

## **ARTICLE VI** **FOOD ESTABLISHMENT RULES<sup>1</sup>**

### **DIVISION 1** **GENERALLY**

#### **§ 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:

**Food.** 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:**

- (1) Means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:
  - a. 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; (machine) self-service food market, conveyance used to transport people; institution; or food bank; and
  - b. 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.
- (2) Includes:
  - a. 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
  - b. 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.
- (3) Does not include:
  - a. An establishment that offers only prepackaged foods that are not time/temperature control for safety food;
  - b. A produce stand that only offers whole, uncut fresh fruits and vegetables;

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1. Editor's Note – Ord. No. 31-2019, Sec. 1, Adopted Aug. 6, 2019, Amended Art. VI In Its Entirety To Read As Herein Set Out. Former Art. VI, Secs. 26-421–26-424, 26-476–26-483, 26-511–26-524, 26-545–26-549, 26-570–26-575, Pertained To Food And Food Vendors And Establishments, And Derived From Ord. No. 53-2015, Secs. 1–4, Adopted Nov. 17, 2015; And Ord. No. 31-2016, Sec. 1, Adopted Sept. 6, 2016.

- c. A food processing plant;
- d. A cottage food production operation as defined by Texas Health and Safety Code sec. 437.001;
- e. An area where food that is prepared in a cottage food production operation is sold or offered for human consumption;
- f. A “bed and breakfast limited” facility as that phrase is defined by 25 Texas Administrative Code sec. 228.2; 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
- g. A private home that receives catered or home-delivered food.

Frozen dessert(s). Soft serve and frozen yogurt.

Frozen dessert pre-mix. Any raw dairy-based product used to create a frozen dessert.

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

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

- (1) Immunocompromised; preschool age children, or older adults; and
- (2) Obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as but not limited to 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. 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. A biological, physical or chemical laboratory which is under the supervision of the state or local health authority.

Mobile food pushcart. A non-self-propelled mobile food unit limited to serving foods requiring a limited amount of preparation as authorized by the regulatory authority and is readily movable by one or two persons. A pushcart is classified as a mobile food unit. A pushcart does not include non-self-propelled units owned and operated within a retail food store. This type of mobile unit requires the support of a central preparation facility.

Mobile food unit (MFU). A vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare,

display, serve or sell food. Mobile units must completely retain their mobility at all times. A mobile food unit does not mean a stand or a booth. A roadside food vendor is classified as a MFU.

Mobile food unit operation. The business of a mobile food unit or mobile food pushcart.

Outdoor food court. A lot or parcel of land established to provide facilities allowing two or more mobile food units to be parked on the property for the purpose of vending to the public on that property.

Person in charge (PIC). The individual present at a food establishment who is responsible for the operation at the time of inspection.

Process. 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.

Regulatory authority. The city-county public health district.

Soft serve. 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. The state rules found at 25 Texas Administrative Code, secs. 228.1, 228.2, 228.31– 228.45, 228.61–228.83, 228.101–228.125, 228.141–228.154, 228.171–228.186, 228.201– 228.213, 228.221–228.225, 228.241–228.257, and 228.271–228.278. These rules are also known as the Texas Food Establishment Rules.

Temporary food service establishment. A food establishment that operates for a temporary period of time in conjunction with a fair, carnival, recreational facility, fundraising event (501(c)(3) or other IRS recognized charity) or other public event. Public event means a planned gathering that is open to the public and advertised with fliers, banners, newspaper articles, radio or television announcements, or on an internet website as being open to the general public regardless of whether or not a fee is charged. The establishment operates at a fixed location for no longer than seven consecutive days.

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

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

### **§ 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, secs. 228.1, 228.2, 228.31– 228.45, 228.61–228.83, 228.101–228.125, 228.141–228.154, 228.171–228.186, 228.201– 228.213, 228.221–228.225, 228.241–228.257, and 228.271–228.278 regarding the regulation of food establishments.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

### **§ 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. Standards applicable to the materials, design and construction of commercial cooking equipment shall apply only to equipment installed after December 3,

2009.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 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.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 26-425. through § 26-450. (Reserved)**

**DIVISION 2**  
**FOOD SERVICE ESTABLISHMENTS**

**Subdivision I**  
**In General**

**§ 26-451. through § 26-475. (Reserved)**

**Subdivision II**  
**Permit**

**§ 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.

(Ordinance 31-2019, sec. 1, adopted 8/6/19)

**§ 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 nonprofits, that submit renewal applications 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 reported to the regulatory authority when renewing permits.

