

## **CHAPTER 94: FOOD ESTABLISHMENT REGULATIONS**

- 94.01 Adoption of state rules on food service sanitation
- 94.02 Definitions
- 94.03 Regulations, permits, and preoperational inspections
- 94.04 Inspections and posting of scores
- 94.05 Competency of inspectors
- 94.06 Certified food protection manager and food handler requirements
- 94.07 Employee health
- 94.08 Time as a public health control
- 94.09 Hair restraints
- 94.10 Physical facilities
- 94.11 Outdoor areas; surface characteristics
- 94.12 Suspension of a food establishment permit
- 94.13 Revocation of a food establishment permit
- 94.14 Examination and condemnation of food
- 94.15 Appeal
- 94.16 Fee schedule
- 94.17 Mobile food establishments
- 94.18 Types of mobile food vendors
- 94.19 Seasonal food establishments
- 94.20 Farmers' markets
- 94.99 Penalty

### **§ 94.01 ADOPTION OF STATE RULES ON FOOD SERVICE SANITATION.**

The City of Mansfield hereby adopts by reference the provisions of the current Texas Food Establishment Rules (TFER) set forth in 25 Tex. Admin. Code Chapter 228, as amended, which establish regulations regarding food, food establishments, mobile food units, food trucks and temporary food establishments, save and except the deletions and additions set forth below. The TFER are made part of this chapter as if fully set forth herein.

Copies of the TFER are on file in the office of the City Secretary, being marked and designated as the TFER, published by the Texas Department of State Health Services.

## **§ 94.02 DEFINITIONS.**

For the purpose of this chapter, the following terms shall have the meaning given below:

**APPROVED.** Acceptable to the Regulatory Authority, as hereinafter defined, based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

**AUTHORIZED REPRESENTATIVE.** The City of Mansfield Manager of Regulatory Compliance Department, or his/her authorized designee.

**CENTRAL PREPARATION FACILITY.** A facility used in conjunction with a mobile food vendor in which:

- (1) Food is prepared, stored, and/or wrapped;
- (2) Fresh water and ice are supplied;
- (3) The mobile food vendor's waste water is emptied into a proper waste disposal system; and/or
- (4) The mobile food vendor is cleaned, including washing, rinsing, and sanitizing of those food contact surfaces or items not capable of being immersed in a utensil-washing sink located in the mobile food vendor.

**CERTIFIED FOOD PROTECTION MANAGER.** An individual that has obtained certification by successfully completing and passing a Texas Department of State Health Services (DSHS) approved certified food manager training program.

**CONCESSION STAND.** A food establishment operated on a seasonal basis for the purpose of providing food at sporting events associated with an independent school district, City of Mansfield, privately owned school, university, or community college.

**CORE ITEM.** A provision of Tex. Admin. Code Chapter 15 or this chapter that is not designated as a priority item or a priority foundation item and includes an item that usually relates to general sanitation, operation controls, sanitation operating procedures, facilities or structures, equipment design, or general maintenance.

**COTTAGE FOOD.** Foods produced by a cottage food production operation as defined by 25 Tex. Admin. Code § 229.661(b)(3).

**COTTAGE FOOD PRODUCTION OPERATION.** An individual operating out of the individual's residence in which they produce cottage food.

**FARMERS' MARKET.** An area at which two or more vendors offer produce and other agricultural products for retail sale, sample, or consumption. It shall not include stands that only sell whole, uncut produce.

**FARMERS' MARKET VENDOR.** Any person who offers or sells produce or other agricultural products at a farmers' market.

**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, to also specifically include chewing gum.

**FOOD ESTABLISHMENT.** An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.

**FOOD ESTABLISHMENT—CONVENIENCE.** A retail food establishment that sells a limited selection of foods, not to include fresh produce, fresh meats, or fresh seafood, exclusively for off-premise consumption. Any food establishment with a seating area accessible to the general public that contains at least one table and/or one chair is presumed to prepare foods for on-premise consumption.

**FOOD ESTABLISHMENT—GROCERY.** Any retail food establishment that sells fresh produce, fresh meats, or fresh seafood for either on-premise or off-premise consumption.

**FOOD ESTABLISHMENT—RESTAURANT.** A retail food establishment that prepares and/or sells food for either on-premise or off-premise consumption.

**FOOD ESTABLISHMENT—TO-GO.** A retail food establishment that prepares and/or sells food exclusively for off-premise consumption. Any food establishment with a seating area accessible to the general public that contains at least one table and/or one chair is presumed to prepare foods for on-premise consumption.

**FOOD HANDLER.** An individual working with unpackaged food, food equipment or utensils, or food contact surfaces.

**IMMINENT HEALTH HAZARD.** A significant threat or danger to health due to a practice, circumstance, or event which creates a situation that would likely lead to injury or a foodborne illness, as determined by the Regulatory Authority, as hereinafter defined. These include but are not limited to lack of hot water, no electrical power, sewage back up, no water service, rodent or insect infestation as determined by the Regulatory Authority, or a food establishment receiving a score of 69 or below during an inspection.

**INSPECTOR.** A person conducting inspections of food establishments as a representative of the Regulatory Authority, as defined herein.

**MOBILE FOOD VENDOR.** A vehicle mounted, self-contained food establishment, designed to be readily moveable and used to store, prepare, display, serve or sell food. **MOBILE FOOD VENDORS** must completely maintain their mobility at all times. Shall also refer to "food trucks, hot trucks, cold trucks, and ice cream trucks."

**NONCOMMERCIAL FOOD SERVICE EQUIPMENT.** Equipment that is not designed specifically for food service and/or is labeled “for household use only”.

**NSF-APPROVED.** Shall mean that an independent, third-party organization, such as the National Sanitation Foundation, has determined that the equipment or product complies with the relevant standards and/or protocol set by said organization.

**PERSON IN CHARGE (PIC).** The person present at a food establishment at the time of the inspection who is responsible for the food establishment's operations.

**PRIORITY FOUNDATION ITEM.** Application of a provision of Title 25, Tex. Admin. Code Chapter 228 or this chapter that supports, facilitates, or enables one or more priority items. This term shall include an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury.

