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ARTICLE IV. - FOOD AND FOOD ESTABLISHMENTS [31]

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⁽³¹⁾ *State Law reference— Food and food establishments, V.T.C.A., Health and Safety Code § 434.001 et seq.*
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DIVISION 1. - GENERALLY

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Sec. 18-191. - Definitions.

When used in the article, the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows and this section shall include all definitions included in the regulations adopted in [section 18-271](#).

Child care kitchen means a kitchen within a child care facility that prepares and/or serves meals to children in care. Child care facilities that only serve non-potentially hazardous snacks obtained from an approved source that require limited food handling and require that children in care provide their own meals are excluded from this definition.

Commissary means a facility that is permitted and inspected by a municipal or county regulating health authority. The commissary shall provide safe storage of food, paper goods, and single-service articles; equipment to wash, rinse, and sanitize food contact equipment, disposal of waste water, washing and storage of mobile food units, weekend food vendors, or other food vendors' equipment. Residential homes or apartments, child care kitchens or kitchens that cannot be properly secured from entry by non-food employees will not be permitted as commissaries. All food products housed or prepared at the commissary shall be

properly packaged, labeled, and obtained from an approved source.

Concession stand seasonal food service means a facility that operates at a fixed location in conjunction with scheduled, community-based sporting or recreational events and operates for no more than four consecutive months (120 days in a 12-month calendar year). Concession stands are limited to approved menu items including preparation and service of non-potentially hazardous foods, precooked, potentially hazardous food products, and/or frozen, pre-formed hamburger patties requiring limited preparation such as heating, seasoning, and serving. Food handler cards are required for concession stand coordinator(s).

Consumer health inspector means the inspector of the department of neighborhood services of the city or his designee.

Cooking means cooking all parts of a food to meet the time and temperature requirements set in the Texas Food Establishment Rules without interruption in process or procedure from refrigerated or frozen state until the food is completely and thoroughly cooked.

Employee means any person working in a food service establishment including individuals having supervisory or management duties.

Fee exempt means any non-profit organization with proof of non-profit status; parent-teacher associations; scholastic-based booster clubs; any city-owned or city-operated food service operation; and as otherwise determined by the director of finance or his authorized representative or as otherwise designated by the city manager.

Food means any raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use either in whole or in part, for human consumption, or chewing gum.

Food demonstration means temporary food service located within a retail grocery store at which a vendor or employee provides food samples to the general public. Food demonstration independent vendors and employees of the retail grocery providing demonstrations shall operate under the direction of a certified food manager, possess current North Richland Hills food handler cards, and meet all applicable food safety requirements as specified in the Texas Food Establishment Rules for temporary food service.

Food establishment means any place which offers, produces, or stores food for consumption in single or larger portions or quantities, including but not limited to food service establishments, retail food stores, commissaries, warehouses and food itinerants whether such operations be mobile or operate from a fixed location; and whether there is a charge of a direct and/or indirect nature or said food is given away without a charge. The term "food establishment" does not apply to the following:

- (1) Private homes where food is prepared, served or stored for individual family consumption.
- (2) Religious organizations that serve their own membership and immediate guests and other structured groups of persons who gather occasionally for fellowship and society that provide the food from amongst their membership.
- (3) Food processing plant.
- (4) Temporary food establishments which operate at a fixed location for a period of time not to exceed three consecutive days in conjunction with a single event or celebration or concession stand which operates at a fixed location in conjunction

with scheduled, community-based sporting or recreational events that serve only prepackaged, non-potentially hazardous food products that have been properly prepared and packaged in accordance with all state and local requirements and are properly stored, handled, and served in the unopened, original package from said temporary food establishments or concession stands.

- (5) Temporary food establishments operated by non-profit, religious, governmental agencies, or private individuals less than three days in length.
- (6) 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.

Priority classification. For the purpose of assessing permit fees and frequency of inspections, the following definitions shall apply:

- (1) *Low priority.* A food establishment that sells only prepackaged potentially and nonpotentially hazardous foods; prepares and/or serves only nonpotentially hazardous beverages; or other factors as determined by the consumer health inspector or his authorized representative which would require the establishment be inspected on a low priority basis, such as a convenience store, discount store, or drug store.
- (2) *Medium priority.* A food establishment that prepares, serves, or sells potentially and nonpotentially hazardous foods from precooked ingredients with limited handling; fresh meat or seafood market that sells only prepackaged meat or seafood packaged at an approved food manufacturing plant; or other factors that require that establishment be inspected on a medium priority frequency basis, such as a retail grocery store, sandwich shop, produce market, ice cream shop, pizza delivery/pickup, bakery, or candy store.
- (3) *High priority.* A food establishment that prepares, serves or sells foods from raw meats or seafood; extensively handles foods; or other factors that require that the establishment be inspected at the high priority frequency basis, such as a full service restaurant, fast food restaurant, seafood or fresh meat market where meat and/or seafood is handled, prepared, or cut on site.
- (4) *Elevated priority.* A food establishment that serves or sells foods from raw meats or seafood, extensively handles food, and extensively holds potentially hazardous foods hot and cold for service; operates 24 hours per day; serves a highly susceptible population; or other factors that require that the establishment be inspected at the elevated priority frequency basis, such as a full service buffet or cafeteria restaurant, fast food or full service food establishment open 24 hours per day, or hospital or nursing home kitchen.

