vendor is classified as an MFU.

(A) A Mobile Food Unit includes:

- (i) Food Truck. Food Trucks must completely retain their mobility at all times and is permitted to operate at approved locations for a period of time exceeding fifteen (15) minutes.
- (ii) Mobile Hot Truck and Mobile Cold Units. A mobile food unit that moves from point of sale to point of sale, not stationary in any location for greater than fifteen (15) minutes.
 - a. Mobile Hot Unit. A mobile food unit with kitchen on the vehicle.
 - b. Mobile Cold Unit. A mobile food unit without a kitchen on the vehicle or a pushcart.

(B) Pushcart. A non-self-propelled Mobile Food Unit limited to offering foods that are prepacked from a licensed food manufacturer as authorized by the regulatory authority and is readily movable by one or two persons. A pushcart does not include non-self-propelled units owned and operated within a retail food store. Push carts offering Time/Temperature control for Safety (TCS) foods must permit as Stationary Food Vendor.

...

~~(25) Regulatory authority—The department, the local (municipality, county, or public health district), federal enforcement body, or authorized representative having jurisdiction over the food establishment.~~

(26) Roadside Food Vendor—A person who operates a mobile retail food store from a temporary location adjacent to a public road or highway. Food is not prepared or processed by a roadside food vendor. A Roadside Food Vendors is classified as an MFU shall comply with Stationary Food Vendor requirements.

...

(31) Bare hand contact. The handling of food with hands without any barriers.

(32) Bed and breakfast inn. An establishment with up to five (5) or fewer rooms for rent, serves breakfast to overnight guests, and provides guests stays of up to fourteen (14) consecutive calendar days, but does not offer weekly rates. Kitchen and dining facilities may be included to provide meals for guests only; however, no food preparation shall be permitted in guest bedrooms. An establishment serving meals other than to overnight guests shall be classified as a food establishment.

(33) Certified food protection manager. A person in charge who has shown proficiency of required information through passing a test that is part of an accredited program.

(34) Concession Stand. A food establishment operating on an annual basis for the purpose of providing food at sporting events associated with an Independent School District, university, community college, non-profit organization, privately owned school, or the City of Frisco.

(35) City. The City of Frisco, Texas, and all areas within its corporate limits.

(36) Food Code. When referenced herein is the U.S. Food and Drug Administration (FDA) Food Code 2017 and the Supplement to the 2017 Food Code.

(37) Law(s). Any applicable local, state and/or federal law, statute, ordinance, resolution, rule, regulation and/or requirement, as it/they currently exist, may be amended or in the future arising.

(38) Limited Food Establishment. An operation that is required by any regulatory agency to be inspected by the local regulatory agency, but which does not meet the definition of a Food Establishment, as amended.

(39) 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.

- (40) Stationary Food Vendor. Any person who operates or sells food from a stationary cart, or trailer-mounted on a chassis, but without an engine, from period of fifteen (15) days or greater per year. Stationary Food Vendors who operate for fourteen (14) days or less shall be considered Temporary food establishments. A Stationary Food Vendor requires the support of a Central Preparation Facility. Stationary Food Vendors shall operate under the guidelines set forth in the City of Frisco Zoning Ordinance, as it exists or may be amended, in addition to meeting the requirements for food establishments set forth in these rules.
- (41) Regulatory Authority. The City of Frisco, Texas, or its authorized designee.

SUBCHAPTER B. MANAGEMENT AND PERSONNEL. is amended as follows:

Rule §228.31 Certified Food Protection Manager and Food Handler Requirements. is amended as follows:

...

- (f) A food establishment shall provide proof of a certified food protection manager to the regulatory authority prior to opening the establishment.
- (g) In the event of a change in ownership of a food establishment, the new owner/operator of a food establishment shall provide proof to the regulatory authority that the appropriate number of certified food protection managers will be on duty prior to the issuance of the change of ownership.
- (h) A concessionaire or temporary food establishment must have either a certified food protection manager or a certified food handler on duty during all hours of operation and shall be determined by the regulatory authority.
- (i) The owner/operator of a bed and breakfast inn shall successfully complete a food protection manager certification course approved by the regulatory authority and submit proof of certification to the regulatory authority when applying for a permit.

Rule §228.33 Hair Restraints. is added as follows:

- (a) Hair Restraints. Except as provided in section (b) of this rule, all food employees, regardless of title, position or establishment's own policy, shall wear hair restraints such as hats, visors, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively restrain hair, keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single service and single-use articles. Methods which only partially restrain hair shall only be used in conjunction with one of the approved hair methods listed above.
- (b) This rule does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

SUBCHAPTER C. FOOD. is amended as follows:

Rule §228.65 Food Display. is added as follows:

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 that comply with NSF standards; completely enclosed display cases; or other means approved by the regulatory authority. A letter may be required from the fabricator or installer of any food guard required by this subsection to confirm compliance with NSF standards if compliance is not evident through the use of labels or listings posted directly on the food guard by the authority approved to affix such label or listing.

