

Ordinance amending Chapter 19, Code of Ordinances, City of Corpus Christi, regarding Food and Food Establishments; providing for penalties, providing for severance; and providing for publication.

Section 1. Chapter 19, Code of Ordinances, City of Corpus Christi, entitled "Food and Food Establishments" is amended to read as follows:

Chapter 19 FOOD AND FOOD ESTABLISHMENTS

ARTICLE I. SANITATION REGULATIONS FOR ALL FOOD ESTABLISHMENTS

Sec. 19-1. Definitions.

The following definitions apply in the interpretation and enforcement of this chapter: —

~~City health officer~~ means the Director of Public Health or the Director of Public Health's designee.

Clearly visible means posted in the front window of the food establishment within five (5) feet of the front door, posted in a display case mounted on the outside front wall of the food establishment within five (5) feet of the front door, or posted in a location as directed and determined in the discretion of the city health officer to ensure proper notice to the general public and to patrons.

~~Critical violation~~ means any four- or five-point violation as noted on an inspection report.

~~Farmer's Market~~ means a market which has been certified by the Texas Department of Agriculture at which vendors are engaged in the retail sales of fresh fruit, vegetables, eggs and other items as are permitted by local, state and federal laws and regulations.

Farmer's Market means a designated location used primarily for distribution and sale directly to consumers of food by farmers and other producers.

Food establishment means any place where food is prepared and intended for individual portion service, including the site at which individual portions are provided, regardless of whether consumption is on or off the premise and whether there is a charge for the food. The term does not include private homes where food is prepared or served for individual family consumption; a private group preparing and serving food for its own consumption; food vending machines; and supply vehicles.

Health officer means the ~~Director of Public Health~~ Local Health Authority or the Local Health Authority's designee or the city health officer, which terms may be used interchangeably, and includes any assistants, deputies, inspectors, sanitarians, or other official representatives of the department of public health.

Health permit means a permit to be provided to each food establishment, such as a food service establishment, temporary food service establishment, food processing establishment, retail food store, or mobile food unit upon payment of the applicable fee and compliance with the inspection requirements and provisions stated in this chapter prior to commencement or continuation of the food operation.

Inspection report means the written results of a routine inspection conducted by a health officer of a food establishment in the city.

~~Inspection results placard~~ means a written document issued and posted by a health officer which provides to the public information concerning the inspection report and rating score of the particular food establishment for which it is issued.

Local health authority means the physician engaged under contract with the City of Corpus Christi and Nueces County to perform services for the Nueces County-City of Corpus Christi Public Health District. in the capacity of the appointed local health authority as the specific term and duties are defined under State law including but not limited to Chapter 121 of the Texas Health and Safety Code.

Permanent fixed-site food establishment means a structure or portion of a structure in which is located a non-mobile, non-temporary, food service establishment such as a restaurant or delicatessen for which a health permit has been issued.

Rating score means the numerical percentage result of a routine inspection of a food establishment as reported on the inspection report.

Routine inspection means a periodic, unannounced inspection of a food establishment conducted by a health officer in order to determine compliance with applicable federal, state, and local laws, ordinances, rules, regulations, and directives relating to public health, safety, and sanitation. A routine inspection does not mean an inspection conducted by a health officer to determine compliance with a previously issued inspection report or any interim inspection conducted to determine compliance with specific laws, rules, regulations, or directives applicable to food establishments.

~~*Secondary inspection* means an inspection of a food establishment conducted by a supervisory health officer to determine whether the results of an inspection report support suspension of a current inspection results placard and removal of a previously posted inspection results placard.~~

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 21084, §§ 1, 2, 2-19-1991; Ord. No. 025909, § 1, 8-24-2004; Ord. No. 029892 §1, 05-14-2013)

Sec. 19-2. Applicability of article.

This article shall apply to every business of any kind known or described as a food establishment and all similar businesses handling or having to do with food, wholesale or retail. This article shall apply to every room used for the purposes of any business in keeping, storing, manufacturing, preparing, handling, distributing, selling, serving or offering for sale any food, whether raw or cooked, or otherwise prepared, or any liquid intended as food or drink for human beings whether of an alcoholic or nonalcoholic nature; and also, to all the fixtures, furniture, receptacles, utensils, machinery, implements and other things used within or without any place of business for the purposes of any such business.

This article shall also apply to all persons owning or conducting or employed in or about any food establishment, and each business, room, place, matter and thing herein mentioned or referred to shall be respectively governed, managed, conducted, constructed, arranged, equipped and cared for in accordance with this chapter.

However, this article shall not apply to Farmer's Markets except as provided in Sec. 19-17 below.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-3. Inspections generally.

- (a) ~~Acting under the authority of the city health officer~~ Local Health Authority, a health officer or any department of the city or the city council, for the purpose of protecting the public health and enforcing this article, are hereby authorized and directed at any time, when inspections may be deemed proper, to enter any food establishment in the city, or, in cooperation with the county, without the city, and each room, place, premises, vehicle or appurtenance used in connection with such establishment to make a complete inspection of such establishment and all machinery, equipment, furniture, fixtures and things found therein; and also, to make a thorough inspection and examination

of all food and other things found therein which are used or kept for the purposes of such business. Such inspectors are also authorized and directed to stop and inspect within the city, or, by permission of the county, without the city, any wagon or vehicle which appears to be used for the purpose of transporting or delivering any food and such inspector shall also be authorized to require, and the person in charge of any such business place or vehicle shall furnish to the inspector, such proper samples as he may demand for making any tests of such food; provided, however, no inspector shall be authorized to enter any guest room of any hotel at any time when his presence might disturb or annoy any guest when present in such room.

- (b) No person shall interfere with or refuse to permit any such health officer or inspector to make any inspection hereby authorized. If any person shall refuse permission or bar or obstruct such inspection, then any license, permit or certificate issued by the city for such business shall become subject to revocation and shall become null and void on written order of the city health officer.
- (c) Every person who owns, manages, or conducts any food establishment, and each agent or employee of such person, shall answer truly each question and render such information and assistance, and give such written statements or certificates as may be used or required by the health officer or any inspector for the purpose of facilitating any inspection or examination under the provisions of this section, and, upon request of such officer, shall exhibit to such officer and permit him to examine any license, permit or certificate relating to such business, and also any bill or delivery ticket evidencing the purchase or delivery of any food, showing the name of the person from whom the same was had or purchased.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-3.1. Inspection results placard.