**PRIORITY ITEM.** Application of a provision of Title 25, Tex. Admin. Code Chapter 228 or this chapter that contributes directly to the elimination, prevention, or reduction of hazards associated with foodborne illness or injury to an acceptable level. This term shall include items with a quantifiable measurement to show control of hazards, including but not limited to cooking, reheating, cooling, and handwashing.

**REGULATORY AUTHORITY.** The City of Mansfield Department of Regulatory Compliance, or its authorized designee.

**SEASONAL FOOD ESTABLISHMENT.** A food service establishment that operates at a fixed location for a period greater than 14 consecutive days, but not less than 365 days, and is restricted to limited food preparation, unless approved by the regulatory authority.

**TEMPORARY FOOD ESTABLISHMENT.** A food establishment operated for a temporary event not to exceed 14 consecutive days.

**TIME AS A PUBLIC HEALTH CONTROL.** Using time only to monitor food instead of temperature.

**TIME/TEMPERATURE CONTROLLED FOR SAFETY FOOD (TCS FOOD).** A food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

## **§ 94.03 REGULATIONS, PERMITS, AND PREOPERATIONAL INSPECTIONS.**

(A) It shall be unlawful for any person to operate a food establishment within the city limits without having been issued a valid food establishment permit, the fee for which is based on the type of food establishment being operated, as set forth in the City of Mansfield Regulatory Compliance Department fee schedule. Only a person who complies with the requirements in this chapter shall be entitled to receive or retain a permit, and notwithstanding the fact that all inspections necessary for obtaining a food establishment permit have been completed, such permit shall not be issued until after the building or

suite in which the establishment is to be located has been issued a certificate of occupancy by the city. Permits are not transferable from one person, place or entity to another person, place, or entity. A valid permit shall be posted in a conspicuous place of every food establishment visible to the public. Permits shall remain in effect until the last day of the month of issuance unless sooner revoked for cause, or as otherwise provided herein.

(B) A temporary food establishment may apply for a temporary food establishment permit, which shall be in effect for a period of time not to exceed 14 consecutive days, in conjunction with an approved special event.

(C) Mobile food vendors shall be considered food establishments and shall comply with all pertinent regulations contained herein, including obtaining an annual mobile food vendor permit. A mobile food vendor shall obtain either a valid City of Mansfield or Tarrant County mobile food vendor permit to operate within the boundary of the city limits of Mansfield. Mobile food vendors shall operate from a central preparation facility or other permitted food establishment and shall report to such location daily for supplies and for cleaning and servicing operations. Use of a private residence as a central preparation facility is prohibited. Mobile food vendor applications must provide a valid driver's license, proof of insurance for the mobile food unit, notarized central preparation facility letter, and the latest central preparation facility inspection report from the Regulatory Authority. Mobile food vendors must be inspected by the Fire Marshall or their designee before selling food at any event or any location.

(D) A temporary food establishment operated by or solely for the benefit of a nonprofit organization is exempt from the permit fee requirement. However, such food establishment is not exempt from the remaining permit requirements of this chapter, or from compliance with the rules.

(E) A farmers' market permit shall be issued upon receipt and review of such an application to determine compliance with the provisions of this chapter, and with required fees. When review of such an application reveals that the applicable requirements of this chapter have been met, a permit shall be issued to the applicant by the Regulatory Authority.

(F) Any person desiring to operate a food establishment shall make application for a permit through the City of Mansfield Regulatory Compliance Department. The application shall include the name and address of each applicant and the location and type of food establishment. An application for a temporary food establishment shall include the inclusive dates of the proposed temporary food establishment and the location of the event. Applications for a temporary food establishment shall be submitted no later than seven days prior to the event. If applications are accepted after seven days prior to the event, at the Regulatory Authority's sole discretion, they may be subject to additional fees.

(G) The application shall be accompanied by a nonrefundable permit fee, as set forth in the City of Mansfield Regulatory Compliance Department fee schedule, on file and available for inspection in the Office of the City Secretary.

(H) The Mansfield Independent School District shall be exempt from the permit fee.

(I) Every permit holder or PIC shall at all times have available on the premises for inspection the certified food manager certificate, posted in a conspicuous place, and food handler certificates for all employees of the food establishment.

(J) A food establishment permit that has lapsed for non-payment of the annual food establishment permit fee will be reinstated upon payment of a reinstatement fee; excluding permits lapsed for more than three months, which may not be reinstated without the appropriate plan review application, plan review fee, and food establishment permit fee.

(K) Whenever a food establishment is constructed or extensively remodeled, and whenever an existing structure is converted to use as a food establishment, or a change of ownership occurs, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Regulatory Authority for review and approval before construction, remodeling or conversion is commenced. The plans and specifications shall include a proposed menu, proposed layout, equipment arrangement, mechanical plans, and construction materials of work areas, finish schedules and the type and model of proposed fixed equipment and facilities. No food establishment shall be constructed, extensively remodeled, or converted except in accordance with said approved plans and specifications. Plans shall be submitted to the Building Safety Department using the city's self-service portal. Deviation from the approved plans and specifications shall result in a food establishment permit denial, suspension, or revocation.

(L) If a food establishment is required to install a grease trap or grease interceptor, the trap or interceptor shall be located outside. A variance to this requirement may be granted to a food establishment located in the Historic Downtown District. A licensed professional engineer will be responsible for determining the size of the grease trap to be installed to service a food establishment.

(M) Equipment.

- 1) Equipment labeled "for household use only" shall not be used in a food service establishment.
- 2) If a facility is using noncommercial food service equipment upon the date of passage of this revision, they shall be considered legally nonconforming, until such time that the establishment or equipment a) is being extensively remodeled, b) the equipment is being replaced, or c) if the equipment is insufficient to meet current food temperature or service standards. At such a time as described, the facility will be required to replace the noncommercial food service equipment with NSF-approved commercial food service equipment as defined by this ordinance.
- 3) Noncommercial food service equipment shall be documented during inspections and monitored for conformance with current food temperature or service standards.

#### **§ 94.04 INSPECTIONS AND POSTING OF SCORES.**

(A) The regulatory authority shall inspect the food establishment prior to the issuance of the food establishment permit to determine compliance with any approved plans and specifications, compliance with other requirements of this chapter and whether a certificate of occupancy has been issued for the building in which the establishment is to be located. Upon making such findings, the regulatory authority may issue a food establishment permit, subject to annual renewal, continued compliance with the provisions of this chapter, and the existence of a valid certificate of occupancy for the building in which the establishment is located.

