

PART II - CODE OF ORDINANCES  
Chapter 26 - BUSINESS REGULATIONS

ARTICLE VI. - FOOD AND FOOD VENDORS AND ESTABLISHMENTS

ARTICLE VI. - FOOD AND FOOD VENDORS AND ESTABLISHMENTS <sup>[48]</sup>

DIVISION 1. - GENERALLY

DIVISION 2. - FOOD SERVICE ESTABLISHMENTS

DIVISION 3. - FOOD HANDLER'S TRAINING CERTIFICATE

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FOOTNOTE(S):

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<sup>(48)</sup> **Editor's note**— Ord. No. 82-2009, § 1, adopted Nov. 3, 2009, amended Art. VI. Former Art. VI pertained to similar subject matter. For a complete history of former Art. VI see the Code Comparative Table. ([Back](#))

<sup>(48)</sup> **State Law reference**— Food and food establishments, V.T.C.A., Health and Safety Code § 433.001 et seq. ([Back](#))

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[Sec. 26-421. - Definitions.](#)

[Sec. 26-422. - Rules of state board of health adopted.](#)

[Sec. 26-423. - Cleaning standards for commercial cooking equipment adopted.](#)

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**Sec. 26-421. - Definitions.**

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

~~Authorized agent and employee means an employee of the general environmental health division of the regulatory authority.~~

~~Commissary means a central preparation facility for supplies, cleaning, food prep and servicing operations by mobile food establishments.~~

~~Central preparation facility means a location for supplies, cleaning, food prep and servicing operations by mobile food establishments.~~

~~Extensive remodeling means that 20 percent or greater of the square footage of the food establishment is to be remodeled.~~

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

*Food establishment:*

- (a) Means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:
  - (1) Such as a restaurant; retail food store; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and
  - (2) That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.
- (b) Includes:
  - (1) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

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- (2) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.
- (c) Does not include:
- (1) An establishment that offers only prepackaged foods that are not potentially hazardous as that phrase is defined by 25 Texas Administrative Code § 229.162;
  - (2) A produce stand that only offers whole, uncut fresh fruits and vegetables;
  - (3) A food processing plant;
  - ~~(4) A kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law;~~
  - (4) A Cottage Food Production Operation as defined by Texas Health & Safety Code § 437.0196;
  - (5) An area where food that is prepared as specified in subsection (c)(4) above is sold or offered for human consumption;
  - (6) A "bed and breakfast limited" facility as that phrase is defined by 25 Texas Administrative Code § 229.162; if the consumer is informed by statements contained in published advertisements, mailed brochures, or placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the Wichita City/County Public Health District; or
  - (7) A private home that receives catered or home-delivered food.

*Frozen dessert(s)* means soft serve and frozen yogurt.

*Frozen dessert pre-mix* means any raw dairy-based product used to create a frozen dessert.

*Frozen yogurt* means a food produced by the bacterial fermentation of milk and served frozen or partially frozen.

Highly susceptible population means persons who are more likely than other people in the general population to experience foodborne disease because they are:

(a) immunocompromised; preschool age children, or older adults; and

(b) obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

Imminent hazard to public health means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness based on:

(1) The number of potential illnesses, and

(2) The nature, severity, and duration of the anticipated illnesses.

*Laboratory* means a biological, physical or chemical laboratory which is under the supervision of the state or local health authority.

*Mobile food establishment* means a vehicle-mounted food establishment that is readily moveable. Mobile food establishment includes carts or trailers that are on wheels and designed to be drawn by a motor vehicle, regardless of whether the cart or trailer is fastened to a motor vehicle at any given time.

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Mobile food establishment operation means the business of a mobile food establishment or mobile food hand-cart.

Mobile food hand-cart means any mobile food establishment that is primarily moved by human power rather than being drawn by a motor vehicle which produces or vends hazardous or perishable foods.

~~Primary process means the food preparation or vending process for which the majority of the square footage of a food establishment is used. For example, in a grocery store of 20,000 square feet where 18,000 square feet are used for the display of pre-packaged groceries and 2,000 square feet are used for a fresh fish market, the primary process of that food establishment is pre-packaged grocery sales.~~

Process means the method or amount of preparation of food utilized by a food establishment before the food is provided to the individual who will consume it.

~~Pushcart means a non-self-propelled mobile food establishment on wheels. Pushcart includes a mobile food establishment on a bicycle.~~

~~Readily moveable means on wheels at all time.~~

Regulatory authority means the city-county public health district.

Soft serve means a food similar to ice cream which is created by the combination of air and dairy-based ingredients in a machine at the point of sale.

State rules means the state rules found at 25 Texas Administrative Code, chapter 229, §§ 161—171 and 173—175. These rules are also known as the Texas Food Establishment Rules.

Vend and vending mean to sell, serve or otherwise provide food for human consumption.