SUBCHAPTER D. EQUIPMENT, UTENSILS, AND LINENS. is added as follows:

Rule §228.66 Food Equipment, Certification and Classification. is added as follows:

- (a) Food equipment certification, classification. Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program is deemed to comply with Food Code, Subchapter 4 §§ Parts 4-1 and 4-2 . Food equipment shall display certification label(s) from an ANSI-accredited certification program or express approval is required from the Regulatory Authority for use. A letter may be required from the fabricator or installer of such equipment to confirm compliance with ANSI-accredited certification program if compliance is not evident through the use of labels posted directly on the equipment by the authority approved to affix such label.
- (b) Cooling, heating, and holding capacities.
 - (1) The regulatory authority may calculate capacities required for limited food establishments or for any food establishment in order to ensure food is held at proper temperatures.
 - (2) This may include a requirement for a limited food establishment to provide a single refrigerator that complies with Rule 228.65(a) of this title to maintain student food brought in to be maintained at all times under mechanical refrigeration.
 - (3) Businesses that sublet, rent, or share space adjacent to or within an existing food service operation shall have adequate designated areas that are clearly delineated. Each business must have food segregated from that of other business.
- (c) Manual warewashing, sink compartment requirements.
 - (1) If a mechanical warewashing machine as specified by the rules in this section is provided and approved to accomplish proper washing and sanitizing of equipment and utensils, this does not allow for exemption from the requirement of at least one three-compartment sink. The sink shall have each compartment labeled as to its function and use with a sign affixed to each compartment. The sink shall also have sanitizing instructions posted in an area adjacent to the warewashing area.
 - (2) Alternative manual warewashing equipment may be used when there are special cleaning needs such as specialized equipment and its use is approved.
 - (3) Alternative manual warewashing equipment and the use of a 2-compartment sink may

only be used in existing establishments having prior approval and a Certificate of Occupancy dating before the effective date of this ordinance.

SUBCHAPTER E. WATER, PLUMBING AND WASTE. is amended as follows:

Rule §228.144 Capacities, Fixtures and Facilities. is added as follows:

- (a) Hot Water Capacity. Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment. Sizing of supply systems shall comply with NSF standards as approved by the regulatory authority.
- (b) Handwashing Sinks Capacity.
 - (1) At least one (1) handwashing lavatory, a number of handwashing lavatories necessary for their convenient use by employees in areas specified under section (d) and not fewer than the number of handwashing lavatories required by the plumbing code, as it exists or may be amended by the City, shall be provided. Lavatories in addition to those defined herein may be required by the regulatory authority.
 - (2) If approved by the regulatory authority, when no food exposure exists and handwashing sinks are not conveniently available, such as in some Mobile Food Units or temporary food establishments or at some vending machine locations, employees may use chemically treated towelettes for handwashing.
- (c) Service sink.
 - (1) At least one (1) floor- mounted curbed cleaning facility, equipped with a floor drain, shall be provided, and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.
 - (2) Toilets and urinals may not be used as a service sink for the disposal of mop water and similar liquid waste.
 - (3) At least one (1) floor drain must be provided in the food preparation area, with total number of required drains to be approved by the regulatory authority. 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 shall be provided in all toilet rooms and in food preparation areas in compliance with any and all applicable laws. Floors must be graded to drain properly.
- (d) Handwashing Sinks Location
 - (1) A handwashing facility shall be located:
 - (A) to allow convenient use by employees in all food preparation, food dispensing and warewashing areas; and
 - (B) in, or immediately adjacent to, toilet rooms; and
 - (C) such that at least one (1) handwashing facility shall be on each cook line, for direct use by all employees while working on the cook line; and
 - (D) within every twenty-five (25) linear feet of unobstructed space in food preparation and utensil washing areas, or as otherwise approved by the regulatory authority. Any door, wall, partial wall, stairway, or other barrier, fixed or moveable, shall be considered an obstruction for the purposes of these rules, unless approved by

regulatory authority.

- (2) If a handwashing facility is located immediately adjacent to food preparation, serving, or storage areas, an approved splash guard separating the handwashing facility from these areas may be required by the regulatory authority.
- (3) Dedicated food preparation sink. A minimum of one (1) sink shall be provided for food preparation in food establishments that prepare raw animal proteins and/or that prepare fruits or vegetables on site.
- (4) At least one (1) waste sink shall be provided where bar service or counter service is offered, including but not limited to where blender, coffee or tea service is performed.

(e) Grease Trap

- (1) A grease trap or grease interceptor is required unless otherwise approved by the regulatory authority and shall be located to be easily accessible for cleaning, operation, and maintenance. All grease traps and interceptors shall also be approved by the regulatory authority prior to installation.
 - (A) The location of a grease trap or grease interceptor must be approved by the regulatory authority and shall not be within an area where food is held, prepared, stored, or transferred.
 - (B) Grease traps and grease interceptors shall be sized and installed in compliance with the plumbing code.
 - (C) Grease separators designed to be serviced manually by food establishment employees shall not be permitted.
 - (D) Grease interceptors or separators located above ground, beneath one (1) fixture, are prohibited unless otherwise approved by the regulatory authority.
 - (E) Grease trap must comply with the Grease Trap Ordinance as adopted or is amended.
- (2) With the approval of the regulatory authority, a food establishment with a grease interceptor may use the food establishment as a location for liquid waste disposal for a mobile food unit in compliance with the following.
 - (A) Food establishments used as a location for liquid waste disposal must empty liquid waste tank via a fixture plumbed to the grease interceptor.
 - (B) Food establishments used as a location for waste disposal for a mobile food unit must be owned by the same company or individual as the food establishment.
 - (C) If a food establishment has a shared grease interceptor, the property owner or management company must give written approval to use grease interceptor as a location for liquid waste disposal for a mobile food unit.
 - (D) The food establishment may be allowed one mobile food unit waste per establishment. A food establishment may request additional mobile food units to use the food establishment as a Central Preparation Facility. The request shall be reviewed and approved by the regulatory authority.
- (3) Grease traps and grease interceptors shall be serviced within ninety (90) days of the food establishment opening, undergoing extensive renovation, or change in ownership, and subsequently at an interval necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease interceptor or trap; to ensure the