(B) The regulatory authority shall inspect a food establishment at a frequency which is determined by a prioritization schedule based upon assessment of the food establishment's history of compliance and potential risk factors of causing foodborne illness according to 25 Tex. Admin. Code § 228.244, as amended, and evaluated by the regulatory authority.

(C) The manager or his/her designee shall classify the food establishments as high, medium, or low priority, according to risk factors deemed relevant to the operation by 25 Tex. Admin. Code § 228.244, as amended. High priority and medium priority establishments must be inspected at a minimum of twice per year. Low priority establishments must be inspected at least once per year.

(D) Inspection frequency of a food establishments may be increased, at the regulatory authority's discretion, and as often as necessary for the enforcement of this chapter and for any conditions listed in this chapter such as:

(1) Prior nonconformance with this chapter or with state or federal regulations, including priority items or priority foundation items, as defined in 25 Tex. Admin. Code § 228.2;

(2) Prior violations of this chapter or with state or federal requirements, including core items as defined in 25 Tex. Admin. Code § 228.2;

(3) Prior complaints investigated and found to be valid by the regulatory authority;

(4) Hazards associated with the particular foods that are prepared, stored, or served at the food establishment;

(5) The type of operations, including the methods and extent of food storage, preparation, and service;

(6) If the primary population served is a highly susceptible population; and

(7) Any other risk factors deemed relevant to the operation by the regulatory authority.

(E) Food establishments shall receive a deduction of three to four points for each violation of a priority item, deduction of two points for each violation of a priority foundation item, and deduction of one point for each violation of a core item, as defined by this chapter, as found by an inspector during an inspection.

(1) Food establishments that score between 70 to 79 points will be placed on a Compliance Plan and inspected quarterly until inspections with a score of 85 points or more is achieved consecutively three times. Failure to meet a score of 85 points on an inspection during the compliance plan will extend the compliance plan period until such time the food establishment can meet this requirement All compliance plan inspections are subject to a reinspection fee for each inspection.

(2) Food establishments that score 69 points or less shall constitute an imminent health hazard and the food establishment shall immediately cease operations and remain closed until the Regulatory Authority conducts a reinspection. The inspector who documents the violation shall provide his/her cell phone number and his/her supervisor's cell number to coordinate a re-inspection over the weekend, if necessary, but in no event shall a reinspection occur earlier than 24 hours following the closure, unless conditions exist that make such re-inspection not feasible. A reinspection occurring sooner than 24 hours following the closure may occur only at the discretion of the Regulatory Authority. Inspections on the weekend for closure will be considered an emergency inspection. The inspector shall endeavor to perform a reinspection as soon as possible. It shall be the responsibility of the permit holder to contact the Regulatory Authority at the provided phone numbers and schedule a reinspection and pay the reinspection fee prior to the reinspection being conducted. The food establishment shall remain closed until a reinspection of the food establishment results in a score of 80 points or more.

(3) Food establishments that score 69 points or less, upon resuming operations based on the requirements of division (E)(2) above, shall be placed on a compliance plan and inspected monthly until the food establishment receives a score of 80 points or more for three consecutive months. Failure to meet a score of 80 points on an inspection during the compliance plan will extend the compliance plan period until such time as the food establishment can meet this requirement. All compliance plan inspections are subject to a reinspection fee for each inspection.

(4) If, during a routine inspection, immediate correction of a priority foundation item violation, as defined by this chapter, is not achieved, the regulatory authority shall verify correction of the violation within fourteen calendar days. If said priority foundation item violation is not corrected during the initial inspection and a reinspection must be performed within the following fourteen calendar days, the permit holder will be subject to a reinspection fee as set forth in the City of Mansfield Regulatory Compliance fee schedule and shall be assessed prior to the inspection.

(5) Failure to pay the required reinspection fees outlined in this ordinance shall result in the immediate suspension of the food establishment's permit to operate, and the facility shall immediately cease operations and remain closed until all required fees are paid and an inspection is conducted which results in the food establishment meeting the minimum score required by the compliance plan. Citations may be issued for noncompliance.

(6) If a facility is placed on a compliance plan more than two times in one (1) year, the Director of Regulatory Compliance or their designee shall have a compliance plan meeting in which the establishment will provide a detailed plan for achieving compliance. A



mandatory training for all employees of the facility will be conducted with the Department of Regulatory Compliance regarding food code compliance and an emergency reinspection fee shall be charged per the fee schedule.

(F) Based upon the scoring process outlined in division (E) above a letter grade for each food establishment shall be determined by the regulatory authority. The grade of each food establishment shall be evidenced by the posting of an inspection card as outlined in the following division (1).

(1) Grade cards shall be provided by the regulatory authority and shall be posted in a conspicuous place, so as to be clearly visible to the general public and to the patrons entering the food establishment.

(a) The grade of each food establishment shall be evidenced by the posting of an grade card in the form of a matrix barcode (QR code) provided by the regulatory authority.

(b) Grade cards shall be posted in a location as directed and determined at the discretion of the regulatory authority to ensure proper notice to the general public and to patrons.

(c) The grade card shall be posted in a location which is accessible to all food establishment patrons to scan with a mobile device. The QR code will direct patrons to an online posting in which the most recent inspection score and letter grade for the food establishment will be available and that is managed by the regulatory authority.

(d) In the event that a mobile or other device is unavailable in order to use the QR code function, food establishments will have readily available and furnish a copy of their most recent inspection report, upon request, to the public for viewing.

(e) In conjunction with the QR Code grade card, a placard provided by the Regulatory Authority with a categorized designation will be provided by the Regulatory Authority based on the Food Establishment inspection score.

(f) Placards shall be posted in a conspicuous place so as to be clearly visible to the general public and patrons entering the Food Establishment.

(2) In the event that a food establishment is operated in the same building or space as a separately licensed or permitted business, or in the event that a food establishment shares a common patron entrance with such a separately licensed or permitted business, or in the event of both, the regulatory authority shall post the letter grade card in the initial patron contact area, or in a location determined at the discretion of the regulatory authority.

(3) The grade card shall not be altered, defaced, marred, camouflaged, hidden or removed. It shall be unlawful to operate a food establishment unless the letter grade card is in place as set forth in this chapter. Removal or alteration of the letter grade card is a violation of this chapter and may result in the suspension or revocation of the food establishment permit.