Health department means the department of neighborhood services of the city.

Mobile food unit means a vehicle-mounted food service establishment or a food service establishment pulled behind a vehicle to be readily moveable. Mobile food units with full-service kitchens and other trucks serving meals shall not stay at a fixed location longer than 15 minutes and are limited to sales at construction sites only. Mobile food units selling prepackaged ice cream and other nonpotentially hazardous foods that operate within the city shall also obtain a solicitor's permit from the office of the city secretary.

Municipal special event vendor means a vendor that operates a temporary food service establishment at a fixed location not to exceed five consecutive days in conjunction with a single event or celebration sponsored, owned, or operated by the City of North Richland Hills.

Nonpotentially hazardous food means a food that is not potentially hazardous and does not require time and temperature control for safety to limit pathogen growth and toxin production. Nonpotentially hazardous foods include but are not limited to popcorn, pretzels, chips, snow cones, cotton candy, pickles, and cookies.

Potentially hazardous food means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean or other ingredients, cut fruit, baked potatoes, cooked rice, or other food in a form capable of supporting rapid and progressive growth of infectious or toxicogenic microorganisms, or as further defined by the Texas Food Establishment Rules.

Recurring event food vendor means a vendor that operates from a temporary location in conjunction with a community-based sporting or recreational event or school fundraiser. Recurring events include: outdoor temporary food service at a fixed location for a period of time not to exceed one day per week for no more than four hours at a time for no more than four consecutive months (120 days in a 12-month calendar year), not to exceed 16 events total; or indoor temporary food service that serves an approved menu with limited food handling that coincides with community-based sporting, recreational, or scholastic events. Recurring event food vendors shall currently operate a permitted and inspected food establishment, serve an approved menu with limited preparation at the event site, and be overseen by a certified food manager. Recurring event food vendors also include non-profit, parent-teacher associations serving only prepackaged or non-potentially hazardous foods and potentially hazardous foods that require limited preparation and handling such as pizza.

Regulatory authority means the department of neighborhood services of the city.

Reinspection means an inspection to determine compliance with applicable health regulations.

Reinspection fee means a fee assessed by the consumer health inspector based on a health inspection score of 30 or greater and/or an establishment's failure to correct one or more issues addressed at the time of inspection within the time frame established by the inspector.

Rules and regulations means "Texas Food Establishment Rules" (TFER) of the state department of health, division of food and drugs. A copy of those rules are on file in the office of department of neighborhood services and made a part hereof. Such rules and regulations are adopted and shall be in full force and effect within the city limits of the city.

Temporary food establishments mean establishments which operate at a fixed location for a period of time not to exceed three consecutive days in conjunction with a single event or celebration. A business may only operate a for-profit temporary food establishment once every four consecutive months (120 days in a 12-month calendar year).

Weekend food vendor means a food establishment which operates for no more than three consecutive days over a weekend at a single business with a minimum of 100,000 square feet of building space and ten feet of space in front of such business for such vendor. Weekend food vendors are limited to preparation and service of non-potentially hazardous foods and precooked, potentially hazardous food products requiring limited preparation such as heating, seasoning, and serving.

(Code 1975, § 10½-2, Ord. No. 2645, § 1(10½-2), 8-12-2002; Ord. No. 2750, §§ 1, 2, 11-10-2003; Ord. No. 2958, § 1, 11-12-2007; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Cross reference— Definitions generally, § 1-2.

Sec. 18-192. - Compliance required.

It shall be unlawful for any person or firm to operate any food establishment as defined in [section 18-191](#), within the corporate limits of the city, unless such operation is done in conformance with the requirements of this article.

(Code 1975, § 10½-21; Ord. No. 2645, § 1(10½-16), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-193. - Fees.

The director of finance shall review all fees annually and adjust fees by the increase in the DFW consumer price index for the preceding 12 months as established by the department of commerce and are printed in appendix A.

(Code 1975, § 10½-101; Ord. No. 2645, § 9, 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-194. - Penalty.

Any person, firm, association of persons, company, corporation or their agents, servants, or employees violating or failing to comply with any of the provisions of this article shall be fined, upon conviction, as provided in [section 1-13](#). Each day any violation of noncompliance continues shall constitute a separate and distinct offense. The penalty herein shall be cumulative of other remedies provided by state law and the power of civil enforcement and injunction as provided in V.T.C.A., Local Government Code §§ 54.012—54.019 and as may be amended may be exercised in enforcing this article whether or not there has been a complaint filed.

(Ord. No. 2645, § 1(10½-41), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Secs. 18-195—18-210. - Reserved.

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DIVISION 2. - PERMIT

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[Secs. 18-216—18-230. - Reserved.](#)

Sec. 18-211. - Required.

It shall be unlawful for any person or firm to operate a food establishment without a permit.