(Ordinance 31-2019, sec. 1, adopted 8/6/19)

**§ 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.

(Ordinance 31-2019, sec. 1, adopted 8/6/19)

**§ 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.

(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:

Additionally, this process permit is required for:

- a. Any prepared foods that require a Hazard Analysis Critical Control Point Plan as defined by 25 Texas Administrative Code sec. 228.2(64);
- b. Any foods prepared for highly susceptible populations; or
- c. 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 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 six 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.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

## § 26-480. Review of plans.

(a) Whenever a food establishment is constructed or more than 20 percent of its square footage is remodeled or whenever an existing structure is converted to use as a food establishment, plans and specifications properly prepared 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, except mobile food units which shall submit plans directly to the

regulatory authority. If the structure is over 2,500 square feet or the cost of the structure exceeds \$50,000.00, 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.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

### **§ 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.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

### **§ 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. ( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

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

- (a) A notice as required in this subdivision is properly served when it is 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.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 26-484. through § 26-510. (Reserved)**

**Subdivision III**  
**Frozen Dessert Regulations**

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

- (a) All frozen desserts must meet the following standards:
  - (1) Maximum temperature: 41 degrees Fahrenheit.
  - (2) Maximum total coliform: 150/ml.
- (b) All soft serve must meet the following standard: Maximum standard plate count: 200,000/ml.

(Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 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 a 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. 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 one sample of any frozen dessert pre-mix and one sample 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 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.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 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 sections 26-481 through 26-483.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 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.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 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.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 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.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**Subdivision IV**  
**Dog Patios**

**§ 26-517. Requirements for dogs in outdoor dining.**

- (a) A food service establishment may permit a customer to be accompanied by a dog in an outdoor dining area if:
  - (1) The establishment posts a sign in a conspicuous location stating that dogs are permitted;
  - (2) The customer and dog access the area directly from the exterior of the establishment;
  - (3) The dog does not enter the interior of the establishment;
  - (4) The customer keeps the dog on a leash and controls the dog;
  - (5) The customer does not allow the dog on a seat, table, countertop, or similar surface; and
  - (6) In the area, the establishment does not:
    - a. Prepare food; or
    - b. Permit open food other than food that is being served to a customer.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 26-518. through § 26-544. (Reserved)**

**DIVISION 3**  
**FOOD HANDLER'S TRAINING CERTIFICATE**

**§ 26-545. Food handler's training certificate required.**

It shall be unlawful for any person to accept employment in any food establishment without securing 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.

(Ordinance 31-2019, sec. 1, adopted 8/6/19)

**§ 26-546. Application and administration.**

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 certificate under this division shall attend and successfully complete a training approved by the regulatory authority, Texas Department of State Health Services or a course accredited by the American National Standards Institute.

It is the responsibility of the person in charge of the food establishment to keep a certificate of completion of the training course for all employees of the food establishment available on site for compliance review by the inspector.

(Ordinance 31-2019, sec. 1, adopted 8/6/19)

**§ 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. Applicants are limited to one successive temporary receipt. If an applicant has not successfully completed the food handler's training course by the time the temporary receipt expires, the applicant cannot continue employment as a food handler.

(b) Upon successful completion of the 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. Permanent food handler's cards previously granted by the regulatory authority will no longer be honored after January 1, 2020.

(Ordinance 31-2019, sec. 1, adopted 8/6/19)

**§ 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 Texas Administrative Code sec. 228.33 or a course accredited by the American National Standards Institute.

(Ordinance 31-2019, sec. 1, adopted 8/6/19)

**§ 26-549. Fee.**

A fee shall be charged by the health district for completing the food handler's training certificate. There shall be a charge for replacement cards.

( Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 26-550. through § 26-569. (Reserved)**

**DIVISION 4**  
**MOBILE FOOD VENDORS**

**§ 26-570. Permit requirements.**

- (a) No person shall operate a mobile food unit who does not possess a valid, current mobile food unit permit from the regulatory authority as provided in this article. The permit for a mobile food unit 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 pushcart to be used in the food vending operation.
- (b) A person seeking a mobile food unit 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;
  - (2) A copy of a current driver's license of the owner and operator, if the mobile food unit 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 unit 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 unit 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 unit operation; and
  - (9) Any other information required by the regulatory authority as it pertains to the safe operation of the mobile food unit.
- (c) Upon receiving a proper application for a mobile food unit permit, the regulatory authority shall inspect the location, food, equipment, vehicles and other reasonable matters concerning the mobile food unit 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 unit 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 unit.
- (f) Mobile food unit permits shall be valid for one year from the date of issuance unless suspended or revoked.
- (g) Mobile food unit 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 unit permit shall be renewed each year in like manner as the original permit application.
- (i) The regulatory authority shall make routine, unannounced inspections of mobile food units, mobile food pushcarts, 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.

(Ordinance 31-2019, sec. 1, adopted 8/6/19 )

### **§ 26-571. Operation requirements and restrictions.**

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

- (1) It shall be unlawful to operate any mobile food unit handling time/temperature control food for safety (TCS) as defined by Chapter 25 of the Texas Administrative Code, Section 228.2(144) unless the mobile food unit is commercially manufactured.
- (2) 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.
- (3) It shall be unlawful for a person to vend from a mobile food unit within an “active school crossing zone” as defined by the Texas Transportation Code.
- (4) It shall be unlawful for a person to vend from a mobile food unit unless the mobile food unit is lawfully parked or stopped.
- (5) It shall be unlawful for a person to vend from the side of the mobile food unit facing moving traffic. Mobile food units shall vend from as near as possible to the curb or

edge of the street.