(4) In the event the grade card is lost or stolen, it is the responsibility of the owner and/or manager to notify the regulatory authority for a replacement card.

(5) In the event the food establishment is closed by the regulatory authority, the grade card shall be removed from view and replaced with a sign, provided by the regulatory authority, advising the public of the closure. The sign must remain visible until such time the regulatory authority allows the reopening to occur.

(G) Denial of access by a food establishment to the regulatory authority shall be cause for suspension or revocation of the food establishment's permit.

#### **§ 94.05 COMPETENCY OF INSPECTORS.**

(A) All inspectors shall be a registered professional sanitarian or a sanitarian-in-training in Texas.

(B) Inspectors shall remain proficient and knowledgeable of current ordinances and professional standards.

(C) The Director of the Regulatory Compliance Department shall have the discretion to make an exception to §94.05(A) to employ an inspector who demonstrates proficiency in the profession and meets the Food and Drug Administration (FDA) Voluntary National Retail Food Regulatory Program Standards basic curriculum and field training elements.

#### **§ 94.06 CERTIFIED FOOD PROTECTION MANAGER AND FOOD HANDLER REQUIREMENTS.**

(A) There shall be a certified food protection manger on each shift and available for food service workers that may have questions about food service operations at each permitted food establishment. Certification must be obtained by passing an examination approved by the Texas Department of State Health Services and the regulatory authority. Temporary food establishments and food establishments that serve, sell, or distribute only prepackaged, non-time and temperature controlled for safety foods and beverages are exempt from this section.

(B) A certified food protection manager is required for each section of each food establishment. The regulatory authority may require additional certified food protection managers in sufficient number to ensure that all areas of food preparation and food service are under the direction of such certified personnel.

(C) Upon termination or transfer of a certified food protection manager, the food establishment shall employ another certified food protection manager within 30 days of such termination or transfer.

(D) All food employees shall be required to successfully complete a food handler class approved by the Texas Department of State Health Services within 30 days of hire.

(E) Temporary food establishments, concession stands, and snow cone stands must have at least one certified food handler on duty during all hours of operation. A food handler

certificate must be submitted to the regulatory authority upon submission of the temporary food establishment permit application.

(F) A permitted food establishment that handles only pre-packaged food and does not prepare or package food is only required to obtain a food handler certification. One certified food handler per food establishment must be on duty at all times during business hours, to meet the intent of safe food practices of this chapter.

(G) In the event of a change of ownership of a food establishment, the new owner/operator of a food establishment shall provide proof to the regulatory authority that the appropriate number of certified food protection managers will be on duty within 30 days of the change of ownership.

(H) A food establishment shall provide proof of food protection manager certification to the regulatory authority prior to being issued a food establishment permit.

(I) A food establishment shall, within 30 days of the effective date of resignation, termination, or permanent transfer of any previously certified food protection manager, employ another certified food protection manager. The regulatory authority shall have the discretion to grant an extension of time to obtain a new certified food protection manager upon a written, printed, or electronic request.

(J) A food establishment shall, within 30 days of the effective date of resignation, termination, or permanent transfer of any previously registered certified food protection manager, employ another registered certified food protection manager. The City of Mansfield authorized representative shall have the discretion to grant an extension of time to obtain a new registered certified food protection manager upon a written, printed, or electronic request.

(K) The certificate of each certified food protection manager must be displayed in a conspicuous place.

#### **§ 94.07 EMPLOYEE HEALTH.**

Responsibility of permit holder, PIC, and food handlers. The permit holder shall require food handlers to report to the PIC information about their health and activities as they relate to diseases that are transmittable through food. A food handler shall report the information in a manner that allows the PIC to reduce the risk of foodborne disease transmission, such as the date of onset of symptoms and an illness, or diagnosis of a communicable disease by a medical professional.

#### **§ 94.08 TIME AS A PUBLIC HEALTH CONTROL.**

A food establishment that uses time as a public health control shall submit written procedures on a form provided by the regulatory authority before using such control.

#### **§ 94.09 HAIR RESTRAINTS.**

(A) Except as provided in division (B) below, all food handlers, regardless of title, position, or establishment's own policy, shall wear hair restraints such as hats, visors, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(B) This section does not apply to food handlers such as counter staff who only serve wrapped or packaged foods or beverages, bartenders, hostesses and wait staff if they present minimal risk of contaminating exposed food, clean equipment, utensils, linens and unwrapped single-service and single-use articles.

(C) If during the process of conducting an inspection, an inspector observes a food handler wear a hair restraint in an ineffective manner, the food employee will be asked to provide an effective means to restrain their hair from food and the violation will be noted on the inspection.

#### **§ 94.10 PHYSICAL FACILITIES.**

(A) Floors and floor coverings of all food preparation, food service, food storage, warewashing areas, walk-in refrigeration units, dressing rooms, locker rooms, and toilet rooms shall be durable, smooth, nonabsorbent, light colored, and easy to clean.

(B) Terrazzo, ceramic, or quarry tile may be installed as an approved floor covering. Floors shall be coved at the juncture of the floor and wall, with a three-eighths-inch minimum radius coving which shall extend up the wall at least four inches in all areas.

(C) Polished/sealed concrete used as flooring shall have a finished product thickness sufficient for the flooring to be smooth and easily cleanable. Floors shall be coved at the juncture of the floor and wall with a three-eighths-inch minimum radius coving which shall extend up the wall at least four inches in all areas.

(D) Epoxy resin and other poured monolithic floors, and other durable seamless flooring systems shall be installed to a finished product thickness, sufficient for the flooring to be smooth and easily cleanable. Floors shall be coved at the juncture of the floor and wall with a three-eighths-inch minimum radius coving which shall extend up the wall at least four inches in all areas.

(E) All food establishments, including food warehouses, with dry storage areas not exposed to excessive moisture may install sealed concrete, vinyl composition tile, or an equivalent material as approved by the regulatory authority. A more moisture-resistant flooring may be required if the dry storage area is subject to moisture.

(F) Prohibited floor covering. The use of cardboard, sawdust, wood shavings, peanut hulls, or similar materials as a floor covering is prohibited.