~~Vend point means the time and place at which food is served, vended or transferred to a consumer directly, regardless of whether there is a charge for the food.~~

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-422. - Rules of state board of health adopted.**

The city adopts by reference the provisions of the current rules or the rules as amended by the state board of health found in 25 Texas Administrative Code, chapter 229, §§ 161—171 and 173—175 regarding the regulation of food establishments.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-423. - Cleaning standards for commercial cooking equipment adopted.**

~~All food equipment in use for commercial cooking within the city must be certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program. The city adopts by reference the provisions of NSF (National Sanitation Foundation)/ANSI (American National Standards Institute) 4: NSF International Standard/American National Standard for Food Equipment—Commercial cooking, rethermalization, and powered hot food holding and transport equipment regarding the minimum food protection and sanitation requirements for the materials, design, construction, and performance of commercial cooking, rethermalization, and hot food holding and transport equipment and their related components.—Standards applicable to the materials, design and construction of commercial cooking equipment shall apply only to equipment installed after December 3, 2009.~~

(Ord. No. 81-2009, § 1, 11-3-2009)

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**Sec. 26-424. - Compliance with applicable laws required.**

All persons who manage, operate, accept employment in, or are employed in any food establishment shall comply with all applicable federal and state statutes and regulations and with all applicable sections of this Code and city ordinances.

(Ord. No. 81-2009, § 1, 11-3-2009)

~~**Sec. 26-425. - Violations.**~~

~~Any violation of this article, including a violation of the rules adopted by reference pursuant to sections 26-422 through 26-424, shall be a Class C misdemeanor punishable by a fine as set out in section 1-14. Each day upon which a violation occurs shall constitute a separate violation.~~

(Ord. No. 81-2009, § 1, 11-3-2009)

**Secs. 26-426—26-450. - Reserved.**

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~~Secs. 26-451 - 26-475. - Reserved.~~

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Subdivision II. - Permit

~~Subdivision II. - Permit~~

[Sec. 26-476. - Required.](#)

[Sec. 26-477. - Application and renewal.](#)

[Sec. 26-478. - Inspection.](#)

[Sec. 26-479. - Compliance required; posting; term; fee.](#)

[Sec. 26-480. - Review of plans.](#)

[Sec. 26-481. - Suspension.](#)

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[Secs. 26-484—26-510. - Reserved.](#)

**Sec. 26-476. — PERMIT Required.**

A person may not operate a food establishment without a valid, current permit issued by the regulatory authority. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this division. A valid permit must be posted per [section 26-479](#) in or on every food establishment regulated by this division.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-477. - Application and renewal.**

- (a) Any person desiring to operate a food establishment must make written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment, and any information required by [section 26-480](#). The application must be submitted with the applicable fee. An incomplete application will not be accepted.
- (b) Failure to provide all required information or falsifying information required may result in denial or revocation of the permit.
- (c) All permits issued under this subdivision shall remain in force for one year from the date of issuance unless revoked or suspended by the regulatory authority. Permit fees shall be paid to the regulatory authority at the time of application for initial permits and 15 days prior to permit expiration for renewal permits. All permit holders, including non-profits, that submit renewal applications and or fees after the permit expires will be assessed a late charge. A complete application with updated information is required for each renewal permit. Any changes to the physical facility, menu or equipment must be included in the renewal application, reported to the regulatory authority when renewing permits.

(Ord. No. 81-2009, § 1, 11-3-2009)

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**Sec. 26-478. - Inspection.**

Prior to the approval of an initial food establishment permit or the renewal of an existing permit, the regulatory authority shall inspect the proposed food establishment to determine compliance with applicable laws and state rules. A food establishment that does not comply with applicable laws and state rules will be denied a permit or the renewal of a permit.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-479. - Compliance required; posting; term; fee.**

- (a) Only persons who comply with the requirements of this division shall be entitled to receive and retain a permit required by this subdivision. Such permit shall be posted in a conspicuous place in public view in or on the food establishment. All permits issued under this subdivision remain in force one year from the date of issuance unless revoked or suspended.
- (b) The following permits will be issued under this subdivision:

- (1) *Process 1: low to moderate risk.* This process involves food sale with or without preparation and includes no cooking. Generally, the steps in this process are: Receive → Store → Prepare → Hold → Serve → Vend → Stock.
- (2) *Process 2: high risk.* This process involves food preparation for same day service. Generally, the steps in this process are: Receive → Store → Prepare → Cook → Hold → Serve.
- (3) *Process 3: very high risk.* This process involves complex food preparation. Generally, the steps in this process are: Receive → Store → Prepare → Cook → Cool → Reheat → Hot Hold → Serve.

(i) Any prepared foods that require a Hazard Analysis Critical Control Point Plan as defined by 25 Texas Administrative Code 228.224(d).

(ii) Any foods prepared for highly susceptible populations; or

(iii) Foods determined by the Health District to be very high risk.

- (4) *Temporary events.* These events last no more than seven consecutive days and applicants are limited to five-seven temporary event permits per year. No annually permitted establishment shall allow temporary event food vending at their site unless a temporary event application has been submitted to the regulatory authority.

(5) Seasonal permit. Any facility which operates for a period of no more than 6 consecutive months out of a 12 month period from January to December and has a limited menu that does not offer very high risk foods may apply for a seasonal permit instead of a Process 1 or 2 permit.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-480. - Review of plans.**

- (a) Whenever a food establishment is constructed or more than 20% of its square footage is extensively remodeled and-or whenever an existing structure is converted to use as a food establishment, then plans and specifications properly prepared by an architect or engineer for such construction, remodeling or conversion shall be submitted to the City of Wichita Falls Building Inspection Division for dissemination to the regulatory authority for review before work is begun. If the structure is over

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2,500 square feet, is a mobile food establishment, or the cost of the structure exceeds \$50,000, the plans must be submitted by an architect or engineer. The submitted plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. Every commissary shall additionally submit plans showing refrigerated and dry storage areas reserved for mobile unit use. Food establishments that have been closed and are being reopened under new management as the same type of establishment shall be required to submit new equipment specifications and a floor plan of the food establishment. The regulatory authority shall approve the plans and specifications if they meet the requirements of the rules adopted by this division. The approved plans and specifications must be followed in construction, remodeling or conversion.