(Code 1975, § 10½-23; Ord. No. 2645, § 1(10½-18), 8-12-2002, Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-212. - Application.

- (a) *Generally.* Application for a permit as required in this article in [section 18-211](#) shall be made in writing to the city consumer health inspector or his authorized representative or as otherwise designated by the city manager upon forms prescribed and furnished by the city. Application for a permit shall include a copy of a government-issued identification that includes a photograph of the applicant. Exceptions to this requirement shall be made for temporary food service, municipal special event vendors, and recurrent event food vendors.
- (b) *Review of plans and specifications.* Plans and specifications review are required as follows:
- (1) Prior to construction, or remodeling where structural and/or cosmetic improvements valued at \$5,000.00 or more are involved or conversion of an existing structure to be used as a food establishment, a complete set of plans and specifications shall be provided. Such plans and specification shall be made available for review by the fire marshal and the consumer health inspector or his authorized representative or as otherwise designated by the city manager for compliance with the provisions of the building code, fire code, and this article. No construction of a food establishment shall take place nor will a building permit be issued prior to the approval of the submitted plans and specifications by the specified city. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials or work areas, and the type or make of proposed fixed equipment and facilities. Construction according to the specifications which have therefore been submitted and approved by the city consumer health inspector or his authorized representative or as otherwise designated by the city manager must be commenced within six months of the said approval date and completed within 12 months of commencement, or the plans must be resubmitted for plan review and being subject to the current city requirements.
 - (2) Projects which, at the time of approval, are of such size or which are planning to use equipment that cannot be delivered and installed within this 18 months may apply to the city consumer health inspector or as otherwise designated by the city manager for a waiver of this review at the time of original submission, but not thereafter.
 - (3) Whenever plans and specifications are required to be submitted to the city, the city shall inspect the food establishment prior to its beginning operations to determine compliance with the approved plans and specifications and with the requirements of this article. All items required by this article addressed by the department of neighborhood services shall be completed prior to operations or introduction of food products into the food establishment.
 - (4) Upon change of ownership or remodeling of a food establishment, any violations addressed in previous inspections shall be resolved; the intent of this section is to require installation of sinks or other equipment or materials that are required by this article or the Texas Food Establishment Rules.

(Code 1975, § 10½-24, Ord. No. 2645, § 1(10½-19), 8-12-2002, Ord. No. 3145, § 1, 8-8-2011, Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-213. - Authority to issue permits.

The city consumer health inspector or his authorized representative or as otherwise designated by the city manager is hereby authorized to issue a permit to any person or firm making application for a food establishment permit in the city provided that the person or firm complies with the requirements of this article.

(Code 1975, § 10½-22; Ord. No. 2645, § 1(10½-17), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-214. - Issuance of permit; transferability; terms; penalties; categories.

- (a) The city consumer health inspector or his authorized representative or as otherwise designated by the city manager shall issue a permit if he determines that:
 - (1) The technical review of plans and specifications are in compliance with applicable laws and this article;
 - (2) The fees as set out by ordinance and all other applicable fees have been paid; and
 - (3) By means of physical inspection, the food establishment is determined to be in compliance with this article.
- (b) *Permit nontransferable.* Every permit issued under the provisions of this article shall be nontransferable. A food establishment shall permit the operation of the establishment only at the location for which application is made. Change of ownership of a food establishment requires submission of a new permit application and payment of the permit fee and any applicable non-permit fees.
- (c) *Display of permit.* Any permit granted under the provisions of this article shall remain in full force and effect and displayed in a conspicuous public place for inspection by the city consumer health inspector or his authorized representative or as otherwise designated by the city manager for the term allowed according to permit category and type as defined in this article, unless suspended and/or revoked for cause.
- (d) *Penalty for failure to renew.* Any food establishment that fails to renew any permit issued under the provisions of this article by the expiration date of said permit and continues to operate without a valid permit shall be assessed \$25.00 for each day of operation of that establishment, plus any other penalties provided in this article. Such assessments and/or penalties shall be paid along with the required permit fees before a valid permit will be reissued. Any food establishment that fails to renew any permit issued under the provisions of this article within 30 days of permit expiration and continues to operate may be closed by the department of neighborhood services and/or the person in charge issued a citation. Whenever a food establishment is required under provisions of this article to cease operation, it shall not resume operations until said permit and fees are paid in full and a re-inspection determines that any other violations addressed by the department of neighborhood services have been resolved.
- (e) *Permit categories.* Permit categories are authorized as provided herein:
 - (1) Low priority food service establishment.
 - (2) Medium priority food service establishment.
 - (3) High priority food service establishment.
 - (4) Elevated priority food service establishment.

- (5) Child care kitchen.
- (6) Mobile food unit.
- (7) Weekend food vendor.
- (8) Concession stand/seasonal.
- (9) Temporary food establishment.
- (10) Municipal special event vendor.
- (11) Recurring event food vendor.

(Code 1975, § 10½-25; Ord. No. 2645, § 1(10½-20), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-215. - Permit fees and renewal.