(G) Floors shall be smooth, durable, and nonabsorbent, and shall be maintained in a condition that facilitates thorough and rapid cleaning. Floors shall be free of cracks, chips, holes, and deterioration. The regulatory authority shall require repair or replacement of any floor which fails to meet the requirements of this section. Any flooring in an existing food establishment that prepares food as listed above and needs repairing shall be repaired or replaced to meet the minimum requirements for flooring for their food service operations.

(H) Utility line installation. Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines or pipes on the floor is prohibited.

(I) Walls and ceilings.

(1) Maintenance. Walls and ceilings, including doors, windows, skylights, and similar closures, shall be clean and maintained in good repair.

(2) Construction. The walls, including non-supporting partitions, wall coverings, and ceilings of walk-in refrigerating units, refrigeration storage areas, food preparation areas, dry storage areas, food storage areas, equipment-washing and utensil washing areas, toilet rooms, and vestibules shall be light colored, smooth, nonabsorbent, and easily cleanable, such as fiberglass reinforced paneling (FRP), stainless steel ceramic, quarry or terrazzo tile or equivalent to ceiling height and must be approved by the regulatory authority.

(3) The regulatory authority shall require durable and easily cleanable FRP, or material of greater quality, in areas exposed to excessive splash in food establishments not involved in food preparation.

(4) Ceilings shall be light in color, smooth, nonabsorbent, durable and easily cleanable. Ceiling materials may be washable drop-in panels, vinyl-coated panels, taped and bedded sheetrock with light-colored epoxy or enamel paint, or an equivalent material as approved by the regulatory authority.

(5) Fibrous acoustical drop-in panels shall be prohibited in all food preparation, tableware and utensil warewashing areas, service areas, dry storage, toilet rooms, mop sink area, and any other area subject to moisture.

(6) Exposed construction. Studs, joists, and rafters shall not be exposed in those areas listed in food preparation areas. If exposed in other rooms or areas, they shall be finished to provide an easily cleanable surface.

(J) Hand sinks shall be located within 20 unobstructed linear feet of a food preparation, warewashing, or food dispensing area. A door or doorway is considered an obstruction and hand sinks must be installed on both sides of a door or doorway of these areas.

(K) This section shall not apply to any existing food establishments in operation with a valid food establishment permit in existence on the date of the adoption of this chapter. Food establishments that contain physical features that are not in compliance with this

section and that present clear threat to public health, safety, or welfare shall be required to bring said physical feature into conformance with this section. All new or extensively remodeling food establishments shall comply with the physical facility standards set forth in this section and all other applicable regulations within the Mansfield Code of Ordinances. Extensive remodeling shall mean the repair or alteration of 50% or more of the existing square footage of an existing building, a change of occupancy, an addition, or the relocation of an existing building. This shall include the addition of new facilities requiring a permit or extensive modification of facility scope or menu to a separate facility type, use, or permit.

#### **§ 94.11 OUTDOOR AREAS; SURFACE CHARACTERISTICS.**

The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions. These surfaces shall be leveled to prevent pooling of water, kept free of litter, and maintained in good repair.

#### **§ 94.12 SUSPENSION OF A FOOD ESTABLISHMENT PERMIT.**

(A) The regulatory authority may, without warning, notice, or hearing suspend a food establishment permit if the holder of such permit does not comply with the requirements of this chapter, or the operation of the food establishment does not comply with the requirements set forth herein, or, if the operation of the food establishment otherwise constitutes an imminent health hazard. If a food establishment is experiencing an imminent health hazard according to the regulatory authority, the food establishment may be closed for operations until the imminent health hazard has been eliminated. Suspension is effective upon service of the notice in accordance with this § 94.13, herein, as amended. When a permit is suspended, food service operations shall immediately cease. Whenever a permit is suspended, the holder thereof shall be afforded an opportunity for a hearing within 20 days after receipt by the regulatory authority of a written request for hearing.

(B) Whenever a permit is suspended, the holder thereof or the PIC shall be notified in writing that an opportunity for a hearing shall be provided if a written request for hearing is filed with the regulatory authority within ten days after receipt of notice. If no written request for hearing is filed within a ten-day period, the suspension is sustained. The regulatory authority may terminate the suspension at any time if reasons for suspension no longer exist.

#### **§ 94.13 REVOCATION OF A FOOD ESTABLISHMENT PERMIT.**

(A) The regulatory authority may, after providing opportunity for hearing, revoke a food establishment permit for serious or repeated violations of any of the requirements of this section or for interference with the regulatory authority in the performance of its duties.

(B) Prior to revocation, the regulatory authority shall notify, in writing, the permit holder or the PIC of the specific reason(s) for which the food establishment permit is to be revoked and that the permit shall be revoked at the end of the ten days after service of such notice unless a written request for hearing is filed within the ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

(C) The holder of the revoked permit may make written application for a new permit.

#### **§ 94.14 EXAMINATION AND CONDEMNATION OF FOOD.**

(A) Any food subject to a hold order shall be tagged, labeled, or otherwise identified as such by an inspector. Food establishments are prohibited from using, serving, or moving any food subject to a hold order. An inspector's hold order shall permit storage of the food under the conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished.

(B) A hold order shall state that a request for a hearing may be filed within ten days after issuance thereof and that if no hearing is requested the food shall be destroyed. On the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or PIC of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this section.

#### **§ 94.15 APPEAL.**

(A) All appeals from final suspension or revocation of a food establishment permit shall be made in writing to the City Manager. The appeal shall be filed in writing within ten days of the occurrence of the suspension or revocation. The City Manager shall consider the appeal within 30 days after notice of the appeal. The City Manager shall have the power to reverse a decision of the regulatory authority by making a finding that such a reversal will not adversely affect the health and/or welfare of the public. A decision of the City Manager regarding an appeal shall be rendered in writing.

(B) All decisions of the City Manager shall be subject to review by the City Council at one of its regularly scheduled meetings if the appellant files a further appeal in writing with the City Secretary not more than 30 days after the City Manager renders a decision reversing or upholding a decision of the regulatory authority. The decision of the City Manager will be final unless appealed to the City Council within 30 days, and unless reversed by the City Council. The City Council's failure to take action on any such appeal, or failure to set such an appeal as an agenda item for consideration at a regularly scheduled meeting, shall constitute approval of the decision by the City Manager.