- ~~(a) A health officer shall issue an inspection results placard following the completion of two (2) routine inspections of a permanent fixed-site food establishment if the rating score of the food establishment meets or exceeds a rating score of at least ninety (90) without any critical violations noted on the inspection reports for the first and second inspections.~~
- ~~(b) For purposes of the issuance of an inspection results placard, a food establishment that achieves a rating score of ninety (90) or above in accordance with the standards set out in subsection (a) of this section shall be accorded a letter grade of "A" on the inspection results placard.~~
- ~~(c) An inspection results placard must show the name and address of the food establishment for which it is issued, be approximately eight and one half (8½) inches by eleven (11) inches in size, include an "A" letter grade, indicate the date of the most recent routine inspection, and contain the signature of the issuing health officer.~~
- ~~(d) Upon issuance of an inspection results placard, a health officer shall post the inspection results placard at the food establishment so as to be clearly visible to the general public and to patrons entering the food establishment.~~

(Ord. No. 025909, § 2, 8-24-2004)

Sec. 19-3.2. Term; reissuance; suspension and removal.

- ~~(a) An inspection results placard issued for a food establishment remains valid until a health officer completes the next routine inspection of the particular food establishment or the food establishment's health permit is ordered suspended or revoked by a health officer under this chapter or state law.~~
- ~~(b) A food establishment that achieves a rating score of ninety (90) or above without any critical violations noted on the inspection report upon completion of the next routine inspection following the issuance of an inspection results placard will be issued a current inspection results placard that meets the requirements of subsection 19-3-1(c).~~

- ~~(c) In the event that a food establishment achieves a rating score of eighty-five (85) to eighty-nine (89) without any critical violations noted on the inspection report upon completion of any routine inspection following the issuance and posting of an inspection results placard, the health officer conducting the inspection shall suspend the issuance of a current inspection results placard, remove the inspection results placard previously posted for the food establishment, and inform the owner/manager that the food establishment is eligible for a secondary inspection.~~
- ~~(d) In the event that a food establishment achieves a rating score of eighty-four (84) or below upon completion of any routine inspection following the issuance and posting of an inspection results placard, the health officer conducting the inspection shall revoke and remove the inspection results placard previously posted for the food establishment. A food establishment that achieves a rating score of eighty-four (84) or below under this subsection is not eligible for a secondary inspection.~~

~~(Ord. No. 025909, § 3, 8-24-2004)~~

~~Sec. 19-3.3. Secondary inspection.~~

- ~~(a) A food establishment that has had an inspection results placard removed under subsection 19-3.2(c) may request a secondary inspection of the food establishment. A request for a secondary inspection must be in writing and be delivered or electronically transmitted to the department of public health within two (2) working days of the conclusion of the routine inspection during which the inspection results placard was removed.~~
- ~~(b) Upon proper receipt of a request for a secondary inspection from a food establishment, a secondary inspection may be performed by a supervisory health officer within five (5) working days.~~
- ~~(c) Upon the conclusion of a secondary inspection, the health officer conducting the inspection shall determine whether or not the results of the routine inspection report do or do not support the issuance and posting of an inspections results placard.~~
- ~~(d) If, upon the conclusion of the secondary inspection, the health officer determines that the results of the routine inspection report do not support the suspension of a current inspection results placard and the removal of a previously posted inspection results placard, the health officer shall issue and post a current inspection results placard for the food establishment.~~
- ~~(e) If, upon the conclusion of the secondary inspection, the health officer determines that the results of the routine inspection report support the suspension of an inspection results placard and the removal of the previously posted inspection results placard, the health officer shall revoke the inspection results placard previously posted at the food establishment.~~
- ~~(f) In making the determination following the completion of the secondary inspection, the health officer may evaluate whether or not the occurrence of the violations cited in the routine inspection report was beyond the reasonable control of the owner/manager of the food establishment, such as a power failure or water shortage caused by no fault of the owner/manager or an act of nature, such as a flood.~~
 - ~~(1) The occurrence of a violation determined by the health officer to have been beyond the reasonable control of the owner/manager of the food establishment constitutes reasonable grounds to support the issuance and posting of a current inspection results placard.~~
 - ~~(2) The occurrence of a violation cited in the routine inspection report that is determined to have been beyond the reasonable control of the owner/manager upon the conclusion of a secondary inspection must be noted by the health officer in a supplementary report.~~

~~(Ord. No. 025909, § 4, 8-24-2004)~~

Sec. 19-3.4. Revocation of inspection results placard.

- (a) ~~A food establishment that has had an inspection results placard revoked under subsection 19-3.2(d), subsection 19-3.3(e), or that did not request a secondary inspection in accordance with the provisions in subsection 19-3.3(a) must meet the requirements of section 19-3.1 in order to be issued a current inspection results placard.~~
- (b) ~~The suspension or revocation of a health permit issued to a food establishment under this chapter is an automatic revocation of any inspection results placard issued under section 19-3, and a health officer shall remove any inspection results placard posted at the food establishment.~~
- (Ord. No. 025909, § 5, 8-24-2004)

Sec. 19-3.5. Penalties.

- (a) ~~No person may remove, obscure, or deface an inspection results placard posted by a health officer. The prohibition contained in this subsection does not apply to a government official acting under proper authority in the performance of governmental duties.~~
- (b) ~~No person may display or have posted at a food establishment an inspection results placard not properly issued by a health officer in accordance with section 19-3.~~
- (c) ~~A violation of any provision of section 19-3 is a violation of an ordinance governing public health and sanitation. Any person found in violation of any provision of section 19-3 may be punished by a fine not to exceed two thousand dollars (\$2,000.00). Each day a violation of any provision of section 19-3 continues constitutes a separate violation.~~
- (d) ~~A violation of any provision of section 19-3 is a strict liability offense. There is no need to prove that the person had an intent to violate the provision.~~
- (e) ~~No provision in section 19-3 may be construed to permit a food establishment to deviate from the requirements of this chapter or allow a food establishment to fail to adhere to all federal, state, and local laws, ordinances, rules, regulations, and directives applicable to the operation of food establishments in this city.~~
- (Ord. No. 025909, § 6, 8-24-2004)

Sec. 19-4. Examination of food samples.

Any person preparing, manufacturing, selling or offering for sale any food product shall permit samples of a reasonable quantity of any such food product and of any material used in the manufacture thereof to be taken for examination, inspection or analysis by the health officer. It shall be unlawful for any person to prevent, resist or forcibly oppose the taking of any such sample by the health officer.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-5. Condemnation of food.

When the health officer, any inspector or other person charged with the duties of inspecting food finds any food, whether animal or vegetable and of whatsoever nature, which is unfit for human food by reason of being adulterated, tainted, diseased, fermented, decayed, or otherwise unwholesome or unclean, or the use, keeping or sale of which is prohibited by this chapter or any other ordinance of the city or law or regulations of the state, he shall promptly condemn the same and the owner, manager or person in charge of the same shall thereupon immediately and in the presence of the inspector destroy such food, unless such owner, manager or other person shall notify such inspector of his desire to appeal. Such destruction of food shall be effected by slashing or otherwise separating the substance of the same, after which it shall be immediately saturated with a chemical compound as may be approved

by the health officer; provided, however, that in case such owner, manager or other person in charge of such food shall desire to appeal from the judgment of any such officer, such owner, manager or other person shall immediately transport such food to such place as the officer may designate or approve, and shall there store such food. The health officer, ~~the city chemist and bacteriologist, if designated by the city health officer~~ health district lab manager or designated representative will submit the sample to Department of State Health Services Consumer Micro-Biology Division and then, shall promptly, on the written request of such owner, or may on his own motion, make a further inspection and examination of such food, and the judgment of the city health officer or the judgment of such other officer who may make such examination shall be final and conclusive. If such judgment is that the food shall be condemned, the same shall be immediately destroyed as aforesaid or in such manner as the health officer may direct. If such judgment is that the food should not be condemned, the owner may remove the same again to his place of business, but he shall not otherwise do so.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-6. Examination of food before sale.