- (a) *Fee required.* Before a permit is issued, an applicant shall pay the fee as established by ordinance, except fee exempt temporary food establishments, fee exempt concession stands, and food establishments owned and/or operated by the City of North Richland Hills.
- (b) *Application and renewal of certain permits.* The following permits shall expire annually on November 30 and must be renewed on December 1 of each calendar year:
 - (1) Food service establishments elevated priority;
 - (2) Food service establishments' high priority;
 - (3) Food service establishment's medium priority;
 - (4) Food service establishments low priority;
 - (5) Child care kitchen;
 - (6) Mobile food unit; and
 - (7) Weekend food vendor.
- (c) *Proration of fees.* Applicable fees may be prorated at 50 percent for food establishment permits issued on or after May 1.
- (d) *Public entities.* Food establishments operated by a public entity such as an independent school district may be exempt from paying the food establishment permit fee, if approved by the regulatory authority.

(Code 1975, § 10½-26; Ord. No. 2645, § 1(10½-21), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Secs. 18-216—18-230. - Reserved.

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DIVISION 3. - INSPECTIONS

[Sec. 18-231. - Enforcement authority; inspections; report of inspections.](#)

[Sec. 18-232. - Correction of violations; suspension of permit; revocation of permit.](#)

[Sec. 18-233. - Service of notice.](#)

[Sec. 18-234. - Hearings.](#)

[Secs. 18-235—18-250. - Reserved.](#)

Sec. 18-231. - Enforcement authority; inspections; report of inspections.

- (a) *Authority.* The city consumer health inspector or his authorized representative or as otherwise designated by the city manager is authorized to enter upon any private property and to enter any establishment, subject to the provisions of this article for the purpose of determining compliance with this article and for the purpose of determining the identity of the owner, operator, manager or supervisor thereof and all persons employed therein.
- (b) *Inspections.* Before a permit is issued, the city consumer health inspector or his authorized representative or as otherwise designated by the city manager shall inspect and approve the food establishment areas to be used. An inspection of a food establishment shall be performed at least once annually and shall be prioritized based upon assessment of a food establishment's compliance and potential of causing food borne illness according to TFER.
- (c) *Classification of food establishments.* The city consumer health inspector or as otherwise designated by the city manager shall classify food establishments as elevated priority, high priority, medium priority or low priority, according to the type of operations; particular foods that are prepared; number of people served; susceptibility of the population served; and any other risk factor deemed relevant to the operation.
- (d) *Additional inspections.* Additional inspections of the food establishment shall be performed as often as necessary for the enforcement of this article.
- (e) *Refusal to allow inspection.* Refusal of an owner, manager or employee to allow the city consumer health inspector or his authorized representative, upon presentation of credentials, to inspect any permitted business or operation therein during normal business hours will result in an immediate suspension of the permit, requiring all permitted activities to abate until after the hearing required in [section 18-232\(e\)\(1\)](#). Nothing herein or therein shall require notice of suspension of this violation.
- (f) *Inspection warrant.* In the event that the city consumer health inspector or his authorized representative or as otherwise designated by the city manager should have cause to believe that a business required to be permitted under this article is operating without a permit (or has failed to renew such permit) and refuses entry, during normal business hours, then the city consumer health inspector or his authorized representative or as otherwise designated by the city manager may apply to the city municipal court for an inspection warrant of the suspect premises upon the filing of a probable cause affidavit and compliance with the Texas Code of Criminal Procedure. If an inspection warrant is granted by the municipal court, the city consumer health inspector or his authorized representative or as otherwise designated by the city manager may be assisted in service thereof by the city police department, or such other law enforcement agencies as are deemed necessary to obtain entry.
- (g) *Building official and/or fire marshal to accompany inspector.* The city consumer health inspector or his authorized representative or as otherwise designated by the city manager may also be accompanied during inspection by the building official or his designee and/or fire marshal of the city or his designee or as otherwise designated by the city manager.

(Code 1975, § 10½-41; Ord. No. 2645, § 1(10½-31), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-232. - Correction of violations; suspension of permit; revocation of

permit.