discharge of grease into public sewers does not exceed local discharge limits not to exceed 100mg/L; to ensure no visible grease is observed in discharge; and not to exceed ninety (90) operational days between servicing. Self-cleaning of grease interceptors by operators is expressly prohibited. Grease traps and grease interceptors shall be completely evacuated a minimum of four (4) times yearly, unless otherwise approved by the regulatory authority by written variance approval, and liquid waste transportation paperwork documenting complete service of the grease interceptor or trap shall be provided to the regulatory authority, or designee having jurisdiction, upon request. Testing of effluent shall be done at the business owner's expense upon request by the regulatory authority for failure to produce requested liquid waste transportation paperwork, or should the regulatory authority have knowledge of a grease interceptor or trap dysfunction or suspicion of misuse that allows grease to be discharged into the sewer system. Food establishments shall enter into a contract with a waste hauler licensed by the state regulatory authority having jurisdiction over waste haulers, to provide for regularly scheduled servicing. No "will call" or "on call" scheduling shall be permitted for servicing, except for emergency servicing when required to prevent imminent health hazard or the discharge of grease into the sewer system. Liquid waste transportation documentation, as approved by the state regulatory authority including, but not limited to, the Texas Commission on Environmental Quality or the department, shall be kept on file for one (1) year in the food establishment for review by the local regulatory authority.

- (4) Subsection (3) above shall remain in full effect until the adoption of Public Works Waste Water Division comprehensive regulations for the maintenance of fat, oil and grease laden waste producing facilities at which time Subsection (3) shall be automatically repealed and deleted.

(f) Outdoor Enclosure

- (1) An outdoor enclosure for refuse, recyclables, and returnables, constructed to City's specifications and being comprised of, among other requirements, one hundred percent (100%) masonry, shall be provided, unless otherwise approved by the regulatory authority.
- (2) An outdoor enclosure for refuse, recyclables, and returnables shall be constructed of concrete and shall be smooth, durable, and sloped to drain.

(g) Outside Receptacles

Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers and be within an approved, as solely determined by the regulatory authority, enclosure as to shield from public view. All outside receptacles and waste handling units shall be approved by the regulatory authority prior to construction, installation, or use.

(h) Storing Refuse, Recyclables, and Returnables

Refuse, recyclables, and returnables shall be stored in the proper receptacles or waste handling units so that they are inaccessible to insects and rodents and shielded from public view by an approved, as solely determined by the regulatory authority, enclosure. Food waste shall be securely bagged prior to placing in receptacle or waste handling unit. Outdoor containers storing more than 25 gallons of grease or oil should have available spill kits or other means to clean, remove, and control potential spills. All methods of storing and recycling waste shall be approved by the regulatory authority.

(i) Outside Storage Prohibitions

- (1) Except as specified in section (b), refuse receptacles not meeting the requirements specified under Food Code, §5-501.13(A) such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside.
- (2) Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem, is shielded from public view by an approved enclosure, and approved by the regulatory authority.

SUBCHAPTER F. PHYSICAL FACILITIES. is amended as follows:

RULE §228.171 Wall and Ceiling Coverings and Coatings. is amended as follows:

(a) ~~Walls including non-supporting partitions, wall covering and ceilings of the walk-in refrigeration units, food preparation areas, equipment and utensil washing areas, toilet rooms and vestibules should~~ shall be light in color with a surface light reflective value (LRV) of 55-100 or meet the requirements and approval of the regulatory authority.

~~(b) Darker-colored coverings for the items listed in subsection (a) of this section may require additional lighting, as specified in Food Code, §6-303.11, or meet the requirements set by the regulatory authority, to allow cleaning of the surface.~~

(b) Wall and ceiling covering materials shall be attached so that they are easily cleanable. Walls where excessive heat from equipment such as grills, griddles, fryers, or gas burners must be covered with stainless steel sheets from floor to ventilation hood, unless otherwise approved by regulatory authority. Walls in areas where food is not prepackaged at all times, shall be nonabsorbent, easily cleanable and covering must be approved by the regulatory authority. Walls in these areas must be non-absorbent, and easily cleanable, such as FRP, tile or an equivalent material, as approved by the regulatory authority, to a minimum height of 8 feet.

- (1) Wall coatings, including epoxy paint, are approved as wall coverings in areas where uncovered food is located, stored, transferred, processed, passed, cooked, prepared, or sold above 8 feet. Wall coatings, including epoxy paint, may be used in areas where food is prepackaged at all times or in nonfood storage areas with approval by the regulatory authority.

- (2) Wall surfaces in dedicated bar service areas of a food establishment and toilet rooms provided for employee or worker use shall be durable, nonabsorbent, and easily cleanable to a minimum height of four (4) feet. Wall coatings including epoxy paint may only be used above forty-eight (48) inches.
- (c) Ceilings in areas where food is not prepackaged at all times shall be nonabsorbent, easily cleanable and covering must be approved by the regulatory authority.
- (d) Concrete, concrete blocks or bricks, when used in areas of a food establishment not open to the general public, shall be used only where nonfood activities occur such as can washing or outdoor janitorial use or storage areas. Concession stands may use concrete, concrete blocks, or bricks for indoor wall construction if finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface and resealed for maintenance in a timely manner or when mandated by the regulatory authority.
- (e) Exception to sections (a)-(d) may be made for food establishments that are used for sole purpose of instructional and where consumption of food on premises is minimal and of secondary use.
- (f) Characteristics of other surfaces
- (1) Indoor Areas; All shelving and millwork within food service areas of the food establishment shall be rendered washable and impervious.
- (2) Outdoor Areas; The outdoor walking and driving areas shall be surfaced with concrete or other material approved by the regulatory authority.
- (g) Floor Covering and Coatings
- (1) Floors and floor coverings of all food preparation and utensil-washing areas, walk-in refrigeration units, dressing rooms, locker rooms; and toilet rooms provided for employee use shall be constructed of smooth durable material such as terrazzo, ceramic, quarry tile, or equivalent, with at least a four (4) inch coved tile base or coved base profile approved by the regulatory authority installed integral and flush with finished floor and shall be maintained in good repair.
- (A) Top-set, square or thin-lip installations of coved base are prohibited.
- (B) Sealed concrete, sheet vinyl, vinyl products, VCT, or rubber may not be used in these areas.
- (2) Epoxy resin systems poured monolithic flooring, and other durable seamless flooring systems may be used in these areas installed to a finished product thickness of a minimum of one-quarter (1/4, 0.25) inch with coved base monolithic, integral, and flush with floor when approved by the regulatory authority prior to installation. The regulatory authority may impose additional requirements such as, but not limited to, the addition of nonskid additives and may approve alternative minimum thicknesses of floors and base if it is proven in writing that a finished product of different thickness and/or additives render the same or increased standards. Written documentation of compliance with these requirements shall be submitted to the regulatory authority at time of installation and no later than the date of issuance of the Certificate of Occupancy.