No person who owns, manages or is in charge of any food establishment shall expose for sale, offer for sale, prepare, deliver or serve to any other person any food, or permit the same to be done, without first examining the same to see whether it is fresh and wholesome food. This section shall not be deemed to require the examination of goods enclosed in an original package and sold or delivered unopened, except when the exterior of the package indicates spoilage or contamination.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-7. Sale, etc., of diseased, decayed, etc., products.

No person who owns, manages or is in charge of any food establishment shall have or permit to be kept or used at any time in or about any room or place or vehicle used in connection with such business, shall expose, offer for sale, or shall sell, prepare, deliver or serve to any person in any part of the city any food of any animal nature or any fruit, vegetable or other thing or substance ordinarily used for human food, which is diseased, fermented or decaying or otherwise unwholesome or unclean or which contains any dangerous or unsafe drug, preservative or adulterate.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-8. Maintenance of premises generally.

- (a) The entire yard and premises occupied by a food establishment shall at all times be kept in a clean and sanitary condition and free from filth, exposed refuse or garbage and free from trash and rubbish.
- (b) Every operator of a drive-in restaurant or eating place shall keep the premises of such establishment free of paper and trash of any nature so as to prevent the same from blowing into the streets of the city or onto any other property.
- (c) In addition to the specific requirements of this article, all parts of a food establishment and all equipment and other things contained therein shall be well washed or scrubbed as often as may be necessary to maintain cleanliness.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-9. Sidewalk or street displays.

The sidewalk or street display of ~~any article of~~ food by a food establishment is hereby prohibited.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-10. Sidewalk or street sales.

It shall be unlawful for any person to peddle, sell or offer for sale food along or upon any public street, sidewalk, alley or other public place in the city unless a health permit has been granted pursuant to some ordinance specifically authorizing such permit.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-11. Delivery vehicles.

All vehicles, wagons and carts used by any food establishment for delivering or transporting any food from one part of the city to another shall be kept in a clean and sanitary condition and all food shall always be carried in good closed containers or wrappings. Meat in large pieces or wholesale quantities must be enclosed or completely and securely wrapped in clean solid white material. The interior of the bed or box of each such vehicle shall have substantial and smooth lining or surface of sheet metal, constructed so that the same shall have no cracks, recesses or projections, and the same shall be constantly kept free from all foul and decaying substances.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-12. Removal of scraps, refuse, etc., from streets and adjacent premises.

The owner or manager of every food establishment shall keep the streets and premises adjacent to the food establishment free from all scraps, refuse and litter accumulating on account of the business conducted at the food establishment or dropped or left by customers of the establishment.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-13. General regulations relative to employees.

No employee or other person shall sit or lie upon any table, refrigerator, show case, counter, shelf or any equipment intended or designed to hold, carry, store, prepare or serve food or drink.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-14. Use of premises for other occupations or businesses.

No person owning or managing any food establishment shall permit and no other person shall conduct in any such place any other occupation or business, if the same is of a nature or is conducted in a manner whereby food may be exposed to any unsanitary conditions or pollution.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-15. Animals and fowl prohibited; exception.

- (a) No live animal or fowl shall be allowed in any food establishment nor shall the operator, which includes for the purposes of this section, an owner, officer, manager, or other person in charge of the food establishment, keep or maintain any animal or fowl within thirty-five (35) feet of any door, window, ventilator or other opening in such establishment unless an exception is provided for in this section or a variance is obtained in accordance with this section to allow dogs in outdoor dining areas.

- (b) No food establishment may be operated within five hundred (500) feet of an existing commercial animal establishment, animal hospital, or veterinary hospital that houses animals.
- (c) Exception: This section shall not apply to any seeing-eye dog used to assist a blind person.
- (d) Exception: Subsection (b) of this section does not apply to circus, rodeo, temporary petting zoo, or temporary performing animal exhibition or a vendor.
- (e) Lawfully existing food establishments and food establishments in newly annexed area. Where any existing food establishment is situated within less than five hundred (500) feet of an existing, appropriately licensed or permitted commercial animal establishment, animal hospital, or veterinary hospital that houses animals either within the city or at a location outside the city limits, which location becomes a part of and within the boundaries of the incorporated area of the city by annexation, the distance limitation in subsection (b) of this section does not apply for a period of five (5) years from and after the passage of this amended section or the date of annexation, respectively. Extensions of this exemption may be obtained for successive five-year periods by applying for and obtaining an inspection certificate from the city health officer certifying to the existence of sanitary conditions of the premises and neighboring premises.

(f) Variance for food establishments seeking to allow dogs in outdoor dining areas.

(1) A food establishment may apply to the local health officer for a variance of subsection (a) of this section for the purpose of allowing dogs in outdoor dining areas of the food establishment. The application for variance must be accompanied by a nonrefundable application fee of fifty (\$50.00) dollars. A food establishment requesting a variance must provide the following information to the local health officer who may grant a variance if in the opinion of the health officer a health hazard will not result from the variance. If the local health officer grants a variance, the health authority shall retain the information in its records.

a. A statement that the food establishment requests a variance from §19-15 (a) of the Code of Ordinances, City of Corpus Christi, for the purpose of allowing dogs in outdoor dining areas of the food establishment;

b. A description of how potential health hazards will be prevented if the variance is granted.

(2) The fee for a variance certificate evidencing the variance granted under this section is fifty (\$50.00) dollars, which must be paid prior to the issuance of the variance certificate and may be renewed annually by a food establishment upon payment of an annual fee. The variance certificate is nontransferable and will be valid for one (1) year ending December 31, unless sooner revoked or suspended by the local health officer or terminated by the food establishment.

