

## ATTACHMENT 1

### Chapter 13 FOOD AND FOOD HANDLERS

Art. I. In General, §§ 13-1--13-20

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## **ARTICLE I. IN GENERAL**

### **Sec. 13-1. Legislative authority.**

The provisions of this Chapter are adopted in the exercise of the powers granted to this City by law including, but not limited to, provisions of State law and Article I of the City Charter.

### **Sec. 13-2. Food Establishment Rules**

(a) The following are hereby adopted by this Chapter:

(1) 25 Texas Administrative Code (TAC) Part I, Chapter 229, Sections 229.210 through 229.222, Current Good Manufacturing Practice and Good Warehousing Practice in Manufacturing, Packing, or Holding Human Food.

(2) The Texas Food Establishment Rules, TAC Sections 229.161 thru 229.171, and, 229.173 thru 229.175, effective date March 15, 2006.

(b) The following sections of the Texas Food Establishment Rules are not adopted by this Chapter:

(1) Section 229.162 (40) (c), Section 229.162 (89), and Section 229.166 (d) (2).

(c) To the extent that the City Code of the City of San Antonio provisions are more strict than the Food Establishment Rules from the Code of Federal Regulations, and the Texas Food Establishment Rules, the City Code shall control.

### **Sec. 13-3. Definitions.**

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

*Adulterated* shall mean the condition of a food:

(1) If it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; or

(2) If it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established; or

(3) If it consists in whole or in part of any filthy, putrid or decomposed substance, or if it is otherwise unfit for human consumption; or

(4) If it has been processed, prepared, packed or held under unsanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or

(5) If it is in whole or in part the product of a diseased animal, or an animal which had died otherwise than by slaughter; or

(6) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

*City* shall mean the City of San Antonio, Texas.

*Commissary* shall mean a food processing establishment or food service establishment approved by the Director in which food, containers or supplies are kept, handled, prepared, packaged or stored for transportation by mobile food establishment vendors.

*Corn roaster* shall mean a rotisserie type of oven mounted on a vehicle, trailer, or pushcart that is designed to cook whole ears of corn with the shucks in place.

*Current permit* is one which is current, valid, unsuspended and unrevoked.

*Department* shall mean the Health Department of the City of San Antonio, Texas or the San Antonio Metropolitan Health District.

*Director* shall mean the Director of the Health Department of the City of San Antonio, Texas and the Health Authority for the San Antonio Metropolitan Health District.

*Downtown business district* shall have the same meaning as set out in the Unified Development Code of the City of San Antonio, Texas.

*Food establishment* shall mean:

(a) an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:

(1) such as a restaurant; retail food store; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and

(2) that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(b) Food establishment includes:

(1) an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

(2) an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

(3) an establishment that offers only prepackaged foods that are not potentially hazardous;

(4) a food processing plant;

(5) a Bed and Breakfast Limited, Bed and Breakfast Extended and Bed and Breakfast Food Establishment facility as defined in the Texas Food Establishment Rules.

(c) For the limited purpose of permits, Food Establishment shall not include:

(1) a food establishment that only sells whole, uncut fresh fruits or vegetables;

(2) a mobile food establishment that only sells whole, uncut fresh fruits or vegetables;

(3) a temporary food establishment that only sells whole, uncut fresh fruits or vegetables; or

(4) a temporary food establishment that only gives away pre-packaged, non-potentially hazardous foods.

*Food handler* shall mean a person, regardless of age, engaged in the preparation, handling or vending of food.

*Food vendor* shall mean any person, group of persons, firm or corporation who individually or by or through an agent or employer, offers for sale, sells, attempts to sell, exposes for sale or gives away any food intended for human consumption from any vehicle or by a person afoot.

*Inspector* shall mean an authorized representative of the Director.

*Jurisdictional limits of this City* includes all of the area within the corporate limits of the City but exclusive of that part of such territory which lies within the corporate limits of another city, town or village.

*Liquid waste* shall mean fluid, resulting from wastes produced from food vending operations, composed of solids, whether dissolved or in suspension; liquids, whether in solution, in emulsion or in separate phases; and gases. The term shall also include melted ice.

*Processing* shall mean any operation or combination of operations whereby dead animals, dead fowl, fish, inedible offal, meat scraps, bones, suet, feathers, unrendered animal fat, waste cooking greases, and similar animal matter is prepared for disposal at a rendering establishment, stored, or is treated for commercial use or disposition other than as food for human consumption.

*Processing area* shall mean any area in which processing is conducted.

*Produce* shall mean any whole uncut raw fruit, raw vegetable, raw nuts in the shell, raw herbs used in food, and raw spices.