- (3) In dedicated janitorial, laundry, or mechanical areas, sealed concrete may be used in lieu of the above listed materials if approved by the regulatory authority.
- (4) Food areas within food establishments that are temporarily set up for use during specified hours during each day or one day such as buffet lines or bar service areas may be exempt from this rule.
- (5) Food areas of a food establishment that are used for sole purpose of class instruction and where consumption of food on premises is minimal and of secondary to primary instruction use may be exempt from this rule.
- (6) Prohibited floor covering. The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is expressly prohibited.

(h) Outer Openings, Protected

- (1) Except as specified in Food Code, §6-202.15(b), 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, the openings shall be protected against the entry of insects and rodents by:
 - (A) 16 mesh to 25.4 mm (16 mesh to 1 inch) screens;
 - (B) Properly designed and installed auto activated air curtains to control flying insects;
or
 - (C) Other effective means approved by the regulatory authority with documentation from a registered mechanical engineer provided.
- (2) If drive-through service is provided by the food establishment, all drive-through windows:
 - (A) Shall be properly designed and installed auto-activated air curtains to control flying insects or
 - (B) Shall be solid and self-closing.
 - (C) Drive through windows must be closed when not providing service to customers. For the purpose of this section, service is defined as an employee actively engaging with customers.
- (3) Indoor areas, food service segregated where exterior openings are open to the environment, where the construction of a food establishment allows for a door, wall or outdoor environment left exposed, the food service areas of the food establishment shall be fully enclosed by 4 walls and tightfitting openings including entry and exit.

(i) Handwashing cleanser

Each handwashing lavatory or group of two (2) adjacent lavatories shall be provided with a supply of hand cleaning liquid provided through a mounted dispenser. Bar soap and powder is expressly prohibited.

(j) Segregation and Location

Products that are held by the permit holder for credit, redemption, or return to the distributor, such

as damaged, expired, spoiled, or recalled products, shall be segregated, and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles. Such products shall be clearly marked that they are not to be used or served.

SUBCHAPTER H REQUIREMENTS APPLICABLE TO CERTAIN ESTABLISHMENTS. is amended as follows:

Rule §228.221 Mobile Food Units. is amended as follows:

(a) Mobile food unit provisions.

...

(4) Initial permitting inspection. The regulatory authority requires an MFU to come to a location designated by the regulatory authority. The mobile unit must be totally operable at time of inspection, including handwash facilities, warewash facilities, refrigeration, and wastewater disposal. The regulatory authority shall require a mobile food unit or food truck to obtain an inspection from the Frisco Fire Department prior to seeking a permit from the regulatory authority. Proof of fire department inspection and approval must be provided when submitting a completed permit application to the regulatory authority. The regulatory authority shall then require a mobile food unit or food truck to come to a location designated by the authority for inspection. The mobile food unit or food truck must be totally operable at the time of inspection, including but not limited to handwash/ware washing facilities, fire suppression-related facilities, generator, fuel facilities, refrigeration, and wastewater disposal. A mobile food unit or food truck may not operate within the limits of the City without a valid permit. Required documentation to have available includes:

[A though E Deleted in its entirety and replaced with the following]:

- (A) The following documents shall be submitted as specified in submittal guidelines with the completed permit application:
- (1) Copy of successful certified food protection manager or food handler certification, where required, from accredited and approved vendor;
 - (2) Copy of central preparation facility document. Use of a private residence as a central preparation facility is prohibited. A signed letter of authorization is required to verify facility use, if the central preparation facility is not owned by the mobile unit operator. A copy of the central preparation facility document must be maintained on the mobile unit at all times.
 - (3) Central Preparation Facility Inspection Report. A copy of the most current health inspection of the central preparation facility must be maintained on the mobile unit at all times.
 - (4) A signed letter of authorization may be required by the regulatory authority to verify service area use if the servicing area is not owned by the mobile unit operator.
 - (5) List of food items offered if not prepackaged;
 - (6) Current certificate of liability insurance, showing Vehicle Identification

number;

- (7) Copy of valid driver's license;
 - (8) Proof of fire department inspection and approval;
 - (9) Letter from property owner or authorized property management company providing written approval for each food truck to occupy the designated premises for the duration of allowed timeframe under each permit;
 - (10) Letter from a permanent business establishment that holds a valid certificate of occupancy and that is located on the same platted lot as the site of operation of the food truck; such letter must state that the establishment's permanent restroom facilities will be allowed for public use by any food truck operator or patron. In lieu of a letter from a permanent business establishment, the property owner or authorized property management company may provide a letter stating that the owner or company will provide temporary restroom facilities for public use by any food truck operator or patron. The location of such temporary restroom facilities will be subject to regulatory authority approval; and
 - (11) Any other documents requested by the regulatory authority in the interest of public health.
- (B) Once compliance with these rules has been met and documented by inspection, applicable fees shall be paid prior to issuance of permit. Failure of the required mobile food unit inspection will be assessed a reinspection fee per reinspection until approved.
- (C) The owner/operator of a mobile hot/cold unit shall display a mobile food unit permit, affixed to vehicle in a conspicuous location designated by the regulatory authority and shall keep on file in the mobile food unit the placard for the current valid permit.
- (D) The owner/operator of a mobile food unit shall inform the regulatory authority immediately upon changing or discontinuing use of a central preparation facility and shall immediately cease operations until a central preparation facility document verifying use of a new central preparation facility has been approved by the regulatory authority. Failure to provide a new central preparation facility document to the regulatory authority may result in the revocation of the food establishment permit.
- (E) Renewal of permit is not automatic and must be requested by submitting a new application. Application may be denied if a history of noncompliance with these rules is shown.