(3) If pursuant to this section the local health officer grants a variance to subsection (a) of this section for the purpose of allowing dogs in an outdoor dining area of a food establishment, the food establishment shall comply with the following conditions and standards in addition to any other conditions and standards established by the Health Officer for the variance:

a. No dog may be present inside the food establishment or on any playground area of the food establishment at any time.

b. A separate entrance must be provided from the outside of the food establishment to the outdoor dining area or patio (hereafter "patio") so that a dog will have direct access to the patio without entering the interior of the food establishment or any playground area of the food establishment. A dog on an outdoor patio may not be allowed within seven (7)

feet of any entrance to the interior of the food establishment, except when necessary to enter or exit the patio.

c. A sign must be posted at the front entrance of the food establishment so that it is easily visible to the public. The sign must state: "DOG FRIENDLY PATIO. (with an arrow showing the direction to the patio entrance) DOG ACCESS ONLY THROUGH PATIO AREA."

d. Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio from the interior of the food establishment.

e. No food preparation may be performed in the outdoor patio area.

f. The food establishment shall have hand sanitizer available at or near all entrances and exits to the establishment; and bags for dog waste available at or near all entrances and exits to the outdoor patio area.

g. The outdoor patio must be continuously maintained free of visible dog hair, dog dander, and other dog-related waste or debris. The outdoor patio must be cleaned with animal friendly chemicals at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), or, if a food establishment has continuous food or beverage service without designated shifts, then every six (6) hours that the establishment is open for business, except that cleaning under this subsection is not required if no dog has been present on the outdoor patio since the last cleaning. Waste created from a dog's bodily functions must be cleaned up by the dog owner and/or customer with dog on patio immediately after each occurrence. All dog waste must be disposed of outside of the food establishment in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept outside of the food establishment.

h. While on duty, food establishment staff may not pet or have contact with any dog.

i. A dog must be kept on a leash and remain in the control of the customer while in the outdoor patio area. The dog must be currently vaccinated for rabies and wearing a collar or harness with a current license tag attached to it.

j. A dog is not allowed on a seat, table, countertop, or similar surface in the outdoor patio area.

k. A dog is not allowed to have contact with any dishes or utensils used for food service or preparation at the food establishment.

l. A dog may be fed doggie treats, doggie biscuits and edible treats while in the outdoor patio area and may be given treats, biscuits or water in a disposable container or from a container provided by the customer.

(4) An operator, which includes for purposes of this section, owner, officer, manager, or other person in charge of a food establishment commits an offense if he, either personally or through an employee or agent, violates, allows a violation of, or fails to comply with a term or condition of a variance granted under this section.

(5) A food establishment granted a variance under this section shall comply with all other applicable federal, and state laws and regulations including the Texas Food Establishment Rules, and the local provisions of this chapter and the Code of Ordinances of the City of Corpus Christi."

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 24569, § 1, 8-28-2001; Ord. No. 029834, § 1 5-21-2013)

Sec. 19-16. Temporary food service establishments.

- (a) *Food and drink sources.* All food and drink served from or in a temporary food establishment must be prepared, bottled and packaged in an approved permitted food establishment.
- (b) *Condiments.* All condiments served from or in a temporary food establishment such as mustard, catsup, sugar or like items shall be in individual containers, or dispensers approved by the health officer.
- (c) *Health permit.* It shall be unlawful for any person to in any way or manner engage in, conduct, or operate any temporary food service establishment without a health permit ~~in writing to do so from the health officer;~~ and without complying with all of the requirements of this section as well as the applicable requirements of all of the provisions of the city ordinances and Code; or to use or attempt to use any eating or drinking utensil for service to a customer other than one-time service ("throwaway") food and drink utensils or any food or drink utensil which has ever been used or which has in any way become contaminated. Such permit shall state the period of time for which it is issued and shall never be valid for any period longer than fourteen (14) consecutive days.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-17. Farmer's Markets.

(a) A farmer's market ~~shall be certified by the Texas Department of Agriculture and~~ shall comply with all local, state and federal laws and regulations.

(b) It shall be unlawful for any farmer's market vendor or peddler to sell the goods or products listed at subsection (c) of this section without first obtaining an annual health permit in writing to do so from the health officer; and without complying with all of the requirements of this section as well as the applicable requirements of all the provisions of the city ordinances and Code. The permit fee for a farmer's market vendor or peddler operating under this section is fifty dollars (\$50.00), which must be paid prior to the issuance of the required permit and will be valid for one (1) year ending December 31, unless sooner revoked or suspended due to violation. The permit issued under this section is valid for the sale of the permitted good or product at multiple farmers' markets.

"(c) In addition to obtaining a permit in accordance with the standards set out in subsection (b) of this section, a farmers market vendor or peddler engaged in the sale of the following goods or products shall comply with all provisions specific to the sale of said good or product, as follows:

- (1) Eggs. A farmer, egg producer, peddler or vendor that sells eggs directly to the consumer at a farmer's market shall:
 - a. Label the eggs with the farmer's and/or egg producer's name and address and label the eggs as "ungraded";
 - b. Maintain the eggs at an ambient air temperature of forty-five (45) degrees Fahrenheit or less, and prevent eggs from contacting ice or water;

- c. Transport the eggs using any mode of transportation that is clean and free of material that may adulterate any food products;
- d. Upon request of the health officer, provide proof of permit at all times in any farmers market location.

(d) Compliance with the provisions of this section shall not be construed to authorize any activity in violation of any other ordinance of the city.

(Ord. No. 029829, § 2, 5-14-2013)

Sec. 19-18. Mobile and temporary fixed-site food establishments.

- (a) *Peddler's vehicles, etc.; generally.* All vehicles, carts, stands, water craft, and other devices used for peddling or vending food or beverages, and all the contents thereof shall be kept in a wholesome and sanitary condition; and no person owning, using or driving any such mobile or temporary fixed-site food establishment, or vending or peddling food or beverages in any form afoot, shall permit the same to contain any unwholesome, fermenting or decaying fruit, vegetables or other food or food products. The contents of each such container vehicle, or device, shall be securely covered and protected from flies, insects, and dirt by clean and sound wire screens of not less than sixteen (16) mesh to the inch or by some other means approved by the health officer. No such food and beverage vendor or peddler shall sell or offer any merchandise of any description in the city, without first having obtained the permits as required by this Code and other ordinances of the city pertaining to the particular activity engaged in or type of commodity sought to be sold.
- (b) *Health permit.* Before any person may operate any mobile or temporary fixed-site food establishment regulated hereby, such mobile or temporary fixed-site peddling or vending unit must be initially inspected by the health officer and a health permit applied for and granted for the operation of such vending unit. Every operator of such a unit must attend a two-hour food handler's class. ~~The permit fee for a unit operating under this section is fifty dollars (\$50.00) which must be paid prior to issuance of the required permit.~~ Permit fee must be paid prior to the issuance of the required permit. Mobile and removable units shall be presented for such initial inspection at the health department Water craft units shall be initially inspected on-site at the Corpus Christi marina upon the request of the vendor.
- (c) *Fresh seafood vendors and peddlers; standards.* In addition to other applicable health and sanitation provisions in this chapter, all vendors and peddlers of fresh seafood, which shall include, but not be limited to, marine fish, saltwater fish, or shellfish from mobile or temporary fixed-site units shall comply with the following standards:
 - (1) *Seafood supply:* Seafood shall be in sound condition, free from spoilage, filth or other type of contamination and shall be safe for human consumption.
 - (2) *Seafood storage:* Seafood shall be stored in a sanitized (using chlorine solution) container with sufficient effective insulation and ice or refrigerant to provide and maintain a product temperature of forty-five (45) degrees Fahrenheit, or below at all times except during the necessary periods of transfer to the customer. Ice shall be obtained from an approved source. The container must be in sound condition and must remain in an enclosed area at least eighteen (18) inches off the ground or as otherwise approved by the health officer.
 - (3) *Waste disposal:* A holding tank of at least five-gallon capacity must be provided for liquid waste. (The holding tank may be an ice chest used solely for this purpose.)
 - (4) *Construction of peddling or vending unit:* Except for watercraft units utilized by persons in the trade as commercial fisherman licensed by the Texas Parks and Wildlife Department, all units must be completely enclosed, with tight-fitting, self-closing doors. The enclosed area may be screened or covered to prevent entry of flies. The interior surface must be in good condition, not rusty, with floors made of nonabsorbent material.