- (a) *Enforcement procedures.* The city consumer health inspector or his authorized representative or as otherwise designated by the city manager may establish enforcement procedures to ensure compliance with this article and which are consistent with the regulations adopted herein, including, but not limited to written warnings, compliance time limits, reinspection fees, citations, permit suspensions and permit revocation.
- (b) *Inspections.* The inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:
- (1) If an imminent hazard exists, because of an emergency such as a fire, flood, extended interruption of electrical or water service, lack of hot water (at least 100;deg;F or no less than the minimum required temperature set by the TFER), sewage backup, misuse of poisonous or toxic materials, onset of apparent food borne illness outbreak, uncontrolled infestation of insects or rodents, gross unsanitary occurrence or condition, or other circumstance that may endanger public health, the permit holder shall immediately discontinue operations and notify the city department of neighborhood services. If a business is closed for any of the above mentioned violations, a closure sign shall be posted in public view. If the department of neighborhood services places the closure sign in public view, it cannot be removed or covered in any way, said sign shall state that the business was closed by the city department of neighborhood services or as otherwise designated by the city manager and shall not reopen until such time as the violations or repairs have been completed and a reinspection has been completed by a city consumer health inspector or as otherwise designated by the city manager. The consumer health inspectors or as otherwise designated by the city manager are the only persons authorized to remove the sign once it has been posted in accordance with this article. Whenever a food establishment is required under provisions of this article to cease operation, it shall not resume operations until such time as a re-inspection determines that conditions responsible for the requirement to cease operations no longer exist and any other violations addressed by the department of neighborhood services have been resolved.
 - (2) A permit holder shall, at the time of inspection, immediately correct a critical violation and implement corrective actions. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the consumer health inspector or as otherwise designated by the city manager may agree to or specify a longer time frame, not to exceed ten calendar days after the inspection, for the permit holder to correct critical control point violations.
 - (3) All noncritical violations shall be corrected by a date and time agreed to or specified by the consumer health inspector or as otherwise designated by the city manager, but no later than 90 calendar days after the inspection.
 - (4) In the case of temporary food establishments, all violations shall be corrected immediately and within a time specified by the regulatory authority, but in any event, not to exceed 24 hours following the inspection.
- (c) *Reinspection.*
- (1) Reinspections shall be to determine corrected critical and noncritical violations as defined in the regular inspection.
 - (2) Reinspections shall be to determine compliance with plan review after initial inspection and prior to issuance of permit.

- (3) When the total cumulative demerit value of a food establishment's health inspection exceeds 30 demerits, multiple critical violations exist, or the lack of overall cleanliness and sanitation poses a risk to health and safety, the establishment shall initiate immediate corrective action on all identified critical violations and shall initiate corrective actions on all other violations within 48 hours. One or more reinspections shall be conducted at reasonable time intervals to ensure correction. There shall be a reinspection fee for all additional reinspections required to determine correction. The reinspection fee shall be paid no later than 30 business days immediately following each reinspection.
- (d) *Compliance with inspection report.* The inspection report shall state that failure to comply with any time limits for correction may result in cessation of food sale and/or service operations, issuance of reinspection fees, or issuance of citations. An opportunity for a formal administrative hearing is provided for in subsection (e) of this section.
- (e) *Suspension of permit.*
 - (1) The city consumer health inspector or his authorized representative or as otherwise designated by the city manager may, without notice or hearing, suspend any permit authorized herein if the holder of this permit does not comply with the requirements of the ordinance, or if the operation otherwise constitutes a substantial hazard to the public health. Suspension is effective upon service of the notice as required in [section 18-233](#). When 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 notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the city by the holder of the permit, within ten days. The permit holder shall be afforded a hearing within ten days of the date on which the city is in receipt of the written request for said hearing.
 - (2) If the permit holder or the person in charge does not file a written request for a hearing with the city within ten days of the notice of suspension, then the suspension is sustained. The city may end the suspension at any time if the reason for suspension no longer exists.
 - (3) Whenever a food establishment is required under provisions of this article to cease operation, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exist and any other violations addressed by the department of neighborhood services have been resolved. Opportunity for reinspection shall be offered within a reasonable time.
- (f) *Revocation of permit.* The city consumer health inspector or his authorized representative or as otherwise designated by the city manager may, after providing opportunity for a hearing as specified in subsection (e) of this section, revoke a permit for serious or repeated violations of any of the requirements of this article or for interference with the city's enforcing authority in the course of his duties. The city shall notify the holder of the permit or 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 days following service of such notice unless a written request for a hearing is filed within the ten-day period, the revocation of a permit becomes final. Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit.

(Code 1975, § 10½-42; Ord. No. 2645, § 1(10½-32), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-233. - Service of notice.

A notice provided for in this article is properly served when it is delivered to the holder of the permit or person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit or is hand-delivered to the person in charge of the establishment at the time of delivery. A copy of the notice shall be filed in the records of the city.

(Code 1975, § 10½-43; Ord. No. 2645, § 1(10½-33), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-234. - Hearings.

The hearing provided for in this article shall be conducted by the city manager or his designee at a time and place designated by the city manager or his designee. After such hearing, the city manager or his designee shall sustain, reverse or modify the action of the city consumer health inspector in connection with the permit. A copy of such action shall be furnished to the appellant by the consumer health inspector within 48 hours of the issuance of the said order and decision.

(Code 1975, § 10½-44; Ord. No. 2645, § 1(10½-34), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Secs. 18-235—18-250. - Reserved.

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DIVISION 4. - TRAINING REQUIRED

[Sec. 18-251. - Food service manager's training certification.](#)

[Sec. 18-252. - Food handler card.](#)

[Secs. 18-253—18-270. - Reserved.](#)

Sec. 18-251. - Food service manager's training certification.