(b) Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

(c) The regulatory authority may collect fees in consideration of reviewing plans as established by separate ordinance.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-481. - Suspension.**

(a) 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. A supervisor at the regulatory authority will confirm the hazard before suspension is effective when possible. Suspension is effective upon service of the written notice required by this subdivision. When a permit is suspended, food operations shall immediately cease. The regulatory authority may end the suspension at any time if the reason for suspension no longer exists.

(b) Whenever a permit is suspended, the holder of the permit or the person in charge of the food establishment at the time of suspension shall be notified in writing that the permit is, upon service of the notice, immediately suspended. Opportunity for a hearing will be provided if the holder of the permit files a written request with the regulatory authority within ten days of receipt of written notice of suspension. Whenever a permit is suspended and a request for hearing made, the holder of the permit shall be afforded a hearing within 20 days of the receipt by the regulatory authority of a request for a hearing. If no written request for a hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist. A re-inspection fee will be charged for all inspections required by a compliance schedule as established by separate ordinance.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-482. - Revocation of permit.**

The regulatory authority may, after providing opportunity for a hearing, revoke a food establishment permit for serious or repeated violations of any of the requirements of this division 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 of the food establishment at the time of revocation, in writing, of the reason for which the permit is subject to revocation. The permit shall be revoked at the end of ten days following service of such notice unless the holder of the permit files a written request for a hearing with the regulatory authority within such ten-day period. If no request for a hearing is filed within the ten-day period, the revocation of the permit becomes final.

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(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-483. - Service of notice; conduct of hearings.**

- (a) A notice as required in this subdivision is properly served when it is hand delivered to the holder of the permit or the person in charge of the food establishment at the time of the notice or when it is sent by registered or certified mail, return receipt requested, 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.
- (b) The regulatory authority shall conduct the hearings provided for in this subdivision at a time and place designated by the regulatory authority. 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. The regulatory authority shall furnish a written report of the hearing decision to the holder of the permit.

(c) The regulatory authority may charge re-inspection fees for compliance inspections scheduled as a result of a revocation hearing that may require additional inspections. Fee amounts will be set by separate ordinance.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Secs. 26-484—26-510. - Reserved.**

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**Subdivision III. - Frozen Dessert Regulations**

[Sec. 26-511. - Frozen dessert standards.](#)

[Sec. 26-512. - Frozen dessert certification required.](#)

[Sec. 26-513. - Suspension, revocation and reinstatement of frozen dessert certification.](#)

[Sec. 26-514. - Labeling.](#)

[Sec. 26-515. - Vending without certification.](#)

[Sec. 26-516. - Possession or receiving from manufacturer without certification.](#)

[Secs. 26-517—26-544. - Reserved.](#)

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**Sec. 26-511. - Frozen dessert standards.**

(a) All frozen desserts must meet the following standards:

- (1) Maximum temperature: 41°F;
- (2) Maximum total coliform; 150/ml.

(b) All soft serve must meet the following standard:

- (1) Maximum standard plate count: 200,000/ml.  
(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-512. - Frozen dessert certification required.**

(a) Every food establishment that prepares, serves, provides, sells, displays or stores for future sale, or offers for sale frozen desserts for human consumption must have a frozen dessert certification in addition to its permit, regardless of permit category.

(b) In order to receive and maintain frozen dessert certification:

- (1) One employee from each mobile, stationary, temporary, seasonal or permanent facility or location must attend and successfully complete frozen dessert training ~~annually~~. Such training is good for two years. The regulatory authority will provide frozen dessert training four times a year to provide instruction in general operation, cleaning and maintenance procedures.
- (2) At least ~~three~~ one samples of any frozen dessert pre-mix and ~~three~~ one samples of any final frozen dessert product shall be sampled annually by the regulatory authority from each machine operated by a food establishment. Each sample will be submitted to an approved laboratory for analysis of its content.
- (3) If any samples collected from a food establishment are not within the standards established in [section 26-511](#), additional samples will be collected and an inspection of the equipment and facility will be conducted to determine the reason for the violation of the standards. No food establishment shall adopt any procedures that would result in repeated failures of the first

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samples collected for any annual inspection. Two consecutive frozen dessert samples determined by laboratory analysis to be above the limits of the standards will result in suspension of the permit to operate the food establishment or suspension of the frozen dessert certification. A resample and inspection fee will be charged for each consecutive inspection and sample tested after a permit or certification has been suspended.