#### **§ 94.16 FEE SCHEDULE.**

All fees referenced herein shall be as established from time to time by the City Council and set forth in the City of Mansfield Regulatory Compliance fee schedule.

**§ 94.17 MOBILE FOOD VENDORS.**

(A) Permit. A completed permit application form shall include the valid license plate number of the mobile food vendor and a notarized form with the name and address of the commissary where products are purchased. A valid driver's license and proof of insurance will also be required at the time of application submittal.

(B) Permit holder. The permit holder is the person to whom the regulatory authority issues a permit for a mobile food vendor set forth herein.

(C) A mobile food vendor is not permitted on private property except as provided in this section.

(D) A mobile food vendor:

- 1) Must be permitted by the Regulatory Authority. A mobile food vendor shall obtain either a valid City of Mansfield or Tarrant County mobile food vendor permit to operate within the boundary of the city limits of Mansfield;
- 2) Must receive a permit from the Fire Department;
- 3) Shall be permitted to operate only in those zoning districts where the use is permitted as a matter of right or approved by a specific use permit in accordance with applicable provisions of the City of Mansfield Zoning Ordinance;
- 4) May not be located within 50 feet of a lot with a building that contains both a residential and commercial use;
- 5) May not be operated between the hours of 3:00 a.m. and 6:00 a.m.;
- 6) May not be located within 20 feet of a general or limited restaurant use;
- 7) May operate as part of a special event permit that has been approved by the City of Mansfield Planning and Zoning Department and/or the City of Mansfield Parks and Recreation Department;
- 8) May not operate within city parks unless vendors have written agreement from the city and are part of an approved special event;
- 9) May not operate on any street, median, or sidewalk of the city or residential property, except for ice cream trucks; and
- 10) Mobile food vendors are subject to inspection in the field. The Regulatory Compliance Department and the Fire Marshal's office will perform



inspections prior to being approved to operate and during operation at a special event.

(E) The noise level of mechanical equipment or outside sound equipment used in association with a mobile food vendor may not exceed 70 decibels when measured at the property line that is across the street from or abutting a residential use.

(F) A drive-in or drive through service is not permitted.

(G) Exterior lighting, if provided, shall be directed downward, and must be hooded or shielded so that the light source is not directly visible.

(H) A mobile food vendor is limited to signs attached to the exterior of the mobile food vendor. The signs must be secured and mounted flat against the mobile unit and may not project more than six inches from the exterior of the mobile unit. Signs shall otherwise comply with the provisions of the City of Mansfield Zoning Ordinance.

(I) During business hours, the permit holder shall provide a trash receptacle for use by customers. The permit holder shall always keep the area around the mobile food vendor clear of litter and debris.

(J) A permanent water or wastewater connection is prohibited.

(K) Electrical service may be provided only by temporary service or other connection provided by an electric utility or an onboard generator.

(L) Inspection. Each mobile food vendor must be inspected by the regulatory authority before a permit will be issued. All applicants for a permit must contact the regulatory authority at least 48 hours prior to scheduling an inspection appointment. The warmer, refrigeration and freezer units must be operational, fully stocked and have visible, accurate, and numerically-scaled thermometers at the time of inspection and at all times thereafter. Cleaning supplies and sanitizer must always be present in the vehicle at the time of inspection and thereafter. In addition, mobile food vendors (e.g., food trucks) are required to register with the Fire Marshal's office (no fee). A fire inspection will be scheduled to check Type I hoods, fire extinguishers for current tags, and a visual inspection of the propane delivery system. A current certificate from this jurisdiction's health authority is required prior to fire inspection. Vehicles not in compliance will not be permitted to operate in the Mansfield city limits. A citation could be issued for continued noncompliance.

#### **§ 94.18 TYPES OF MOBILE FOOD VENDORS.**

(A) Produce vendors. Vends nuts, uncut fruits and vegetables only.

(B) Ice cream trucks. Vends pre-wrapped and sealed ice cream, canned soft drinks, pre-packaged candy, chips and pickles.

(C) Mobile cold trucks. Vends pre-packaged, prepared, TCS food and/or (formally PHF) potentially hazardous and non-TCS food in individual packages for immediate consumption.

(D) Mobile hot trucks. Prepares and vends TCS food and non-TCS foods on site. On this unit, food is cooked, wrapped, packaged, processed, or portioned for service, sale or distribution.

(E) General requirements. Specific requirements for mobile food vendors are determined by the type of unit as outlined in this chapter. In addition to the specific requirements for each type of mobile food vendor, each unit must satisfy all of the following:

(1) Business/firm name and phone number on both sides of the unit in at least three-inch letters.

(2) A copy of the most recent inspection report must be on the unit at all times.

(3) All mobile food establishments must operate from a base of operation, such as an approved commissary or other fixed food establishments permitted and inspected by a city.

(4) The operator of the permitted mobile food vendor must report daily to the commissary for supplies, cleaning and servicing of the unit. Mobile food vendors must be stored at the commissary when not in use.

(5) Mobile food vendors are prohibited from remaining at the same location for a period of ten minutes after the last sale.

(6) Time/temperature foods must be hermetically sealed, dated, and labeled as to type of food and location of preparation. All TCS foods must be disposed of at the end of each day of operation. No home-prepared foods will be allowed.

(7) If food is purchased at a permitted food establishment, the establishment must be licensed with the appropriate state agency as a food manufacturer. These foods must meet the same packaging and labeling requirements as listed above.

(8) All condiments must be dispensed in single-service containers, packages or in an approved commercially filled dispenser-type container.

(9) Single-service cups must be dispensed in a sanitary manner.

(10) No direct food handling of any type will be permitted by mobile cold truck vendors or customers.

(11) All cold TCS foods must be kept at an internal temperature of 41 degrees Fahrenheit or below. All hot TCS foods must maintain an internal temperature of 135 degrees Fahrenheit or higher. Mechanical hot-holding and cold-holding units must have accurate, numerically-scaled thermometers conspicuously placed inside the units.

(F) Specific requirements.

(1) Ice cream trucks.