...

(8) MFU drinking water tank shall meet the requirements of Food Code, §5-303.13.

- (A) Fill hose and ~~water~~ holding tank shall be labeled as "Potable Water."
- (B) Drinking Water in a MFU Mobile Food Unit holding tank shall be tested for contamination by sampling upon request by the regulatory authority. Cost will be subject to owner/ operator responsibility.

...

(d) Limited operating area, limited duration of operation.

- (1) Except when classified as a Stationary Food Vendor in compliance with the City of Frisco Zoning Ordinance or as a food truck under this section or other City ordinance, as they exist or may be amended, a mobile food unit shall not operate at one location for a period of time exceeding fifteen (15) minutes. A mobile food unit shall not operate at any location in which such operation would be prohibited under the City of Frisco Zoning Ordinance or any other ordinance, as they exist or may be amended.
- (2) When located in an approved fixed location as allowed under separate City ordinances, one or more food trucks may operate on nonresidential private property, no closer than 10 feet from each other at any point, for so long as the services available on site and for use by the food truck staff and patrons remain fully accessible and usable. The location of the site of operation of each food truck shall not impede traffic; shall not be in a fire lane; shall not allow a customer line to queue into a driving pathway or street; and is subject to relocation by the regulatory authority if the location poses a hazard to any patron.
- (3) A mobile food unit must report to its central preparation facility at least once per day for servicing on the days the food truck operates or as otherwise limited by any other City ordinance. These services include rodent-proof trash containers serviced by a commercial waste hauler and non-temporary restroom facilities plumbed in accordance with the plumbing code, as it exists or may be amended, with a sufficient supply of soap, towels, and hot water.
- (4) Pushcarts and roadside vendors providing food shall operate only when classified as a Stationary Food Vendor in compliance with the City of Frisco Zoning Ordinance, as it exists or may be amended.

Rule §228.222 Temporary Food Establishments. is amended and retitled as follows:

Rule §228.222 Temporary Food Establishments, Seasonal Food Establishment, Short Term Merchants, And Cottage Food.

...

- (c) Ice. Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of these rules (pertaining to food). ~~Food Code, Chapter 3—Food.~~ The ice shall be obtained only in blocked, chipped, crushed, or cubed form and in single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. Ice for consumption shall be from an approved source and held in the bags until it is dispensed and be dispensed in a way that protects it from contamination. Ice shall not be used as a coolant for potentially hazardous foods at a temporary food establishment operating for more than four (4) hours. Regardless of event duration, ice shall not be used as a standalone coolant for uncooked animal products.

(d) Equipment and Utensils.

(1) Design and construction. Events less than or equal to four (4) hours long in duration shall use equipment and utensils designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

...

(3) Hot and cold holding equipment. Events greater than four (4) hours long in duration shall use utensils and equipment for cooling or heating food and holding cold or hot food shall be adequate in number and capacity to provide food temperatures as specified in Food Code, Subparts 3-401-403 and 3-501. The equipment and utensils shall be in compliance with Rule 228.65 (a) unless otherwise approved by the regulatory authority.

...

(i) Handwashing. Handwashing facilities shall include a container with a spigot that provides continuous flow of potable, clean, warm water; a wastewater container; soap; disposable towels; and a waste receptacle. Handwashing facilities are not required if the only food items offered are commercially pre-packaged foods that are dispensed in their original containers.

...

(l) Adequate Restroom Facilities. The regulatory authority may require written proof that adequate restroom facilities will be provided for the use of employees and patrons of a temporary food establishment.

(m) Protection from Contamination by Consumers. Condiments provided for the customer's use, such as relish, sauces, catsup, mustard, etc. shall be shelf-stable and shall be dispensed as single serving packets or from squeeze-type containers.

(n) Refuse. Covered refuse containers must be provided, made of nonabsorbent material, and rodent-proof. Food waste shall be securely bagged. Refuse collection areas and servicing must be approved by the regulatory authority.

(o) Short Term Merchant.

(1) Person or persons that prepares, serves, or otherwise provides food for human consumption directly to the consumer at designated locations, such as, farmers' market and operate(s) for more than 14 consecutive days. Short term merchant includes but is not limited to:

(A) Producers that sell whole uncut produce, small honey producers, and temperature-controlled foods that were grown or produced on their farm (e.g., eggs, meat, etc.).

(B) Cottage Food Operations selling packaged products that do not require time and temperature control and that are made in a home kitchen.

(C) Retail Vendors selling food prepared onsite or in a commercial kitchen.

(2) Short Term Merchants who prepare foods that are not prepared on site, must provide proof that food is prepared at a licensed commercial kitchen. A signed letter of authorization is required to verify facility use of the licensed commercial kitchen if the licensed commercial kitchen is not owned by the operator. A copy of the licensed commercial kitchen document must be maintained onsite at all times.

- (3) Where applicable, Short-Term Merchants must comply with Rule 228.222(a)-(o) of this ordinance as it exists or is amended.
- (4) Permits shall be valid for a term of not less than 12 months and cover sales at all locations approved by the regulatory authority.

Rule §228.223 Bed and Breakfast. is amended as follows:

(a) General.