- (c) The certification shall be posted in a conspicuous place in public view.
- (d) All certifications issued under this subdivision shall remain in force for one year from the date of issuance unless revoked or suspended.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-513. - Suspension, revocation and reinstatement of frozen dessert certification.**

- (a) A frozen dessert certification issued under this subdivision may be suspended or revoked by the regulatory authority upon the violation by the holder of any of the terms of this article.
- (b) Any person or food establishment whose frozen dessert certification has been suspended or revoked shall immediately discontinue the preparation, service, provision, sale, display or storage for future sale of frozen dessert until the defects that caused the suspension have been corrected and the certification reinstated. Following correction, the applicant may request reinstatement of the certification by the regulatory authority. The regulatory authority may require the certification holder to demonstrate proper cleaning procedures and maintenance of the frozen dessert equipment before reinstating the certification.
- (c) Notice of suspension or revocation, and the conduct of hearing for any suspension or revocation of a frozen dessert certification shall be conducted under the procedures established in [26-481](#) through [26-483](#)

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-514. - Labeling.**

All frozen dessert products and frozen dessert pre-mix not sold at the point of manufactured origin must be properly labeled according to current Food and Drug Administration guidelines.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-515. - Vending without certification.**

It shall be unlawful for any person to prepare, serve, provide, sell, display or store for future sale, or offer for sale frozen desserts at a food establishment that does not hold a current frozen dessert certification.

(Ord. No. 81-2009, § 1, 11-3-2009)

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**Sec. 26-516. - Possession or receiving from manufacturer without certification.**

It shall be unlawful for any person to receive into the city for sale or to offer for sale in the city or to have in storage for future sale ice cream mix or frozen dessert pre-mix without first applying for all required permits and certifications from the regulatory authority.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Secs. 26-517—26-544. - Reserved.**

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DIVISION 3. - FOOD HANDLER'S TRAINING CERTIFICATE

**DIVISION 3. - FOOD HANDLERS AND RESPONSIBLE PERSONS IN CHARGE FOOD HANDLER'S TRAINING CERTIFICATE**

Sec. 26-545. - Required.

Sec. 26-546. - Application.

Sec. 26-547. - Temporary receipt; issuance.

Sec. 26-548. - Training courses accepted.

Sec. 26-549. - Fee.

Sec. 26-550. - Records to be kept.

Secs. 26-551—26-569. - Reserved.

**Sec. 26-545. - Food Handler's Training Certificate Required.**

It shall be unlawful for any person to accept employment in any food establishment without securing from the regulatory authority a food handler's training certificate. It shall be unlawful for any person operating or managing any food establishment to employ or retain any person or allow any person to work as a food handler unless that person has obtained either a current temporary receipt issued under [section 26-548](#) or a current food handler's training certificate.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-546. — Application and Administration n.**

The regulatory authority may administer a food handler's training certificate and food protection manager's certificate program. Any person who is required to have ~~a food handler's training~~ certificate under this division shall make application to the regulatory authority. Every applicant shall attend and successfully complete a training ~~course in sanitation and the handling of food. The course must be approved for this purpose~~ by the regulatory authority.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-547. - Temporary receipt; issuance.**

- (a) When an applicant for a certificate required by this division makes application to the regulatory authority, a temporary receipt, valid for 30 calendar days, will be issued to the applicant to allow the applicant to continue employment at a food establishment while completing the food handler's training certificate course ~~required by section 26-546~~. Applicants are limited to ~~three successive one~~ temporary receipts. If an applicant has not successfully completed the food handler's training course by the time the third temporary receipt expires, he cannot continue employment as a food handler.
- (b) Upon successful completion of the food handler's training certificate ~~training~~ course, the regulatory authority will issue a food handler's training certificate, which shall expire two years from the date of the food handler's certificate application. ~~The fourth consecutive food handler's training certificate shall become permanent, and attending future food handler's training courses is not required. Permanent food handler's cards previously granted by the regulatory authority will be honored.~~

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(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-548. - Food Handler's Training Certificate Training courses accepted.**

The regulatory authority shall accept training issued by all companies or programs approved by the Texas Department of State Health Services under 25 TAC § 229.178. Persons who have completed such training shall make application to the regulatory authority for food handler's training certification and pay the appropriate fee to be registered as a food handler.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-549. - Fees.**

~~A~~Fees shall be charged by the health district for ~~completing\_ administering~~ the food handler's training certificate ~~and and food protection manager's certificate programs maintaining records~~. There shall be a charge for replacement cards.

(Ord. No. 81-2009, § 1, 11-3-2009)

~~**Sec. 26-550. - Records to be kept.**~~

~~It shall be the duty of the regulatory authority to provide for the keeping of a permanent record, together with the date of issuance of all permanent food handler's certificates issued to a person under this division. All other food handler's certificate records shall be kept for a period of not less than five years.~~

Sec. 26-550 Responsible Person in Charge must have Food Protection Manager's Certificate.

(a) It shall be unlawful for any person to own or manage a food establishment without assigning or designating a responsible person in charge who shall be present at the food establishment during hours of operation.

(b) The person to be designated a responsible person in charge shall possess a valid, current food protection manager's certificate, which shall be issued upon passing a test approved by the Texas Department of State Health Services which ensures that the person to be designated a responsible person in charge has sufficient knowledge of the risks of foodborne illness inherent to the food operation, knowledge of foodborne disease prevention, application of Hazard Analysis Critical Control Point principles, the requirements of these rules, and any other necessary information as outlined in 25 Texas Administrative Code 229.163(b)(3).

(Ord. No. 81-2009, § 1, 11-3-2009)

**Secs. 26-551—26-569. - Reserved.**

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*DIVISION 4. - MOBILE FOOD*

*VENDORS*

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Sec. 26-570. - Annual inspection required.

Sec. 26-571. - Central preparation facility and records required.