- (5) *Equipment and utensils:* The following equipment and utensils shall be required: At least one (1) five-gallon container filled with water from an approved source to be used for handwashing, appropriately labeled; a container for holding fluid for sanitizing hands, appropriately labeled; single service towels; and one spray bottle of acceptable sanitizing agent for use with scale. Alternative equipment and utensils may be permitted subject to approval of the health officer.
- (d) *Crab, lobster, crayfish; sold live.* In addition to other applicable provisions in this section, peddlers and vendors of fresh crab, lobster, or crayfish shall keep, maintain and sell such seafood alive.
- (e) *Effect of compliance.* Compliance with the provisions of this section shall not be construed to authorize any activity in violation of any other ordinance of the city.
- (f) *Penalty for violations; citation.* Persons violating this section shall be subject to a fine of not less than one hundred dollars (\$100.00) for each violation. In addition to any other action taken to correct improper handling of food, a health officer, police officer or ~~park or marina ranger~~ code enforcement official may issue any person selling food or beverages in violation of this section a notice of violation and summons to appear in municipal court in answer to such charge. This notice shall provide a space thereon for the party charged to waive trial on the merits and enter a plea of guilty or nolo contendere. In the event the party desires to enter a plea of not guilty, such person may obtain a trial setting from the clerk of the municipal court. Notwithstanding any other provision of this subsection, persons charged with violation may, after entering a plea of guilty or nolo contendere in the space provided, pay a fine in the amount of one hundred dollars (\$100.00), for each such violation, to the clerk of the municipal court within ten (10) days. Each occasion that an individual is found selling food or beverages in violation of this section will constitute a separate offense.

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 20226, § 1, 3-1-1988; Ord. No. 029829, § 2, 5-14-2013)

Sec. 19-19. Sale of food after warning from health officer.

Upon failure of any person maintaining or operating a food establishment, after warning, to comply with any of the requirements of this article, it shall be the duty of the health officer to summarily forbid the further sale or serving of food therein. Any person continuing to sell or serve food after being so forbidden shall be subject to the penalties provided for the violations of this chapter as for a separate offense. The health officer may issue as many warnings under this section as he deems necessary and each sale after each such warning shall be deemed a separate offense. The city health officer shall, upon written request, hear the party's proof of compliance or request to resume food sale and service no later than 5:00 p.m. on the next working day following receipt of such hearing request. It shall be the duty of the party, subject of the order, to give written notice of compliance to the city health officer. For purposes of hearing, work days shall be Monday through Friday.

(Ord. No. 20085, § 1, 11-24-1987, Ord. No. 029829, § 2, 5-14-2013)

Sec. 19-20. Interference with health officer.

No person shall willfully hinder or obstruct the health officer in the exercise of the powers conferred upon him/her by this article. Such hindrance or obstruction shall be grounds for revocation of a permit issued under this article.

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 029829, § 2, 5-14-2013)

Secs. 19-21—19-27. Reserved.

DIVISION 2. HEALTH PERMIT

Sec. 19-28. Required.

It shall be unlawful for any person to in any way or manner engage in, conduct or operate any food service, temporary food service, food processing establishment, retail food store or mobile food unit without a health permit in writing to do so from the health officer.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-29. Prerequisite to issuance of license.

No license required by any provision of this Code or other ordinance of the city shall be issued to any person owning or operating a food service, temporary food service, food processing establishment, retail food store or mobile food unit which is required to have a health permit under this division unless the permit shall have first been granted by the health officer.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-30. Application.

Each applicant for a health permit required under this chapter shall file with the health officer a written application therefor, which shall state the name and address of the applicant, a description, by street and number or other appropriate designation, of the location of the establishment for which a health permit is sought and such other information as may be required by the health officer.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-31. Health permit and certificate not required for certain vending machines.

The certificate of occupancy and health permit shall not be required for vending machines approved by the health officer which, when a coin is inserted, automatically dispenses soft drinks, coffee or tea which is bottled, canned, or in a sanitary paper cup, or candy, chewing gum, nut meats, cookies or crackers which are in a sealed sanitary wrapper; provided that no product so dispensed is readily perishable.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-32. Certificate of occupancy prerequisite to issuance.

No health permit shall be issued under the provisions of this division unless the applicant therefor has secured from the building inspections department a certificate of occupancy for the food service, temporary food service or food processing establishment for which the permit is sought.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-33. Issuance; fee.

- (a) If, after investigation and the consideration of any application filed under this division and all proper matters in connection therewith, it shall appear to the health officer that the statements made in the application are true, that the food service, temporary food service, food processing establishment, retail food store or mobile food unit and all equipment and vehicles used in connection therewith conform to the requirements of this article and other laws and ordinances applicable thereto and that

the applicant has complied with all the provisions of this article and other laws and ordinances regulating such business, the health officer shall grant the permit applied for.

When any health permit is issued as provided in this section, the health officer shall immediately forward the original thereof to the applicant and keep a duplicate on file in his/her office.

- (b) Prior to the issuance of a health permit, the applicant shall pay a fee according to the following schedule:

Food service or food processing establishments:

Having one hundred one (101) or more employees\$780.00

Having fifty-one (51) to one hundred (100) employees630.00

Having twenty-six (26) to fifty (50) employees480.00

Having ten (10) to twenty-five (25) employees330.00

Having one (1) to nine (9) employees205.00

Temporary food service establishments, initial day35.00

Temporary food service establishments, each additional day15.00

Temporary food service establishments, late fee, if application is not filed within five (5) days of an event70.00

Retail food stores85.00

Mobile units100.00

~~Frozen desserts100.00~~

Farmer's market egg vendor permit50.00

Late fee25.00

Follow-up inspection fee50.00

- (1) No fee will be charged for a food service operation conducted by a taxing authority, such as a school district, whether local, state or federal.
- (2) For permanent establishments, the fee shall be reduced by twenty-five (25) per cent if the permit is issued in April, May, or June; by fifty (50) per cent if the permit is issued in July, August, or September; and seventy-five (75) per cent if the permit is issued in October, November or December. The minimum fee shall be twenty-five dollars (\$25.00).