- (1) A Bed and Breakfast Inn ~~extended, in addition to licensing with the applicable regulatory authority,~~ shall comply with these minimum requirements of this section if the facility:

[A and B Deleted in their entirety and replaced with the following]:

- (A) an establishment with up to five (5) or fewer rooms for rent;
- (B) provides breakfast to overnight guests;
- (C) provides guests stays up to fourteen (14) consecutive calendar days, but does not offer weekly rates;
- (D) No food preparation shall be permitted in guest bedrooms; and
- (E) Shall not include restaurants, banquet facilities or similar services.

SUBCHAPTER I. COMPLIANCE. is amended as follows:

Rule §228.241 Facility and Operating Plans. is amended as follows:

(a) Plans may be required by the regulatory authority for:

- (1) the construction of a food establishment;
- (2) the conversion of an existing structure for use as a food establishment; or
- (3) ~~the remodeling of a food establishment or a change of type of food establishment or food operation, or under the conditions set by the regulatory authority, if the regulatory authority determines that plans and specifications are necessary to ensure compliance with this section.~~ The remodeling of a food establishment, whenever a food establishment is constructed or extensively remodeled; whenever modifications, additions, or reductions are made to areas regulated by this food code as it exists or is amended; or whenever an existing structure is converted to use as a food establishment.

(b) Contents of the Plans and Specifications. The plans and specifications shall include the following whether existing or not:

- (1) proposed layout;
- (2) equipment arrangement and schedule including type and model of proposed equipment;
- (3) finish schedule of all floors, walls and ceilings;
- (4) manufacturer's equipment specification sheets for all equipment;
- (5) grease interceptor proposed location;
- (6) water heater calculations and proposed size;
- (7) grease waste storage receptacle location;

- (8) waste receptacle or dumpster enclosure location;
 - (9) mechanical, electrical, and plumbing plans and schematics;
 - (10) other plan requirements to be submitted where applicable include proof of location of Consumer Advisory and submittal of Bare Hand Contact Policy;
 - (11) HACCP plan if necessary; and
 - (12) Menu of all food items offered.
- (c) Review of Plans. The approved plans and specifications must be followed in construction, remodeling, modification and/or conversion of a food establishment. All work must be inspected by the regulatory authority for compliance with this food code as it exists or is amended. After compliance with this food code as it exists or is amended is deemed to be met, a food establishment permit may be approved. Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.
- (d) Plan Review Fee. If a determination is made by the regulatory authority that no building permit is required, a plan review fee shall be assessed with a minimum charge of one (1) hour for any plan review required to ensure compliance with these rules. Any additional plan review required by changes, additions, or revisions to plans approved under a building permit, will be assessed a plan review fee with a minimum charge of one (1) hour.

Rule §228.242 Confidentiality, Trade Secrets. is amended as follows:

- (a) In accordance with the requirements of the Public Information Act, Texas Government Code, Chapter 552, the regulatory authority shall treat as confidential the information that meets the criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified in Food Code §8-201.12 and §8-201.14.
- (b) The inspection report shall be treated as a public document and shall make it available for disclosure to a PERSON who submits a written request to the Office of the City Secretary of the City of Frisco, as required by law.

Rule §228.243 Construction Inspection and approval, preoperational inspections. is amended as follows:

The regulatory authority ~~may~~ shall conduct one or more preoperational inspections to verify that the food establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has established standard operating procedures as specified in Food Code, ~~Paragraph~~ §8-201.12(E), and is in compliance with this chapter.

Rule §228.244 Performance and risk-based inspection. is amended as follows:

The regulatory authority shall inspect each food establishment based upon an assessment of the food establishment's history of compliance with this chapter and the potential for causing foodborne illness by evaluating:

...

- (9) Establishments classified as limited food establishments, short-term merchants,

concessions, kiosks, and mobile food vendors shall be inspected as needed, and documentation shall be reviewed once per year to confirm facility status, records, and certifications are maintained The following is required for documentation and corrective action:

- (A) A summary of the inspectional findings that totals weighted demerit values for the inspection items.
- (B) Risk Violation Fee; Fee for timely correction. Should corrective action not be completed, observed, and documented on site by an inspector at the time of inspection, one or more subsequent inspections will be required and fees will be assessed for each noncompliant item or condition until compliance is observed and documented.
- (C) When the total cumulative demerit value of an establishment exceeds thirty (30) demerits, defined as “failing,” the establishment shall initiate immediate corrective action on all identified priority or priority foundation violations and shall initiate corrective action on all other violations within forty-eight (48) hours. One (1) or more reinspections shall be conducted at reasonable time intervals to assure correction of each violation known to have increased risk for foodborne illness, as defined by the Centers for Disease Control. There shall be a separate reinspection fee for each reinspection for correction until all risk factors are under managerial control. The reinspection fee shall be paid prior to each reinspection. The reinspection fee is required to be paid for each failure occurrence. Each reinspection shall be scored.
- (D) In the case of temporary food establishments and short-term merchants, all priority items or priority foundation items must be corrected immediately and other violations must be corrected within 24 hours or sooner if required by the regulatory authority. If violations are not corrected, the establishment shall immediately cease food operations until authorized to resume by the regulatory authority.

Rule §228.246 Investigation and Control. is amended as follows:

- (a) Removal of restriction or exclusion. The regulatory authority shall release a food employee or conditional employee from restriction or exclusion according to Texas Health and Safety Code, §438.033, and the conditions specified under Food Code, §2-201.13. Any laboratory analysis, examinations by a physician, transportation, costs, and applicable fees shall be the responsibility of the employee or establishment suspected.
- (b) Examination and Detention of Food. 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 Federal and State Laws. Such laboratory analysis, transportation, costs, and applicable fees shall be the responsibility of the establishment.