- (a) Must be an enclosed or covered truck or van with a smooth, easily cleanable floor.
- (b) Must have an enclosed freezer with a visible, accurate, and numerically-scaled thermometer to store ice cream.
- (c) All ice cream must be pre-wrapped, sealed, labeled and obtained from an approved source or commissary.
- (d) Pre-packaged candy, chips and soft drinks may be sold in single-service units.
- (e) Signs in front and rear of the unit bearing the words "Caution - Watch for Children" must be present in three-inch letters on a contrasting background.
- (f) Vehicles must have one revolving amber strobe light that is visible from a distance of 500 feet in the daylight and shall be placed on top of the vehicle. The light should be used only when slowing down or stopping in the right lane with flashing amber lights working.
- (g) All sales shall be conducted from the curb side of the vehicle.
- (h) Everything that is necessary for the operation of the truck must be on the truck.
- (i) Unit must be maintained in good repair and in a clean condition.
- (j) No sales shall be conducted before sunrise or after sunset.
- (k) Ice cream truck vendors, drivers and servers shall be subject to and comply with the regulations set out in Chapter 111 "Peddlers and Solicitors" of the City of Mansfield Municipal Zoning Code of Ordinances. Occupants of the vehicle must display a valid identification card, issued by the City of Mansfield, visible to the public, at the times the vehicle is in service to conduct transactions. Ice cream truck vendors, drivers, and occupants are exempt from § 111.11(C) and (D). In addition, cardholders must comply with the regulations set forth in the City of Mansfield Municipal Zoning Code of Ordinance.

(2) Mobile cold trucks.

- (a) Must be an enclosed commercial unit operated from a truck with proper storage and display space.
- (b) Must provide proper equipment (such as NSF-approved mechanical holding ovens, NSF-approved surfaces for food contact and cold storage areas) to keep TCS food at 135 degrees Fahrenheit or above for hot foods or 41 degrees Fahrenheit or below for cold foods. An accurate, numerically-scaled thermometer must be displayed inside both hot and cold storage units.
- (c) Only pre-wrapped, bottled, canned or otherwise packaged food in individual servings for immediate consumption may be sold.
- (d) All food must be properly labeled and obtained from an approved commissary. The label on all foods must declare the common name of the food, list of ingredients,

contents by weight or volume, packaging date and the name and address of manufacturer or packer.

(e) Only non-TCS food beverages dispensed from covered urns or other protected equipment may be served.

(f) If ice is used to keep food cold, it must be drained into a retention tank to be properly disposed of at the commissary location. No block ice allowed.

(g) Everything that is necessary for the operation of the truck must be on the truck.

(h) All condiments must be dispensed in single-service containers, packages, or an approved commercially filled dispenser-type container.

(i) An accurate, numerically-scaled metal stem thermometer is required to check food temperatures.

(j) Unit must be maintained in good repair and in a clean condition.

(k) An approved commissary is required, which is permitted and inspected by the appropriate regulatory authority, at which those foods to be sold are obtained and prepared; and also for servicing the unit.

(l) A spray bottle of sanitizer (appropriate mixture of approved sanitizer) must be available. All chemicals, cleaners, and the like, must be stored away from food and food contact items.

(m) Appropriate chemical test kits must be present on the truck.

(n) A container of liquid hand sanitizer must be available for the operator.

(3) Mobile hot trucks.

(a) Must be an enclosed commercial van designed for the transportation, storage and preparation of TCS food and non-TCS foods.

(b) Must provide proper equipment (such as a stainless steel three-compartment sink, and stainless-steel hand wash sinks) and must be supplied with both hot and cold potable water under pressure.

(c) Wastewater retention tank is required and must be at least 15% greater capacity than the potable water supply.

(d) Water for hand washing and dish washing must be heated via an electrical, on demand system to generate water at a minimum temperature.

(e) NSF-approved mechanical refrigerators, freezers, stoves, ovens and hot holding units are required to maintain TCS food at or above 135 degrees Fahrenheit for hot foods or at or below 41 degrees Fahrenheit for cold foods. Units used to store TCS foods must be provided with visible, accurate, and numerically-scaled thermometers.

(f) Unit must be provided with adequate ventilation, exhaust fans and proper lighting and shields.

(g) All food must be obtained from an approved source or commissary.

(h) Only non-TCS food beverages that are dispensed from covered urns or other protected equipment may be served.

(i) The serving of ice for beverages can be dispensed from an automatic dispenser or served by the mobile hot truck operator(s) only.

(j) Everything that is necessary for the operation of the truck must be on the truck.

(k) An accurate, numerically-scaled metal stem thermometer is required to check food temperatures.

(l) Other items that must be present are liquid hand soap, disposable paper towels, approved sanitizer, chemical test kit, fire extinguisher and a first aid kit.

(m) Operator must have a valid food protection manager certification. All other employees must have a valid food handler certification.

(n) Unit must be maintained in good repair and in a clean condition.

(4) Limited service pushcarts.

(a) An enclosed mobile food vendor capable of being maneuvered by one person.

(b) Pre-packaged frozen desserts must be maintained frozen by means of dry ice or a mechanical freezer.

(c) Everything that is necessary for the operation of the unit must be located on the unit. No additional ice bins, ice chests, tables, and the like, are allowed. The unit must be a stand-alone, self-contained unit with a visible, accurate, and numerically scaled thermometer.

(d) Units must be maintained in good repair and in a clean condition.

(e) Further requirements for push carts may be found in the City of Mansfield Code of Ordinances under § 155.099. In the event of conflict between the provisions of this chapter and those found in § 155.099, the more restrictive provisions shall prevail.

#### **§ 94.19 SEASONAL FOOD ESTABLISHMENTS.**

(A) General requirements. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of seasonal food establishments, may prohibit the sale of some or all TCS food, and when no health hazards will result, may waive or modify requirements of this section. Seasonal food establishments shall comply with the requirements of this chapter, including but not limited to, concession stands, snow cone stands, and farmers' markets.

(B) Concession stands. Concession facilities are seasonal food service establishments generally associated with athletic and recreational facilities. The degree of regulation of a concession facility shall depend upon the type and volume of foods conveyed, and the status of the facility.

## **§ 94.20 FARMERS' MARKETS.**

(A) Farmers' markets. All farmers' markets and each vendor attending a farmers' market shall comply with the requirements of this chapter, unless otherwise restricted by applicable state or federal law.

(1) Farm stands and farmers selling food from their farm must meet the requirements of this section.

(2) Responsibility; assignment. The farmers' market permit holder shall be the PIC, or shall designate a PIC, and shall ensure that a PIC is present at the farmers' market during all hours of operation. The PIC shall provide proof of successfully passing an ANSI-accredited certified food protection manager's course upon request.