Sec. 26-572. - Mobile food establishment restrictions.

Sec. 26-573. - Backing truck to make or attempt sale.

Sec. 26-574. - Unauthorized persons prohibited in mobile food establishment.

Secs. 26-575 - 26-599. - Reserved.

**Sec. 26-570. - Annual inspection required.**

The regulatory authority shall inspect every mobile food establishment during normal business hours at 1700 Third Street each year prior to the mobile food establishment's use for vending. Additional inspections shall be made when indicated. The regulatory authority shall inspect each mobile food establishment to determine whether it complies with this article and state and local laws, and whether it qualifies as a mobile food establishment.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-571. - Central preparation facility and records required.**

(a) Mobile food establishments shall operate from a commissary or other fixed food establishment and shall report to such location daily for supplies and for daily cleaning and servicing operations. The commissary or other fixed food establishment shall be permitted and inspected separately from the mobile food establishments it services.

(b) Mobile food establishments shall maintain, for a period of no less than 180 days, records of daily commissary reporting. Such records shall contain the name and address of the commissary and the name or identification number of the mobile unit. The records shall note the daily service of the water system, the daily service of the sewage system, the daily cleaning of the mobile food establishment interior, and the name of the person responsible for such. The records shall also note the frequency of the cleaning of the exterior of the unit. These records shall be provided to the regulatory authority upon request.

(Ord. No. 81-2009, § 1, 11-3-2009)

**Sec. 26-572. - Mobile food establishment restrictions.**

(a) A person shall not vend on any portion of city streets where the speed limit exceeds 30 miles per hour or on four-lane divided roadways.

(b) A person shall not vend within 500 feet of any property used as a public or private elementary, junior high, middle or high school from one hour before the regular school day to one hour after the regular

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~~school day. This subsection shall not apply on days when children do not attend the school in question.~~

- ~~(c) A person shall vend only when the mobile food establishment is lawfully parked or stopped.~~
- ~~(d) A person shall vend only from the side of the mobile food establishment away from moving traffic and as near as possible to the curb or edge of the street.~~
- ~~(e) A person shall not vend from a mobile food establishment to a person standing in the roadway.~~
- ~~(f) A person shall not stop a mobile food establishment on the left side of a one-way street to vend.~~
- ~~(g) A person shall not vend from a mobile food establishment on a street unless there is a clear view of the mobile food establishment for a distance of 200 feet in each direction.~~
- ~~(h) A person shall not set up, maintain or permit the use of any tables, chairs or benches for customer seating outside or within 20 feet of a mobile food establishment.~~
- ~~(i) A person shall not make any alteration, removal, attachments, placement or change in, under or upon a mobile food establishment that would prevent or otherwise reduce ready mobility.~~

~~(Ord. No. 81-2009, § 1, 11-3-2009)~~

~~Sec. 26-573. - Backing truck to make or attempt sale.~~

~~The driver or operator of a mobile food establishment shall not back the vehicle or trailer to make or attempt a sale.~~

~~(Ord. No. 81-2009, § 1, 11-3-2009)~~

**Sec. 26-574. - Unauthorized persons prohibited in mobile food establishment.**

- ~~(a) The driver or operator of a mobile food establishment shall not permit any unauthorized person to ride in or on the vehicles or trailers comprising the mobile food establishment.~~
- ~~(b) A person shall not ride in or on a mobile food establishment unless employed by its owner or unless authorized in writing to do so by the owner or police department.~~

~~(Ord. No. 81-2009, § 1, 11-3-2009)~~

**Sec. 26-570. - Permit requirements.**

(a) No person shall operate a mobile food establishment who does not possess a valid, current mobile food establishment permit from the regulatory authority as provided in this article. The permit for a mobile food establishment shall specify the type of food to be vended, the manner in which the food is to be vended, and include a description of any vehicle or hand-cart to be used in the food vending operation.

(b) A person seeking a mobile food establishment permit from the regulatory authority shall make application on a form provided by the regulatory authority, and shall provide all of the information listed in the following subsections as part of the application:

- (1) The name and address of the owner and operator;

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(2) A copy of a current driver's license of the owner and operator, if the mobile food establishment is to be powered by a motor or towed;

(3) If the applicant represents a corporation, limited liability company, association, or partnership, the names and addresses of the persons responsible for the entity's operations;

(4) The name under which the mobile food establishment will be operated;

(5) A description of the type of food or the specific foods to be vended;

(6) The manner of mobile food vending operation to be conducted;

(7) A description of all vehicles to be used in the mobile food establishment operation along with the license or registration and vehicle identification number of said vehicles, and a copy of the current certificate of liability for all said vehicles;

(8) The address and food establishment permit number of the central preparation facility for all vehicles to be used in the mobile food establishment operation; and

(9) Any other information required by the regulatory authority.

(c) Upon receiving a proper application for a mobile food establishment permit, the regulatory authority shall inspect the location, food, equipment, vehicles and other reasonable matters concerning the mobile food establishment operation and shall issue a permit and a sticker only if:

(1) The application complies with subsection (b) and

(2) The inspection reveals compliance with the applicable requirements of all federal and state statutes and regulations, and city ordinances governing the proposed mobile food establishment operation.

(d) Fees shall be determined by the risk Process Level appropriate for the establishment and be in addition to any central preparation facility fees.