- (6) It shall be unlawful for a person to vend from a mobile food unit to a person standing in the roadway.
- (7) It shall be unlawful for a person to stop a mobile food unit on the left side of a one-way street to vend.
- (8) It shall be unlawful for a person to vend from a mobile food unit on a street unless there is a clear view of the mobile food unit for a distance of 200 feet in each direction.
- (9) It shall be unlawful for the owner or operator of a mobile food unit to set up, maintain or provide tables, chairs or benches for customer seating. This prohibition does not apply to approved outdoor food courts or temporary events. A temporary table may be placed adjacent to the mobile food unit.
- (10) It shall be unlawful for a person to make any alteration, removal, attachments, placement or change in, under or upon a mobile food unit that would prevent or otherwise reduce ready mobility.

(Ordinance 31-2019, sec. 1, adopted 8/6/19 )

#### **§ 26-572. Sanitation requirements for all mobile food units.**

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

- (1) Mobile food units shall comply with all sanitation and construction regulations as outlined in 25 Texas Administrative Code Rule 228.221 as adopted in this chapter unless specifically addressed in this section.
- (2) A mobile food unit 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 unit shall acquire needed supplies from the central preparation facility or other approved source. The mobile food unit shall provide documentation of each visit to the central preparation facility and shall have that documentation available for inspection. Mobile food units 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.
- (3) Certain foods shall require additional equipment or sanitation procedures to ensure safety:
  - a. Mobile food units 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.

b. Mobile food units or mobile food pushcarts 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 hand wash sink “equipped to provide water at a temperature of at least 100° F through a mixing valve or combination faucet” shall also be provided and furnished with soap and paper towels.

(4) 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.

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

(6) Mobile food units 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 unit. Waste containers shall be emptied or disposed of at the central preparation facility.

(Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 26-573. Sanitation requirements for mobile food units with facilities to prepare food.**

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

(1) A mobile food unit 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.

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

(3) Approved water storage facilities for potable water shall be provided on the mobile food unit 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.

- (4) Either of the following shall be provided by the mobile food unit for its operations:
  - a. A heating device of sufficient capacity to produce 110° Fahrenheit hot water; or
  - b. An instantaneous heater capable of producing 110° Fahrenheit hot water.
- (5) All operations related to the preparation of food shall be carried on from within the mobile food unit.
- (6) 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.

(Ordinance 31-2019, sec. 1, adopted 8/6/19 )

#### **§ 26-574. Sanitation requirements for mobile food pushcarts.**

In addition to those requirements applicable to all mobile food units, the following requirements shall be met by mobile food pushcarts:

- (1) All equipment utilized in the mobile food pushcart shall have prior approval of the regulatory authority.
- (2) Snow cone, shaved ice, and raspa vendors shall provide a gravity fed hand washing station on the mobile food pushcart. Soap and paper towels are to be provided. Waste water from hand washing is to be collected in a sealable container and disposed of in a sanitary sewer.
- (3) 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.
- (4) The mobile food pushcart shall be located in clean surroundings, on concrete, brick or equally impervious ground and maintained in a clean and sanitary condition.
- (5) It shall be unlawful for a mobile food pushcart to operate on the public streets and city parks.
- (6) The mobile food unit pushcart 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 unit shall acquire needed supplies from the central preparation facility or other approved source. The mobile food unit shall provide documentation of each visit to the central preparation facility and shall have that documentation available for inspection.

- (7) Each mobile food pushcart vending food in storage containers open to the air shall:
  - a. Provide only single service articles for use by consumers; and
  - b. Set aside a separate space for non-food related items.
- (8) Each mobile food pushcart shall have a stainless steel hand wash lavatory and a stainless steel sink with a minimum of two 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 pushcart shall also have adequate drain board space. This subsection does not apply to mobile food [hand-carts] vending only prepackaged food products.
- (9) Each mobile food pushcart shall provide and have available for the public a fly proof, lidded trash container for the disposal of refuse. Such trash container may be either on the mobile food pushcart or located conveniently nearby.
- (10) Each mobile food pushcart 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 pushcart subject to these requirements shall be equipped with an approved fire extinguisher with a 2A 10BC rating.
- (11) When the mobile food pushcart is operated outside, a cleanable canopy shall extend over the mobile food pushcart and cover its top surface.
- (12) No advertising shall be permitted on any mobile food pushcart except for the posting of prices, the identification of the name of the product, and the name of the vendor.

(Ordinance 31-2019, sec. 1, adopted 8/6/19 )

### **§ 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 outdoor food courts that provide overnight connections must have an adequately sized and permitted grease trap;
  - (3) All mobile food units 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
  - (4) 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 units 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.

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

(Ordinance 31-2019, sec. 1, adopted 8/6/19 )

**§ 26-576. through § 26-690. (Reserved)**