(3) Farmers' market vendors that offer, sell, or distribute TCS food shall have a PIC that can provide proof upon request of successfully passing a Texas Department of State Health Services (DSHS) recognized certified food handler course. Food vendors that offer, sell, or distribute only prepackaged non-TCS food and plants, nuts in the shell, or whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption are exempt from the certified food handler requirement.

(4) The PIC of the farmers' market shall maintain, and provide upon request, a list of all farmers' market vendors. The list shall be maintained for a least 90 calendar days from the date of the end of the market. This list shall include:

- (a) The name, address, and phone number of each vendor;
- (b) The date(s) the vendor operated at the farmers' market;
- (c) A list of the food offered by vendor for each date operated at the farmers' market;
- (d) A copy of any applicable permit(s) held by the vendor; and

(e) The address or location of each food item's origin, including where the food was grown, cultivated, or otherwise obtained by the vendor.

(B) Food.

(1) Preventing contamination.

(a) Food display. Except for plants, nuts in the shell, and whole, raw fruit and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by use of packaging; counter, service line, or sneeze guards that comply with National Sanitation Foundation

(NSF) or equivalent standards; be completely enclosed display cases accessible only to farmers' market vendor staff; or by other means approved by the regulatory authority.

(b) A farmers' market shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces at the food establishment. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter. This procedure shall be available to the regulatory authority upon demand. Applicable equipment needed by the procedure shall be always available on-site.

(c) Approved source. Only food from an approved source as defined in this chapter or food prepared in a cottage food production operation may be offered at a farmers' market.

(d) Prohibited items. Fish, foraged food, game animals, gleaned food, and non-pasteurized dairy items are prohibited at a farmers' market. Raw cheeses from approved sources are allowed.

(e) Temperature requirements. Food temperatures must be in compliance with this chapter. Equipment used to hold food shall maintain required temperatures for the duration of the farmers' market.

1. Meats and poultry shall be maintained at or below 41 degrees Fahrenheit for the duration of the market, and while being transported to the market.

2. Eggs and refrigerated dairy items shall be maintained at or below 45 degrees Fahrenheit during transport to the market and for the duration of the market.

(f) Sampling. Sampling shall meet the requirements of Tex. Health and Safety Code § 437.020, as amended.

(2) Equipment, utensils, and facilities.

(a) Functionality of equipment. Equipment used to keep food frozen or refrigerated shall comply with this code and shall be able to maintain required temperatures for the duration of operations.

(b) Tables used within the vending area shall be made of non-porous material and easily cleanable.

(3) Equipment, numbers, and capacities. Where required, at least one hand washing facility, which shall include a container with a spigot that provides potable, clean, warm water; a wastewater container; soap; disposable towels; and a waste receptacle shall be located within 25 linear feet of each vendor approved to conduct sampling operations.

(a) A hand wash facility is not required for vendors with only pre-packaged products and plants, nuts in the shell, and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption.

(b) Each farmers' market vendor shall provide a refuse receptacle. Receptacles shall be non-porous and insect and rodent resistant. All refuse shall be disposed of offsite from the farmers' market to prevent pests and shall be disposed of no less than once per day.

(c) There shall be a sufficient number of receptacles to hold all the refuse that accumulates. The regulatory authority may require more frequent collection, more dumpsters, or larger dumpsters to accommodate the refuse that accumulates at the farmers' market.

(4) Physical facilities.

(a) Floor construction. Floors and floor coverings of all vending areas shall be located on a concrete or asphalt surface providing adequate drainage.

(b) Vending areas shall be covered, free of pests, and capable of providing shelter for vendors and customers.

(5) Plan review. Each person desiring to operate at a farmers' market shall submit the following to the regulatory authority at least five business days prior to the proposed start date of the farmers' market:

(a) A farmers' market permit application;

(b) A floor plan or diagram of the farmers' market location and layout, including the area reserved for vendors;

(c) An equipment list;

(d) A list of food proposed to be offered or vended;

(e) Proof of food origin by providing a copy of a current manufacturer's license, providing a copy of a storage license, or providing a description of the approved source at where food will be obtained;

(f) A copy of approved food label(s), where applicable; and

(g) A description of solid and liquid waste disposal methods.

(C) Farmers' market inspection.

(1) All foods must be commercially produced prepackaged items from a license facility or commissary. Product sampling is prohibited. This does not apply to food that has been prepared or packaged under conditions meeting the requirements of this chapter and served within facilities meeting the requirements of this chapter. This includes all cottage food production operations.

(2) A manufacturing permit from the Texas Department of State Health Services (DSHS) and copies of product labels shall be provided to the regulatory authority.

(3) Person(s) operating as a farmers' market vendor shall comply with the Texas Health and Safety Code and the requirements of this section.



(4) The regulatory authority may inspect each farmers' market vendor booth offering food products as is necessary for the enforcement of this section.

(5) The farmers' market manager of a certified farmers' market shall be responsible for ensuring that all booths are operating with a current and valid permit and for ensuring that all shared or common facilities and operations comply with this chapter.

(6) In the case of repeated violations of this section, the regulatory authority may impose restrictions on the food products at a farmers' market vendor booth.

(7) A farmers' market vendor may not set up food sampling operations as unattended self-service displays for customers.

(8) A farmers' market vendor shall correct all violations at the time of inspection unless an extension is allowed by the regulatory authority. No extension shall be granted where the violation poses an imminent health hazard to the public.

(9) Farmers' market vendors operating at a certified farmers' market without a valid permit or with a suspended permit constitutes an offense under this chapter.

(10) The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of a farmers' market booth.

(11) Cottage food. Cottage food sold at the farmer's market shall be labeled and such labels must include name and complete address of cottage food production operation, major allergens, batch number (if applicable), and the following statement "This food is made in a home kitchen and is not inspected by the Texas Department of State Health Services or a local health department."

#### **§ 94.99 PENALTY.**

Any person, firm, corporation or business entity violating this chapter shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding \$2,000. Each continuing day's violation under this chapter shall constitute a separate offense. The penal provisions imposed under this chapter shall not preclude the city from filing suit to enjoin the violation. The city retains all legal rights and remedies available to it, pursuant to local, state and federal law.