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 20460, § 1, 9-20-1988; Ord. No. 21207, § 1, 8-6-1991; Ord. No. 22298, § 1, 7-25-1995; Ord. No. 23014, § 1, 7-29-1997; Ord. No. 025869, § 3, 7-27-2004; Ord. No. 026902, § 2, 7-25-2006, Ord. No.029829, § 3, 5-14-2013)

Sec. 19-34. Posting.

Each health permit issued under this division and all certificates pertinent thereto shall be at all times kept posted and displayed in a place conspicuous to the public in or about the food service, temporary food service, food processing establishment, retail food store or mobile food unit. Inspection sheets must be kept on the premises to be produced upon request of the health officer.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-35. Term.

A health permit or other permit issued under this chapter shall, except as otherwise stated herein, be valid for the calendar year ending December 31, unless sooner revoked or suspended as provided in this article.

Water craft unit health permits shall be valid for one (1) year from date of issuance.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-36. Expiration and renewal.

Each health permit or other permit issued under this chapter shall automatically expire on December 31 next following its issuance, except as otherwise stated herein. Such permit shall also automatically expire if the holder thereof changes the location of his place of business, sells, transfers equity, or otherwise disposes of such business or materially changes the character of such business.

Upon the expiration of a health permit, and within seven (7) days thereafter, the person conducting the business shall apply for and obtain a renewal thereof in the same manner as an original health permit is applied for and obtained, he wishes to continue operating the business. Failure by an establishment to pay this fee within seven (7) days will require such establishment to pay an additional twenty-five dollars (\$25.00) late fee.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-37. Suspension or revocation—Generally.

Except as otherwise provided herein, the city health officer shall have and is hereby given the power and authority to suspend or revoke any health permit or other permit issued under this chapter, at his/her discretion, upon proof to his/her satisfaction of any violation by the holder of the permit of this article or other law or ordinance applicable thereto. Anyone who operates or conducts his/her business in the city when his/her permit has been suspended or revoked shall be guilty of a violation of the provisions of this article.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-38. Same—Reinstatement.

Any person whose health permit or other permit issued under this chapter has been revoked or suspended may, at any time, make application for reinstatement of the permit. Within one (1) week after the receipt of a satisfactory application accompanied by a written statement signed by the applicant to the effect that the defects for which the permit was revoked or suspended have been corrected, the health officer shall make a reinspection and, thereafter, as many reinspections as necessary to assure himself/herself that the applicant is complying with the requirements of this article. In case his/her findings indicate compliance with this article, the city health officer shall reinstate the permit.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-39. Inspection procedures for establishments with scores which exceed thirty demerits on regular inspections.

The following is the procedure to be followed by the city health officer regarding food establishments with scores which exceed thirty (30) demerits earned on any regular inspection during a twelve-month period.

- (a) Regular inspection scoring in excess of thirty (30) demerits:
- (1) Any inspector who conducts an inspection which results in a score which exceeds thirty (30) demerits will be in charge of the disposition of that inspection.
 - (2) The establishment will have a follow-up inspection within forty-eight (48) hours. All four- and five- point rated items must be corrected at that time. A score will not be given for a follow-up inspection. The establishment must pay a fifty-dollar (\$50.00) follow-up inspection fee.
 - (3) Failure to comply will result in a meeting of with the ~~director of~~ environmental health manager, the inspector, the certified manager and/or the owner. This meeting may result in the revocation of the food manager's, food handler's, and health permits.
 - (4) A second follow-up inspection will be made within ten (10) days. If all deficiencies have not been corrected, a meeting shall be scheduled with the ~~food services advisory committee~~ environmental health manager. The attendance of the certified manager and/or owner at such a meeting shall be mandatory. The establishment must pay a fifty-dollar (\$50.00) follow-up inspection fee.
 - (5) Following the meeting with the ~~food service advisory committee~~ environmental health manager, a third follow-up inspection will be made within ten (10) days of such meeting. The establishment must pay a fifty-dollar (\$50.00) follow-up inspection fee. A failure of this inspection may result in the suspension or revocation of all permits issued by the city/county health department.
 - ~~(6) At the discretion of the director of public health, the certified manager, and/or owner may be required to meet with the food service advisory committee.~~
- (b) Second regular inspection scoring in excess of thirty (30) demerits:
- (1) If a second regular inspection of the establishment results in scores which exceed thirty (30) demerits during a twelve-month period, a meeting consisting of the ~~director of~~ environmental health manager, the inspector, the certified manager and/or owner of the establishment will be called. This meeting may result in the revocation of the food managers' and food handlers' permits.
 - (2) The establishment will be re-inspected within forty-eight (48) hours. The establishment must pay a fifty-dollar (\$50.00) ~~re-follow-up~~ inspection fee. All four- and five-point rated items must be corrected. No rating will be given for a follow-up inspection.
 - ~~(3) Failure to comply on a follow-up inspection will result in a meeting before the food service advisory committee.~~
- (c) Third regular inspection scoring in excess of thirty (30) demerits:
- (1) A third regular inspection that results in a score in excess of thirty (30) demerits during a twelve-month period constitutes a health threat and will subject the establishment to suspension of its health permit for twenty-four (24) to seventy-two (72) hours by the city health officer. The food manager's permit may be suspended also.
- (d) Procedures for re-opening: The establishment may reopen on approval by the city health officer after a written statement from the establishment has been received stating that all of the four- and five-point rated items have been corrected, and such corrections have been verified by the health officer.

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 21084, § 3, 2-19-1991; Ord. No. 23537, § 1, 1-19-1999; Ord. No. 25398, § 3, 7-22-2003)

Sec. 19-40. Imminent health hazard.

Violations constituting an imminent health hazard shall be corrected immediately, and failure to make immediate compliance shall require the health officer to forbid the further sale or serving of food by, on, or from the subject food establishment for a period of not less than twenty-four (24) hours. Procedures for lifting such an order shall be the same as those procedures set forth in ~~section 19-48~~ Section 19-39 (d).

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 21084, § 4, 2-19-1991)

Sec. 19-41. Permits for establishments located outside city.