Sec. 22-21 Variance.

Any person or business required to or desiring to have review of any variance or plan as required by the regulatory authority or by the state including HACCP plan or bare hand contact policy plan shall submit an application provided by the regulatory authority and pay a non-refundable minimum fee. Additional fees may be assessed when review time exceeds one (1) hour. Any changes to the original variance will require a new submittal and fee.

1. The information that shall be provided by the person requesting the variance and retained in the regulatory authority's file on the food establishment includes:
 - (A) A statement of the proposed variance of the code requirement citing relevant code section numbers;
 - (B) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant code sections will be alternatively addressed by the proposal; and
 - (C) A HACCP plan if required as specified under Food Code, §8-201.13(A) that includes the information specified under Food Code, §8-201.14 as it is relevant to the variance request.
2. If the regulatory authority grants a variance as specified in this section, the permit holder shall:
 - (A) Comply with the HACCP plans and procedures that are submitted and approved as basis for the modification or waiver; and
 - (B) Maintain and provide to the regulatory authority, upon request records that demonstrate that the following are routinely employed;
 - i. Procedures for monitoring the critical control points,
 - ii. Monitoring of the critical control points,
 - iii. Verification of the effectiveness of the operation or process, and
 - iv. Necessary corrective actions if there is failure at a critical control point.
3. If it is found on inspection that approved variance is not being followed, the regulatory authority may revoke the variance. A variance granted under this subsection is nontransferable. The variance shall remain in effect unless revoked by the regulatory authority or terminated by the food establishment. The regulatory authority shall deny or revoke a variance if:
 - (A) The application for variance contains a false statement;
 - (B) The food establishment does not hold a valid permit issued under this ordinance;
 - (C) The regulatory authority determines that a health hazard or nuisance will result or has resulted from the variance;
 - (D) The food establishment failed to pay a required fee at the time it was due under this ordinance;
 - (E) The food establishment is in violation of any term or condition of the variance as established by the regulatory authority, this title, or state law.

If the regulatory authority denies or revokes a variance, the regulatory authority shall notify the applicant in writing by hand delivery or regular United States mail. The notice must include the reasons for the denial or revocation. Should the variance be revoked, the regulatory authority may refuse the permit holder privilege to hold a variance in the future.

Nothing in this ordinance shall be construed to waive or limit the regulatory authority's

governmental immunity from suit or from liability.

Sec. 22-22 Permits.

Any person desiring to operate a food establishment must submit an application for a permit on forms provided by the regulatory authority and pay the nonrefundable associated fees. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Private events do not require a Food establishment permit.

1. Applications for temporary and seasonal food establishments must be received by the regulatory authority ten (10) business days prior to the proposed event. Failure to provide all required information, falsification of required information, may result in denial or revocation of the permit. A temporary late fee of will be incurred for failing to timely submit a temporary or seasonal food establishment permit application, which must be submitted at least ten (10) business days prior to the event. Applications will not be accepted if not submitted at least three (3) business days prior to the event.
2. Requirement. It shall be unlawful for any person to operate a food establishment in the city unless they possess a valid food establishment permit issued by the regulatory authority.
3. Posting. A valid food establishment permit shall be posted in public view in a conspicuous place at the food establishment for which it is issued.
4. Permit nontransferable. A food establishment permit issued under this article is not transferable. Upon change of ownership of a business, the new business owner will be required to meet current standards set forth in this article, state law or regulation before a food establishment permit is issued.

Sec. 22-23 Permit Applicability and Renewals.

1. A separate permit shall be required for every food establishment, including temporary food establishment with separate and distinct facilities and operations, as determined by the regulatory authority, whether situated in the same building or at separate locations.
2. Separate and distinct lounge operations in a food facility require a separate food establishment permit from food operations. However, multiple lounges on the same floor in the same building and under the same liquor license will not require a separate food establishment permit.
3. Any person desiring to renew an existing food establishment permit must submit an application for renewal of permit on forms provided by the regulatory authority. Renewals of permits are required on an annual basis, except where otherwise stated. An incomplete application for renewal will not be accepted. No food establishment permit renewal shall be issued until a complete application is submitted and all outstanding fees required under this article, such as fees levied for reinspection for compliance, permit renewal late fees and plan review fees, have been paid.
4. Prior to the approval of an initial permit, a change of ownership, or upon completion of additions, remodels, or modifications as specified in TEFRA Rule §228.241, the regulatory

authority shall inspect the food establishment to determine compliance with this article. A food establishment that does not comply with this article will be denied a food establishment permit. Food establishments with an existing food establishment permit that do not comply with this article may be denied the renewal of a food establishment permit. The owner/operator of a food establishment must pay a preoperational inspection fee as set by the fee schedule. Failure to follow the approved plans and specifications will result in denial, suspension, or revocation of a food establishment permit.

Sec. 22-24 Fees.

The regulatory authority shall classify each food establishment at the time of application, and assess food establishment permit fees, due at the time of plan submittal or at health permit application if only change of ownership applies and in no case later than prior to issuance of the certificate of occupancy, according to the table below:

Permit Types	Fee Amount	Valid Duration
Restaurant	\$500.00	1 year
Convenience	\$250.00	1 year
Daycare	\$300.00	1 year
Grocery	\$300.00 ¹	1 year
Mobile food unit – hot	\$400.00	1 year
Mobile food unit – cold	\$300.00	1 year
Temporary	\$50.00	1 event/14-day maximum
Temporary Late Fee	\$50.00	one time
Short Term Merchant	\$100.00	1 year
Concession	\$50.00	1 year
Limited food establishment	\$100.00	1 year
Stationary food vendor	\$400.00	1 year
Food truck	\$400.00	1 year
Seasonal food establishment	\$100.00	Max 30 days
Health reinspection fee	\$250.00	Per reinspection
Reinspection Fee (non-fixed)	\$50.00	Per reinspection
Variance	\$200.00+ \$50 per hour after 1 hour	Each request
Risk violation fee	\$50.00	Each violation occurrence
Plan review fee	\$50.00	Per hour