(e) A valid permit sticker shall be displayed by a mobile food establishment.

(f) Mobile food establishment permits shall be valid for one year from the date of issuance unless suspended or revoked.

(g) Mobile food establishment permits shall not be transferred or assigned and shall be considered revoked should the character of the food vending operation be changed from that specified in the permit.

(h) Every mobile food establishment permit shall be renewed each year in like manner as the original permit application.

established by separate ordinance.

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(i) The regulatory authority shall make routine, unannounced inspections of mobile food establishments, mobile food hand-carts, outdoor food courts, and commissaries when applicable, to determine whether or not the operation is being conducted in such a manner as to comply with the conditions of the permit, the provisions of this article, other applicable city ordinances and state and federal statutes, regulations and rules.

(j) The regulatory authority may take and retain samples of food and other substances used in the preparation of food and examine it for the detection of unwholesome and deleterious qualities. The regulatory authority may condemn and forbid the sale of or cause to be removed or destroyed, any food which is adulterated, tainted, diseased, fermented, decaying or otherwise unwholesome, unclean or deleterious to health. The owner, operator or other person in charge of such food shall immediately and in the presence of the regulatory authority, destroy such adulterated, tainted, diseased, fermented, decaying or otherwise unwholesome, unclean food as directed by the regulatory authority.

**Sec. 26-571. - Operation requirements and restrictions.**

Mobile food establishments are subject to the following requirements and restrictions unless specifically addressed otherwise:

(a) It shall be unlawful to operate any mobile food establishment unit handling open potentially hazardous foods as defined by Chapter 25 of the Texas Administrative Code, Section 228.2(74) unless the mobile food establishment unit is commercially manufactured.

(b) It shall be unlawful for a person to vend on any portion of city streets where the speed limit exceeds 30 miles per hour or on four-lane divided roadways.

(c) It shall be unlawful for a person to vend from a mobile food establishment within an "active school crossing zone" as defined by the Texas Transportation Code.

(d) It shall be unlawful for a person to vend from a mobile food establishment unless the mobile food establishment is lawfully parked or stopped.

(e) It shall be unlawful for a person to vend from the side of the mobile food establishment facing moving traffic. Mobile food establishments shall vend from as near as possible to the curb or edge of the street.

(f) It shall be unlawful for a person to vend from a mobile food establishment to a person standing in the roadway.

(g) It shall be unlawful for a person to stop a mobile food establishment on the left side of a one-way street to vend.

(h) It shall be unlawful for a person to vend from a mobile food establishment on a street unless there is a clear view of the mobile food establishment for a distance of 200 feet in each direction.

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(i) It shall be unlawful for the owner or operator of a mobile food establishment to set up, maintain or provide service to any tables, chairs or benches for customer seating outside or within 20 feet of a mobile food establishment. This prohibition does not apply to approved outdoor food courts.

(j) It shall be unlawful for a person to make any alteration, removal, attachments, placement or change in, under or upon a mobile food establishment that would prevent or otherwise reduce ready mobility.

**Sec. 26-572. - Sanitation requirements for all mobile food establishments.**

Mobile food establishments (including mobile food hand-carts) shall comply with the following requirements. These requirements pertain to all such establishments unless specifically addressed otherwise:

(a) Mobile food establishments shall comply with all sanitation and construction regulations as outlined in 25 Texas Administrative Code Rule 229.166 as adopted in this chapter unless specifically addressed in this section.

(b) A mobile food establishment shall be operated from a central preparation facility and shall report to the central preparation facility each day of operation for all cleaning and servicing operations. The mobile food establishment shall acquire needed supplies from the central preparation facility or other approved source. The mobile food establishment shall provide documentation of each visit to the central preparation facility and shall have that documentation available for inspection. Mobile food establishments dispensing fresh fish and shrimp, prepackaged novelty ice cream, whole, uncut fruit and vegetables and individual portion size nonperishable foods such as pickles, candy, peanuts and including snow cones/shaved ice/raspas are exempt from this provision.

(c) Certain foods shall require additional equipment or sanitation procedures to ensure safety:

(1) Mobile food establishments that sell snow cones, shaved ice, or raspas shall provide a gravity fed hand washing system, soap, and paper towels at the establishment. Such establishments shall be designed so as to enable the operator of the unit to protect the equipment, syrup, ice and utensils used in the operation of the unit from dust, insects and rodents while the unit is in transit or overnight storage.

(2) Mobile food establishments or mobile food hand-carts that sell shrimp, fish, shellfish, or crustacea shall ensure that all such products are safe for human consumption, from an approved source, in sound condition, and free from spoilage, filth, or any other type of contamination. Shrimp shall be maintained at 41° Fahrenheit or below, and stored in either a mechanical refrigeration unit, or in ice in a clean and sanitized container with a lid. Ice must be from an approved source. Additionally, the establishment must install a three-compartment sink, plumbed with hot (minimum 110° F) and cold running water under pressure, for the purpose of cleaning and sanitizing the food contact surfaces of equipment and utensils. A handwash sink "equipped to provide water at a temperature of

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at least 100° F through a mixing valve or combination faucet” shall also be provided and furnished with soap and paper towels.

(d) Liquid waste resulting from any mobile vending operation shall be stored in permanently installed retention tanks of at least 15 percent larger capacity than the water supply tank but of no less than 30 gallon capacity and shall be drained and thoroughly flushed during servicing operations. All liquid waste shall be discharged to an approved sanitary sewage disposal system at the central preparation facility.