It shall be unlawful for any person to bring into the city for sale or delivery, or to sell or deliver, or to offer to sell or deliver within the city, any food not approved by the United States government or other appropriate governmental agency, produced, handled or manufactured in any food service or food processing establishment conducted within the County of Nueces or any contiguous county, but without the confines of the city, unless the person owning or conducting the food service or food processing establishment shall first apply in writing to the health department for inspection by the health officer, or under his direction, of the plant, rooms and premises and all places and things and substances used for the purposes of such business or operation, both within and without the city. Such applicant shall produce evidence to the satisfaction of the health officer that the business in question and all operations thereof conducted within or without the city are managed and conducted in all respects in the same manner and under the same conditions and with the same safeguards as are specified and required in this Code and other ordinances of the city. If the health officer is satisfied that the operations of such business are being conducted as aforesaid, then he/she shall issue to the applicant a health permit to sell and deliver such food within the city, but if the person making such application shall thereafter at any time hinder or refuse to permit such inspection, and interrogation as is provided by this article for food service or food processing establishments conducted within the city, or if it is found at any time that the applicant is not observing and complying with this article or other ordinances of the city, relating to the manufacture, handling or production of food or that such operations are not being conducted under the same conditions and with the same safeguards as therein required, then and thereupon it shall be the duty of the city health officer to revoke the permit and to forward by registered mail or personal service to such person, notice of such revocation.

This section shall not be deemed to require food service or food processing establishments located outside the city to have connections with the water supply or sewers of the city, but other corresponding means shall be used and provided whereby an ample supply of good water under pressure and sanitary disposal of sewage and slops by means of sewers shall be effected in a manner corresponding to that required by this article, all of which shall be done and provided to the satisfaction of the health officer.

(Ord. No. 20085, § 1, 11-24-1987)

Secs. 19-42—19-48. Reserved.

DIVISION 3. FOOD HANDLING CERTIFICATION

Sec. 19-49. Certification.

- (a) *Certification:* All employees of food service, temporary food service, food processing establishments or mobile food units must obtain food handling certification before beginning to work. A minimum of two (2) hours of food sanitation training for each employee is required every two (2) years, ~~if the employee is working under a health permit issued on or after August 1, 2006, to ensure employee performance of their duties in accordance with food service sanitation ordinances, rules and regulations.~~ This training shall be an approved health department course. A fee of ten dollars (\$10.00) will be charged for each food handler permit issued by the health department. A food handler's permit shall be valid for a period of ~~three (3) years, if issued prior to August 1, 2006, and~~ for two (2) years from date of issuance, ~~if issued on or after August 1, 2006, unless said permit is sooner revoked by the city health officer.~~
- (b) *Revocation:* If inadequate hygienic performances are demonstrated by the employee and such unsatisfactory performances are a result of material violations of food service sanitation ordinances, rules or regulations, the city health officer may revoke the food handler's permit.
- (c) *Food handler certification:* Training may be conducted by the permitted food manager of the establishment maintaining an inspection rating of eighty (80) or above on approval by the health department.
- (d) *Posting:* Each food handler permit shall be at all times kept posted, filed or otherwise readily available for viewing by a health officer.

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 21084, § 5, 2-19-1991; Ord. No. 22298, § 2, 7-25-1995; Ord. No. 25398, § 1, 7-22-2003; Ord. No. 026902, § 3, 7-25-2006)

Secs. 19-50—19-52. Reserved.

DIVISION 4. FOOD MANAGER'S PERMIT

Sec. 19-53. Required.

Each food service, temporary food service, food processing establishment or mobile food unit shall have during all hours of operation at least one (1) person on the premises in charge of the operation who has a valid food manager's permit. This requirement shall not apply to retail food stores, roadside markets that offer only fresh fruits and vegetables for sale, or food vending machines.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-54. Issuance.

- (a) A food manager's permit shall be issued to any person who has a valid food manager's certificate issued by any state, municipality, agency or school of instruction whose program of certification has been approved by a health officer. The certificate shall provide evidence that the applicant attended

and satisfactorily completed a course of instruction. Such course shall include, as a minimum, not less than fifteen (15) hours of training, the contents of which cover minimum essential knowledge of safe food handling practices, the biological basis of food borne infection and transmission, the safe preparation, handling and storage of food by all employees found in food service operations. The permit shall be of a form designed by the health department and shall remain the property of the health department to be returned to the health department if revoked. A graduate of an institution of higher education who has completed all requirements for an associate or higher degree in hotel and restaurant management may be issued a permit without taking the food manager's course upon providing satisfactory proof of graduation from an approved school. A dietitian currently registered by the A.D.A. and licensed by the Texas State Board of Examiners of Dietitians may be issued a permit without taking the food manager's course upon providing satisfactory proof of current licensure and registration.

- (b) A fee of fifteen dollars (\$15.00) will be charged for each food manager's permit issued by the health department.

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 21084, § 6, 2-19-1991; Ord. No. 22298, § 3, 7-25-1995; Ord. No. 25398, § 2, 7-22-2003; Ord. No. 026902, § 4, 7-25-2006)

Sec. 19-55. Term.

A food manager's permit shall be valid for a period of three ~~(3)~~ two (2) years from the date of course completion, unless said permit is sooner revoked by the city health officer as described in section 19-57.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-56. Renewal.

A food manager's permit shall be valid for a period of two (2) years from the date of course completion, unless said permit is sooner revoked by the city health officer as described in section 19-57. The continuing education requirement of this section shall not apply to dietitians currently registered by the A.D.A. and licensed by the Texas State Board of Examiners of Dietitians.

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 21084, § 7, 2-19-1991; Ord. No. 026902, § 5, 7-25-2006)

Sec. 19-57. Revocation.

The city health officer may revoke or suspend the food manager's permit of the food manager who is in charge or supposed to be in charge of the operation, for unsatisfactory performance of the respective food service establishment, food processing establishment or mobile food unit, and such unsatisfactory performance is a result of a material violation of food service sanitation ordinances, rules or regulations. The city health officer may revoke a food manager's permit after giving written notice to the permittee, sent or delivered to the address or location of the food establishment and an opportunity for a meeting to review violations with health officer. ~~or that of the permittee, and after affording the permittee an opportunity for hearing before the food service advisory council.~~

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-58. Penalty for violation; Class C misdemeanors.

The violation of any provision of this chapter shall be subject to prosecution as a Class C misdemeanor, with a maximum fine of one thousand dollars (\$1,000.00) and each day of continuing violation shall constitute a separate offense, subject to minimum fine requirements of other sections of this chapter.

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 21084, § 8, 2-19-1991)

Secs. 19-59—19-64. Reserved.

DIVISION 5. FOOD SERVICE ADVISORY BOARD

Sec. 19-65. Established; composition; duties; terms.

A food service advisory council shall be appointed by the city council and shall consist of four (4) local food managers from the food service or food processing industries and three (3) persons from the community at large. The food advisory council members will appoint the chairperson. The functions of the board will be to advise the director of health on ~~applications of this chapter, review the permit fees annually to ensure the cost of the program is returned to the city, and to conduct hearings pursuant to the sections relating to revocations.~~ The food service advisory council shall, after hearing, make its written recommendations to the city health officer whether to revoke or suspend a food manager's permit, pursuant to sections 19-57 and 19-39, or any other permit issued under this chapter, and may make such other recommendations to the city health officer as are appropriate food and food establishment concerns within the community. Members of the board shall be appointed for staggered terms so that at least one industry representative and one (1) community member are reappointed each year. No voting member may serve more than two (2) terms or three (3) years each with the exception of those initially appointed for less than a full three-year term.