1. Grocery stores contain one or more departments. Total permitting fees for the establishment will be determined by the number of departments. Each subsequent department after the initial fee will be \$120.00, the number of departments will be determined by the regulatory authority at the time of plan review or renewal. Examples include but are not limited to:
 - a. bakery
 - b. deli,
 - c. meat/seafood,

- d. produce,
 - e. retail food vendors
2. Nonfixed establishments that provide only non-TCS, sold or served in original packaging, shall be required to obtain a food establishment permit.
 3. Limited food establishments must obtain a food establishment permit as specified in Section 22-22 (2).
 4. Food establishments operated by a public entity, such as an independent school district, university, community college, or the city, may be exempt from paying the food establishment permit fee, if approved by the regulatory authority.
 5. A food establishment that is not permanently permitted by the regulatory authority, but that is a recognized charitable or philanthropic organization, or that has attained 501(c)(3) status from the Internal Revenue Service, may be exempt from paying the temporary food establishment fee for a permit for a temporary event, if approved by the regulatory authority.
 6. Fee exemptions granted under subsections (4) or (5) do not exempt any food establishment from the requirement of applying for, obtaining, and displaying a food establishment permit or from complying with the provisions of this section or any other applicable law.
 7. The regulatory authority shall assess a permit renewal late fee of fifty percent (50%) of the food establishment permit fee on any yearly food establishment permit that is renewed within thirty (30) days following expiration. Food establishment permit renewals received thirty-one (31) days or greater following the expiration date shall be assessed a permit renewal late fee of one hundred percent (100%) of the yearly permit fee. Food establishments that fail to renew annual permits within sixty (60) days following expiration may be subject to involuntary closure. The assessment of this late fee shall not release a food establishment from any other penalties imposed under this article.

Sec. 22-25 Suspension of Permit/Appeal. The regulatory authority may, without warning, notice or hearing, suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon service of notice. A food establishment inspection report may serve as notice. When a permit is suspended, food operations shall immediately cease. The regulatory authority shall post and maintain at the entrance of the food establishment, notice of the conditions therein, or require the owner, operator, or person in charge of the establishment to post and maintain, at the entrance of the establishment, notice that the establishment is closed. Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for an appeal hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit within ten (10) days from the date the notice is received.

If no written request for an appeal hearing is filed within ten (10) days, the suspension is sustained until compliance with this Ordinance is met. It is the responsibility of the permit holder to request

a reinspection once full compliance with this Ordinance has been met. A reinspection must be performed by the regulatory authority to ensure compliance prior to ending the suspension. Additional reinspections may be required if compliance is not met. The request for each reinspection must be made to the regulatory authority and the health reinspection fee shall be paid before each inspection is performed. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist and all fees have been paid.

Sec. 22-26 Revocation of Permit/Appeal. The regulatory authority may, after providing an opportunity for an appeal hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules and/or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten (10) days following service of such notice unless a written request for an appeal hearing is filed with the regulatory authority by the holder of the permit within such ten (10) day period referred to in the notice.

- (1) If no request for an appeal hearing is filed within the ten (10) day period referred to in the notice, the revocation of the permit becomes final.
- (2) The regulatory authority may, after providing an opportunity for a hearing, may revoke a permit if the food establishment:
 - (A) has been closed two or more times with in a 12-month period for conditions that constituted as a serious and imminent threat to public health; or
 - (B) operated a food establishment during a period when the food establishment's permit was suspended; or
 - (C) failed to comply, within the time specified, with an order to correct or abate an imminent and serious threat to the public health or safety as given by the regulatory authority.
- (3) It shall be an offense for any person to prevent, interfere with, obstruct, or give false information to the regulatory authority or their designee in the lawful performance of his/her duties under this chapter, state, local or federal law.

Sec. 22-27 Administrative Process. The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority. A notice, as required by this Ordinance, is properly served when it is delivered to the holder of the permit or the person in charge via hand-delivery, or when it is sent by registered or certified mail, return receipt requested, or when it is sent via courier service that provides a return receipt showing the date of actual delivery to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority.

Sec. 22-28 Appeal. All appeals from final suspension or revocation of a food establishment permit shall be made in writing to Frisco's City Manager or his designee. The appeal shall be filed in writing within ten (10) days of the occurrence of the suspension or revocation. The City Manager or his designee shall attempt to hear the appeal within thirty (30) days after notice of the

appeal. The City Manager shall have the power to reverse a decision of the regulatory authority where he finds that such a reversal will not affect the health and/or welfare of the public. All decisions of the City Manager or his designee shall be subject to review by the City Council at one of its regularly scheduled meetings. The decision of the City Manager or his designee will be final unless reversed by the City Council. The City Council's failure to take action on any such appeal shall constitute approval of the decision by the City Manager or his designee.

Secs. 22-29 – 22-57 Reserved.”


SECTION 4: Penalty Provision. Any person, firm, corporation, or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 5: Savings/Repealing. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portion of conflicting ordinances shall remain in full force and effect.

SECTION 6: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 7: Effective Date. This Ordinance shall become effective upon its passage and publication as required by the City Charter and by law.


DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, on this 19th day of September, 2023.



Jeff Cheney, Mayor


**ATTESTED AND CORRECTLY
RECORDED:**

APPROVED AS TO FORM:



Kristi Morrow, City Secretary





Abernathy, Roeder, Boyd & Hullett, P.C.
Aliceson Cotton, City Attorneys

Dates of Publication: September 24, 2023 and October 1, 2023, *Frisco Enterprise*