- (a) *Generally.* Every food service establishment permitted herein shall employ no less than one certified food manager who has attended a certified food manager's class approved by the Texas Department of State Health Services and who possesses a current North Richland Hills food manager certification. Temporary food service establishments and food service establishments that handle only prepackaged foods and non-potentially hazardous foods which require only limited preparation are exempt from the provisions of this article. Other food establishments may be exempt from this article and will be determined on a case-by-case basis depending on the type of food handling operation and the overall risk to the public health with written approval of the director of neighborhood services or his authorized representative or as otherwise designated by the city manager. In the case that a food establishment receives a score of 25 or greater for three or more health inspections within a calendar year or has extensive, repeat

critical violations and a history of noncompliance, there shall be no less than one certified food manager that meets these requirements present at the food establishment during all hours of operation.

- (b) *Certification; responsibilities.* The certified food manager must be employed on the premises of the establishment to be in compliance with this article. The certified food manager certificate shall be obtained within the first 30 days of employment in a managerial capacity. The certified food manager shall be responsible for ensuring that all food handlers are trained and certified with the city department of neighborhood services or as otherwise designated by the city manager within the first 30 days of hiring. In the event that the certified food manager is no longer employed on premises, the food establishment must employ another certified food manager who possesses a current North Richland Hills food manager certification within 30 days of the effective date of termination or permanent transfer of the previous certified food manager.
- (c) *Display of certifications.* The owner or person in charge of any establishment permitted herein shall display all such certifications in a conspicuous, public place for inspection by the city consumer health inspector or his authorized representative or as otherwise designated by the city manager. A copy of each certified food manager's certification as described and required in this article shall be filed in the records of the city.
- (d) *Fee.* The fee set out in Appendix A is intended to cover the issuing of the certificate only. If the training is obtained through the department of neighborhood services, any cost to the city for such training shall be passed on to the food service manager.

(Code 1975, § 10½-61; Ord. No. 2645, § 1(10½-51), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-252. - Food handler card.

- (a) *Required.* Every employee of a food service establishment shall obtain a food handler card from the city department of neighborhood services within the first 30 days of employment. Coordinators of concession stands, seasonal food service operations, and recurring event food vendors shall also obtain the food handler card within 30 days of operation.
- (b) *Training sessions.* Prior to obtaining a food handler card, employees shall attend a training session on food safety available through the city department of neighborhood services or as otherwise designated by the city manager or attend a certified food handler class approved by the Texas Department of State Health Services.
- (c) *Fee; filing of copy.* There shall be a fee, as set out in Appendix A, for this training session and/or the food handler card. Volunteers of non-profit and fee-exempt food establishments and food service employees of the City of North Richland Hills shall be exempt from paying this fee.
- (d) *Exemption.* Employees in food service establishments that do not work with food or food contact items and employees that have obtained certified food manager certification through the department of neighborhood services shall be exempt from this article.

(Code 1975, § 10½-62; Ord. No. 2645, § 1(10½-52), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Secs. 18-253—18-270. - Reserved.

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DIVISION 5. - REGULATIONS

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Sec. 18-271. - State sanitation regulations adopted.

The state department of health bureau of food and drugs, "Texas Food Establishment Rules," (TFER) (25 TAC 229.161—229.171, 229.173-229.175), as adopted by the state board of health, effective October 6, 1998, and as amended thereafter are hereby referenced and adopted as part of this article.

(Code 1975, § 10½-1; Ord. No. 2645, § 1(10½-1), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-272. - Examination and condemnation of food.

Food samples may be examined or taken for analysis by the city consumer health inspector or his authorized representative or as otherwise designated by the city manager as often as necessary for enforcement of this article and may, upon written notice to the owner or person in charge specifying with particularity the reasons thereof, place a hold order on any food which is believed to be in violation of any portion of this article, and shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served or removed from the establishment until the vendor of such food has furnished proof of the wholesomeness of the food product to the city consumer health inspector or his authorized representative or as otherwise designated by the city manager. The city shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within ten days and that if no hearing is requested, the food shall be destroyed. A hearing shall be held if so requested and, on the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written notice to denature or destroy such food or bring it into compliance with the provisions of this article. All costs accruing from such removal thereof shall be borne and paid for by the owner thereof.

(Code 1975, § 10½-45; Ord. No. 2645, § 1(10½-35), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-273. - Equipment and utensils; design and fabrication.

- (a) *Standards for equipment.* Residential refrigerators, freezers, and ranges are not approved for use in commercial food service establishments or food stores. Refrigeration

units will be required to maintain a product temperature of five degrees Celsius (41 degrees Fahrenheit). Smokers and grills used to prepare meats shall be of commercial grade, placed in a secured area that the public cannot access, must be maintained in a safe and sanitary manner and shall at all times of operation be under the supervision of a food service manager. Only equipment or utensils that meet or exceed the standards of the National Sanitation Foundation (NSF) are approved.

- (b) *Exception to standards.* An exception to the former equipment requirements may be made with written approval of the city consumer health inspector or his authorized representative for food establishments that will operate only under a temporary permit.

(Code 1975, § 10½-46; Ord. No. 2645, § 1(10½-36), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-274. - Equipment installation and location.

Auxiliary equipment such as water heaters, remote connected refrigerator compressors, and the central units of equipment used to treat the air by either heating, cooling, or otherwise conditioning the air must be located outside food preparation areas. If such equipment is to be installed in a food preparation area, it must be completely enclosed.