(e) All food that requires packaging or advance preparation by the mobile food establishment shall be processed in the central preparation facility.

(f) Mobile food establishments which are parked and engaged in operations shall provide waste containers for customers sufficient to handle the volume of waste generated by the mobile food establishment. Waste containers shall be emptied or disposed of at the central preparation facility.

**Sec. 26-573. - Sanitation requirements for mobile food establishments with facilities to prepare food.**

Mobile food establishments preparing and vending food on-site, commonly referred to in the trade as "hot trucks," shall comply with the following additional requirements:

(a) A mobile food establishment servicing area shall be provided at the central preparation facility, and shall include at least overhead protection for any supplying, cleaning or servicing operation. Within this servicing area, there shall be a location provided for the flushing and the draining of liquid waste separate from the location provided for water servicing and for the loading and the unloading of food and related supplies.

(b) The central preparation facility will provide a date/time device, with associated means to record the date and time, and require each mobile food establishment that is serviced to document the date and time of arrival and departure from the central preparation facility. The mobile food establishment will make available for inspection the record of the date and time of the servicing at the central preparation facility.

(c) Approved water storage facilities for potable water shall be provided on the mobile food establishment and shall be of sufficient capacity (minimum 25 gallons) to furnish enough water for food preparation, utensil cleaning and sanitizing, and hand washing. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil or grease and it shall be kept capped when not being used to fill the storage facility. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water and gas distribution pipes or tubing shall be constructed and installed in accordance with public health and plumbing standards as set out by the ordinances of the city. The water for said operations shall be from an approved source.

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(d) A 10-gallon capacity heating device, or an instantaneous heater, capable of producing 110° Fahrenheit hot water shall be provided in the mobile food establishment.

(e) All operations related to the preparation of food shall be carried on from within the mobile food establishment.

(f) Any additional equipment or the arrangement thereof other than approved when the permit was issued shall be prohibited unless approved in advance by the regulatory authority.

**Sec. 26-574. - Sanitation requirements for mobile food hand-carts.**

In addition to those requirements applicable to all mobile food establishments, the following requirements shall be met by mobile food hand-carts:

(a) All equipment utilized in the mobile food hand-cart shall have prior approval of the regulatory authority.

(b) Snowcone, shaved ice, and raspa vendors shall provide a gravity fed hand washing station on the mobile food hand-cart. Soap and paper towels are to be provided. Waste water from handwashing is to be collected in a sealable container and disposed of in a sanitary sewer.

(c) Any additional equipment or the arrangement thereof other than approved when the permit was issued shall be prohibited unless approved in advance by the regulatory authority.

(d) The mobile food hand-cart shall be located in clean surroundings, on concrete, brick or equally impervious ground and maintained in a clean and sanitary condition.

(e) It shall be unlawful for a mobile food hand-cart to operate on the public streets and city parks.

(f) The mobile food establishment hand-cart shall be cleaned and serviced at the central preparation facility at the beginning of each day and shall be stored inside a building when not in operation. The mobile food establishment shall acquire needed supplies from the central preparation facility or other approved source. The mobile food establishment shall provide documentation of each visit to the central preparation facility and shall have that documentation available for inspection.

(g) Each mobile food hand-cart vending food in storage containers open to the air shall:

(1) Provide only single service articles for use by consumers; and

(2) Set aside a separate space for non-food related items.

(h) Each mobile food hand-cart shall have a stainless steel hand wash lavatory and a stainless steel sink with a minimum of 2 compartments when utensil washing is required. Both must provide adequate amounts of hot and cold water under pressure, and access shall be provided to a supply of paper towels, soap, and detergent. Each mobile food hand-cart shall also have

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adequate drainboard space. This subsection does not apply to mobile food hand-carts vending only prepackaged food products.

(i) Each mobile food hand-cart shall provide and have available for the public a flyproof, lidded trash container for the disposal of refuse. Such trash container may be either on the mobile food hand-cart or located conveniently nearby.

(j) Each mobile food hand-cart employing butane or propane tanks shall comply with any and all applicable fire department regulations. Ground fault interrupters may be required by the fire department as a safety feature to prevent electrical shock. Each mobile food hand-cart subject to these requirements shall be equipped with an approved fire extinguisher with a 2A 10BC rating.

(k) When the mobile food hand-cart is operated outside, a cleanable canopy shall extend over the mobile food hand-cart and cover its top surface.

(l) No advertising shall be permitted on any mobile food hand-cart except for the posting of prices, the identification of the name of the product, and the name of the vendor.

**Sec. 26-575. - Operation requirements and restrictions for outdoor food courts.**

(a) Outdoor food courts shall comply with the following requirements:

(1) The property must comply with all provisions of Appendices A and B of this Code;

(2) All mobile food establishments situated on the outdoor food court premises shall be located on an impermeable surface such as concrete or rolled asphalt;

(3) All mobile food establishments that remain on the outdoor food court premises overnight shall have temporary connections for electricity, potable water and sewage disposal, or a system to adequately provide these services to each mobile food establishment.

(4) All outdoor food courts that provide overnight connections must have an adequately sized and permitted grease trap.