(Ord. No. 20085, § 1, 11-24-1987; Ord. No. 23048, § 1, 8-26-1997)

Secs. 19-66—19-69. Reserved.

ARTICLES II—IV. RESERVED

Secs. 19-70—19-99. Reserved.

ARTICLE V. FROZEN DESSERTS

Sec. 19-100. Definitions.

The following definitions shall apply to the interpretations and enforcement of this article:

~~Average bacterial plate count direct microscopic count reduction time and cooling temperature.~~ Average bacterial plate count and average microscopic count shall be taken to mean the logarithmic average, and average reduction time and average cooling temperature shall be taken to mean the arithmetic average of the respective results of the last four (4) consecutive samples, taken upon separate days.

~~Counter freezers and/or freezers for frozen desserts.~~ A machine used to produce a frozen dessert on the premise of a permitted food establishment.

~~*Frozen dessert.* A frozen dessert is any frozen or partially frozen product, which consists of milk or milk products, egg or egg products, and/or protein base products. This shall include ice cream, frozen custard, ice milk, milk sherbets, yogurt, and other similar products.~~

~~(Ord. No. 20085, § 1, 11-24-1987)~~

Sec. 19-101. Permit to sell or produce.

- ~~(a) It shall be unlawful for any person to in any way or manner operate a counter freezer and/or freezer for frozen desserts without a permit in writing to do so from the health officer.~~
- ~~(b) Such a permit may be suspended by the city health officer or revoked after an opportunity for a hearing by the city health officer, upon the violation by the holder of any of the terms of this article.~~

~~Any person whose permit has been suspended may, at any time, make application for the reissuing of the permit. Upon receipt of a satisfactory application, in case the suspension is the result of an unsatisfactory bacterial condition or cooling temperature, the health officer shall take further samples at the rate of not more than two (2) samples per week. The city health officer shall reissue the permit whenever the average of the last four (4) sample results indicates the necessary compliance.~~

- ~~(c) In case the suspension of permit is due to the violation of any item of the specifications prescribed in Chapter 19, other than bacterial condition or cooling temperature, the application must be accompanied by a statement signed by the applicant to the effect that the violated item has been corrected. Within one (1) week of the receipt of such application and statement, the health officer shall make a reinspection and thereafter as many additional reinspections as he may deem necessary to assure himself/ herself that the applicant is again complying with the requirements, and, in case the findings indicate compliance, he/she shall reissue the permit.~~

~~(Ord. No. 20085, § 1, 11-24-1987)~~

Sec. 19-102. Testing of samples.

~~Samples of frozen desserts and/or ingredients may be tested as often as the health officer may require. Bacterial plate counts and direct microscopic counts shall be made in conformity with the latest standards. Examination may include such other chemical and physical determinations as the health officer may deem necessary for the detection of adulteration. Upon the request of a health officer, the names of all persons from whom their mix or frozen desserts are obtained shall be furnished.~~

~~(Ord. No. 20085, § 1, 11-24-1987)~~

Sec. 19-103. Sanitation requirements for frozen desserts.

- ~~(a) *Overflow or spillage.* Product drip, overflow or spilled mix or frozen desserts, or their ingredients, shall not be sold for human consumption.~~
- ~~(b) *Bacterial plate count of pasteurized mix or frozen desserts.* The average bacterial plate count of pasteurized mix or frozen desserts shall, at no time prior to serving, exceed fifty thousand (50,000) per c.c. as determined under sections 19-100 and 19-102 (except yogurt).~~
- ~~(c) *Minimum coliform count.* Coliform count should not at any time exceed forty (40) per c.c. prior to serving.~~

~~(Ord. No. 20085, § 1, 11-24-1987)~~

Sec. 19-104. Permit fees.

The permit fee for counter freezers and or freezers for frozen dessert shall be sixty dollars (\$60.00) per year.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-105. Fee for re-inspection of frozen dessert machines.

A fee of fifty dollars (\$50.00) will be charged for each re-inspection of a frozen dessert machine, including a soft-serve ice-cream machine.

(Ord. No. 028692, § 1, 7-20-2010)

Secs. 19-106—19-111. Reserved.

ARTICLE VI. STATE OF TEXAS, DEPARTMENT OF HEALTH, RULES ON FOOD SERVICE SANITATION AND RULES ON RETAIL FOOD STORE SANITATION- TEXAS DEPARTMENT OF STATE HEALTH SERVICES; TEXAS FOOD ESTABLISHMENT RULES (TFER)

Sec. 19-112. Rules on food establishment service sanitation.

The "Texas Food Establishment Rules" "Rules on Food Service Sanitation," adopted by the Texas Board of Health, November 30, 1977, effective March 1, 1978, Texas Department of State Health Services, effective March 15, 2006, and as such rules may from time to time be amended by the Texas Board of Health Texas Department of State Health, a copy of which is on file in the city secretary's office, are hereby adopted and incorporated into the Code of Ordinances as fully as if copied verbatim herein.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-113. Rules on retail food store sanitation.

"Rules on Retail Food Store Sanitation," adopted by the Texas Board of Health, August 17, 1985, and as such rules may from time to time be amended by the Texas Board of Health, a copy of which is on file in the city secretary's office, are hereby adopted and incorporated into the Code of Ordinances as fully as if copied verbatim herein.

(Ord. No. 20085, § 1, 11-24-1987)

Sec. 19-114. Most stringent requirements to govern conflict.

In the case of any conflict between the Code of Ordinances, Chapter 19, Articles I through V, and the "Rules on Food Service Sanitation" and "Rules on Retail Food Store Sanitation," "Texas Food Establishment Rules" as adopted in sections 19-112 and 19-113, the more stringent provisions, shall govern.

(Ord. No. 20085, § 1, 11-24-1987)

Section 2. A violation of this ordinance or requirements implemented under this ordinance constitutes an offense punishable in accordance with Chapter 19, specifically Section 19-58 and any other applicable provision of the Code of Ordinances, City of Corpus Christi.

Section 3. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision of this ordinance be given full force and effect for its purpose.

Section 4. Publication shall be made in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi. This ordinance takes effect upon publication.

That the foregoing ordinance was read for the first time and passed to its second reading on this the _____ day of _____, _____, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

That the foregoing ordinance was read for the second time and passed finally on this the _____ day of _____, _____, by the following vote:

Nelda Martinez	_____	Chad Magill	_____
Kelley Allen	_____	Colleen McIntyre	_____
Rudy Garza	_____	Lillian Riojas	_____
Priscilla Leal	_____	Mark Scott	_____
David Loeb	_____		

PASSED AND APPROVED, this the _____ day of _____, _____.

ATTEST:

Armando Chapa
City Secretary

Nelda Martinez
Mayor