(Code 1975, § 10½-47; Ord. No. 2645, § 1(10½-37), 8-12-2002; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-275. - Sanitary facilities and equipment.

- (a) *Lavatories and hand washing sinks.* Lavatories and hand washing sinks shall be separate facilities from sinks used for food preparation or utensil washing. Such facilities located in the food preparation areas of food establishments shall be equipped with hot and cold, potable water under pressure and metered by a mixing valve. The faucet shall be equipped with wing or lever handles, wrist handles, or foot pedals in place of knobs. Automatic hand washing facilities shall allow water to flow for at least 20 seconds in order to meet required time limits for hand washing; water shall reach 100;deg;F within 20 seconds. Hot water shall reach no less than 100;deg;F or as required by Texas Food Establishment Rules at all hand sinks and lavatories within 20 seconds of operation. For new construction and those facilities that have undergone extensive remodeling, a hand washing sink shall be located to allow convenient use for employees in all food preparation, food dispensing, and ware washing areas; in, or immediately adjacent to toilet facilities; and at least one hand washing sink shall be on each cook line, for direct use by all employees while working on the cook line; and within every 25 linear feet of unobstructed space in food preparation and utensil washing areas, or as otherwise approved by the regulatory authority. An approved splash guard may be required to separate the hand washing sink from food preparation, service, or storage areas. Water heaters must be of sufficient capacity to meet all hot water needs throughout the facility during all hours of operation.
- (b) *Lavatory and hand washing sink supplies.* If hand drying devices providing heated air are provided, they may only be used in restrooms. A sanitary dispenser containing hand cleaner and a sign that states or demonstrates proper hand washing shall be provided at each lavatory and each hand sink. Sanitary disposable towels shall be provided in a dispenser conveniently located near each hand sink in food preparation and food service areas. Hand washing sinks in food preparation or food service areas shall also be equipped with a supply of single-use gloves or other specified second barrier that is properly stored and not subject to splash.

- (c) *Toilet facilities.*
- (1) All new or extensively remodeled food service establishments within the city in which food served to the customer is intended to be consumed on the premises shall be equipped with separate toilet facilities for men and women and shall comply with all requirements of the city plumbing code. An exception to this rule based on allowed occupancy of 15 people or fewer or as specified by International Building Code and facility priority rating may be made with written approval of the director of neighborhood services or his authorized representative or as otherwise designated by the city manager.
 - (2) Toilet facilities shall be located within the food service establishment and will provide the customer of said establishment direct and easy access to the establishment toilet facilities from the dining area without having to go either outside the establishment, or through the food preparation area. Employees shall have access to the toilet facilities without having to exit the building. An exception to this rule may be allowed in a theme park setting based on overall facility layout and condition of and proximity to toilet facilities with written approval of the director of neighborhood services or his authorized representative or as otherwise designated by the city manager.
- (d) *Cleaning physical facilities.* In all new or extensively remodeled food service establishments or food stores, at least one utility sink or curbed floor drain supplied with hot and cold water under pressure by means of a mixing valve or combination faucet, shall be provided and used for cleaning mops or similar wet cleaning tools and for the disposal of mop water or similar liquid wastes. In-use dish cloths must be stored in sanitizer meeting requirements stated in TFER.
- (e) *Grease traps/interceptor.* Grease traps/interceptors installed in food establishments shall be located outside the establishment, unless approved in writing by the building official, construction board of appeals, director of public works, and city consumer health inspector or his authorized representative or as otherwise designated by the city manager. Grease traps shall be located for easily accessible cleaning and shall be cleaned by a waste hauler that holds a current waste hauler permit through the department of neighborhood services. Grease traps shall be cleaned as often as required by city ordinance, state law, or federal law, but no less than twice annually (two times within 12 calendar months). Trip tickets documenting the removal of wastes shall be kept on site for review.
- (f) *Sinks.* In all new or extensively remodeled food establishments at least a three compartment sink shall be provided for the manual washing, rinsing, and sanitizing of utensils and equipment. If heat is used to sanitize equipment and utensils, a minimum temperature of 170 degrees Fahrenheit is required. If raw fruits and vegetables are cut and/or prepared on site, a separate preparation sink equipped with hot and cold water shall be installed for the purpose of washing raw fruits and vegetables. Where applicable, a separate sink shall be installed for the thawing of frozen meat products if frozen meat products are subject to rapid thawing under cool, continuously running water or for meat/seafood products that require additional preparation, such as cleaning shellfish. Preparation sinks shall be properly labeled.
- (g) *Mechanical utensil washing facilities.* In all new and extensively remodeled food establishments having mechanical utensil washing facilities, at least one three-compartment sink shall be provided in addition to the mechanical utensil washer.
- (h) *Floors, walls, ceilings.* Floors, walls, and ceilings in all food preparation, food service, ware washing, and any other area subject to splash shall be light in color, designed,

constructed, and installed so they are smooth, non-absorbent, and easily cleaned. FRP (fiberglass reinforced paneling), stainless steel, commercial tile, or other material approved by consumer health shall be required for all food preparation and food service wall surfaces. Painted concrete floors are prohibited. Carpeting may not be installed as a floor covering in any area subject to moisture, flushing, or spray cleaning methods. Carpeted areas shall be regularly cleaned and shall be removed or replaced if those areas become extremely distressed and unable to be properly repaired or become soiled, filthy, and no longer cleanable.