(5) All mobile food establishments that are unable to comply with the requirements of this subsection shall be removed from the property overnight and serviced by an approved central preparation facility prior to its next day of operation; and

(6) A restroom equipped with flush type toilets and properly plumbed to a sanitary sewage system with sufficient capacity to meet the needs of the outdoor food court's mobile food establishments and customers shall be available on the outdoor food court premises. Restrooms shall be equipped with hand sinks, soap, hot and cold water and either hand towels or forced air hand dryers.

(b) Permanent pavilions and seating areas for customers may be provided at an outdoor food court.

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(c) If the outdoor food court provides adequate central preparation facility and storage for the mobile food establishments as determined by the health district, those mobile food establishments may be exempt from the central preparation facility requirements of this article during such time as they remain on the outdoor food court premises.

**Secs. 26-575—26-599. - Reserved.**

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Subdivision II. - Pushcarts and Vending Afoot

~~Subdivision II. - Pushcarts and Vending Afoot~~

~~Sec. 26-600. - Compliance required.~~

~~Sec. 26-601. - Permits required.~~

~~Sec. 26-602. - Suspension and revocation of permits.~~

~~Sec. 26-603. - Prohibited conduct.~~

~~Sec. 26-604. - Standards.~~

~~Sec. 26-605. - No vested right to location.~~

~~Sec. 26-606. - Advertising.~~

~~Secs. 26-607 - 26-690. - Reserved.~~

~~Sec. 26-600. - Compliance required.~~

~~It shall be unlawful for an individual to operate a pushcart or to vend food items afoot without complying with this subdivision and any applicable requirements of this article.~~

~~{Ord. No. 81-2009, § 1, 11-3-2009}~~

~~Sec. 26-601. - Permits required.~~

~~No person shall vend food items from a pushcart or vend food items from afoot who does not possess a license required by the city and all applicable permits which may be required under this article.~~

~~{Ord. No. 81-2009, § 1, 11-3-2009}~~

~~Sec. 26-602. - Suspension and revocation of permits.~~

~~Notice of suspension or revocation, and the conduct of hearing for any suspension or revocation of a permit for a pushcart or vending afoot shall be conducted under the procedures established in sections 26-481 through 26-483.~~

~~{Ord. No. 81-2009, § 1, 11-3-2009}~~

~~Sec. 26-603. - Prohibited conduct.~~

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~~No person shall:~~

- ~~(1) — Operate a pushcart in any area other than that area bounded by the street curb (or edge of the pavement, if no curb is in existence) and the property line abutting the street right-of-way line.~~
  - ~~(2) — Operate a pushcart or vend any food within 25 feet of the street corner of an intersection.~~
  - ~~(3) — Operate a pushcart within ten feet of a driveway or alley and its approach.~~
  - ~~(4) — Operate a pushcart in such a manner as to obstruct or hinder the movement of pedestrian traffic. There shall be a clear pedestrian path with a minimum width of three feet at all times.~~
  - ~~(5) — Leave any mobile pushcart unattended or park a pushcart in one location for extended periods of more than 24 hours. It shall be a defense to prosecution under this section that the pushcart was legally parked at its commissary for service or storage.~~
  - ~~(6) — Store or leave any pushcart overnight on any street or sidewalk or park any pushcart in any location other than in a lawful parking place in conformance with city and state parking regulations.~~
  - ~~(7) — Operate a pushcart or vend food items afoot while selling food for immediate consumption unless he has his own trash receptacle which is readily available for his patrons' use.~~
  - ~~(8) — Leave any location after operating a pushcart of vending food items afoot without first picking up, removing and disposing of all trash or refuse remaining from sales made by him.~~
  - ~~(9) — Set up, maintain or permit the use of any table, carton, rack, or any other device or item to increase the selling or display capacity of his pushcart.~~
  - ~~(10) — Set up, maintain or permit the use of any tables, chairs or benches for customer seating outside or near a pushcart.~~
  - ~~(11) — Solicit or conduct business from a pushcart or while vending afoot with persons in motor vehicles, other than motor vehicles which are legally parked.~~
  - ~~(12) — Sell anything other than that which he is licensed to vend.~~
  - ~~(13) — Employ or permit the use of artificial lighting devices on a pushcart, which would create a hazard to motorists.~~
  - ~~(14) — Solicit or conduct business within 100 feet of the place of business of any merchant who sells food for immediate consumption.~~
- ~~{Ord. No. 81-2009, § 1, 11-3-2009}~~

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Subdivision II. - Pushcarts and Vending Afoot

~~Sec. 26-604. - Standards.~~

~~(a) — A pushcart shall be no larger than four feet wide, five feet long, and four feet tall, excluding a shade umbrella.~~

~~(b) — All equipment installed or stored in any part of a pushcart shall be secured in order to prevent movement during transit and to prevent detachment in an overturn or a collision.~~

~~(Ord. No. 81-2009, § 1, 11-3-2009)~~

~~Sec. 26-605. - No vested right to location.~~

~~A person who operates a pushcart or vends food items afoot shall have no vested right to any location.~~

~~(Ord. No. 81-2009, § 1, 11-3-2009)~~

~~Sec. 26-606. - Advertising.~~

~~No advertising shall be permitted on any pushcart except for the posting of prices, the identification of the name of the product, and the name of the vendor.~~

~~(Ord. No. 81-2009, § 1, 11-3-2009)~~

~~Secs. 26-607 — 26-690. - Reserved.~~