- (i) *Distressed merchandise, segregation, location, and marking.* 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 separated and stored properly in designated areas that are separated from food, equipment, utensils, linens, and single-service articles. Such products shall be clearly marked that they are not to be used or served.
- (j) *Employee personal storage.* Food employees shall have designated space within the food establishment to allow for storage of personal items, such as jackets, coats, personal foods, and drinks. Employee personal items shall never be stored in areas that could potentially contaminate food, food contact items, clean equipment, clean linens, or single-service/single-use articles. Employees may only drink from a non-spillable, closed beverage container that is handled and stored to prevent contamination of the employee's hands, the drink container, exposed food, clean equipment, utensils, and linens, unwrapped single-service/single-use articles.
- (k) *Pest control.* In the event that the presence of pests is determined at a food facility, the department of neighborhood services may require the food establishment to obtain additional pest control treatments in order to properly control pests. All pest control efforts shall be administered and overseen by a commercial pest control applicator licensed by the Texas Department of Agriculture, and all pest control records shall be on site and available for review.

(Code 1975, § 10½-48, Ord. No. 2645, § 1(10½-38), 8-12-2002, Ord. No. 2750, § 3, 11-10-2003; Ord. No. 3145, § 1, 8-8-2011, Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-276. - Restricted operations.

The retail sale and/or offering for sale, and/or holding for sale, of raw potentially hazardous food for consumption from temporary and mobile food establishments of all types and categories is prohibited within the city limits. The city consumer health inspector or his authorized representative or as otherwise designated by the city manager may impose additional requirements pertaining to temporary and mobile food establishments or mobile food itinerant, in order to protect the public health and may prohibit the sale of some or all potentially hazardous foods from the former establishments. Excluded from this section are businesses that sell frozen, prepackaged meals and frozen, prepackaged food products that have been packaged at a manufacturing plant inspected by the FDA, USDA, or other federal agency and deliver said product in a frozen state in commercial, refrigerated trucks. Such businesses shall obtain a solicitor's permit from the office of the city secretary and a permit to operate as a mobile food unit from the department of neighborhood services.

(Code 1975, § 10½-49, Ord. No. 2645, § 1(10½-29), 8-12-2002, Ord. No. 3145, § 1, 8-8-2011, Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-277. - Weekend food vendors.

Weekend food vendors must have a separate license for each location they serve and must provide, in writing, a statement of the location of the commissary that is used by the vendor to store food and equipment associated with the food, which must be inspected by the state department of health, or a Texas city or county health department. No operations shall be permitted in any fire lane and at least four feet of walkway into the building must remain open and unobstructed. No weekend food vendor shall operate in any zoning district other than retail or commercial. All zoning and fire regulations must be complied with. Weekend food vendors shall not be allowed to operate except within the ten feet closest to the front of the business building and shall not be allowed to operate unless the primary business building is open to the public.

(Ord. No. 2645, § 1(10½-40), 8-12-2002; Ord. No. 2958, § 2, 11-12-2007; Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Sec. 18-278. - Additional requirements.

- (a) *Temperature log and cleaning schedule required.* All medium, high, and elevated priority food establishments shall be required to keep a daily temperature log in order to ensure proper food safety and good hygienic practices. This log shall include, but is not limited to, records of refrigerator and freezer temperatures taken from internal thermometers; temperatures of potentially hazardous foods received, cooked, held hot, held cold; records of cooling potentially hazardous foods; tracked use of time as a public health control where allowed by law; calibration of thermometers; concentration of sanitizer at the mechanical utensil washing facilities and/or three-compartment dish washing sinks; records of additional training or retraining on employee good hygienic practices; food temperatures at catered events; and any other critical control point that shall be tracked in order to ensure proper food safety as established by the regulatory authority. In addition, all medium, high, and elevated priority food establishments shall be required to keep a daily cleaning schedule or log to ensure proper cleaning of all equipment and surfaces throughout the food establishment. All temperature log records and cleaning logs shall be kept on site at the food establishment for a minimum of 30 days and shall be available for review upon inspection by the regulatory authority,
- (b) *Bare hand contact documentation.* Where allowed by law, a business may opt not to use single-use gloves as a secondary barrier as required by the Texas Food Establishment Rules when handling ready to eat foods. Such business shall submit the required bare hand contact documentation stating that required training has taken place; include a statement of which secondary barrier is used; and a statement of corrective actions in the case of improper bare hand contact. This documentation shall be provided to the consumer health division and shall be available on site at the food establishment and available for review. The consumer health division shall review the submitted documentation and may approve the method submitted if the said method meets all requirements.

(Ord. No. 3145, § 1, 8-8-2011; Ord. No. 3167, § 1, 10-10-2011)

Secs. 18-279—18-310. - Reserved.