*Rendering business* shall mean the collection or rendering, or boiling, or refining, or storing pending further processing or disposal at a rendering establishment of dead animals, dead fowls, fish, inedible offal, meat scraps, bones, suet, feathers, unrendered animal fat, waste cooking greases, and similar animal matter, or the transportation of such matter to and disposal at a rendering establishment, either as a separate business or in connection with any other established business.

*Rendering establishment* shall mean any establishment, plant, or premises at or within which dead animals, dead fowls, fish, inedible offal, meat scraps, bones, suet, feathers, unrendered animal fat, waste cooking greases, and similar animal matter is rendered, boiled, processed, or otherwise prepared to obtain a product for commercial use or disposition other than as food for human consumption.

*Simple Snow Cone* or *Simple Raspa* shall mean a food item consisting of crushed ice which was purchased pre-crushed from a licensed processor that is covered or mixed with syrup which was prepackaged from an approved source.

*Snow Cone / Shaved Ice / Raspa* shall mean a food item prepared from block or cubed ice by a shaving process that is covered or mixed with a syrup that may be prepared by the operator in a commissary or on the mobile food establishment, or be purchased prepackaged.

*Special Event* shall mean an event that is sponsored or recognized or organized by an organization such as a neighborhood association, religious group, cultural group, political party, church, school, sports team, fraternal organization, non-profit group/organization, city, county, state, or federal government or an organized mass gathering of people such as a concert, sporting event, trade show, flea market, carnival, circus, or other similar type of show or celebration, or a celebration or gathering which may be based around a specific calendar date which is recognized by the federal, state, county or City government as a holiday or celebratory day or by an abovementioned group or organization, or an event approved by the Director.

*Sticker* shall mean a decal issued by the Director that is numbered and has the month and year of the expiration date of the permit which shall be displayed on the mobile food establishment.

*Temporary food establishment* shall mean a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single special event or celebration, and shall also include an establishment that is granted an exemption by the Director to operate for up to 21 consecutive days of operation.

*Terminal Market Area* shall mean the area within the boundaries of S. Laredo on the north, Elmendorf on the west, Ceralvo on the south and Navidad on the east.

*Vegetable and fruit vendor* shall mean any food vendor dispensing farm fresh produce from a mobile food establishment.

*Vehicle* shall mean every device in, upon, or by which any food is or may be transported, pushed or drawn.

*Vend* shall mean the act of dispensing food by a person from a mobile food establishment or afoot within or without a building and shall include for the purpose of this Article the act of offering to give away and to give away any substances intended for use as food.

#### **Sec. 13-4. Enforcement, authority to enter premises.**

(a) The provisions of this Chapter shall be enforced by the Director and his designated agents.

(b) The Director and each inspector of the City acting under his authority or the authority of the City Council, is, for the purpose of protecting the public health and enforcing this Chapter, hereby authorized and directed, at any or all reasonable times when inspection may be deemed proper, to enter any premises, room, apartment, or place in the City, or if no objection be made, without the City, wherein any food establishment is operated or carried on, or where any food products are kept, produced, prepared or handled, and also any room, place, premises, vehicle or appurtenances, used in connection with such business or operation, and to make a complete inspection of each such room, place, premises or vehicles, and all machinery, equipment, furniture, utensils and other things found therein; and also to make a thorough inspection and examination of all foodstuffs and other things therein found, which are used or kept for the purposes of such business, which are reasonably within the purpose and intent of this Chapter. All such inspectors are also authorized and directed to stop and inspect within the City, or by permission without the City, any wagon or vehicle which appears to be used for the purpose of transporting or delivering any such food products. Such

Director and inspector shall also be authorized to require, and the persons in charge of any such place or vehicle shall furnish to the Director or inspector, such reasonable and proper samples as he may demand for making any tests of such food products.

**Sec. 13-5. Duty of inspectors.**

Every person appointed, or acting by or under the authority of the City who is charged with the duty of inspecting food establishments, or food products, or any operations in connection therewith, shall perform all such duties under the direction of the Director, and shall make all such inspections, examinations and reports, and in such manner and form as may be required and directed by the Director.

**Sec. 13-6. Cooperation by owners, managers and employees with inspectors.**

Every person who owns, manages or conducts any food establishment, and each agent, or employee of such person, shall answer truly such questions and render such information and assistance and give such written statements or certificates, as may be asked or required by the Director or any such inspector for the purpose of facilitating any inspection or examination under the provisions of this Chapter, and shall also upon request of such officer exhibit to such officer and permit him to examine upon request, any license, permit or certificate, relating to such food establishment and also any bill or delivery ticket evidencing the purchase or delivery of any food product and showing the name of the person from whom such food product was had or purchased.

**Sec. 13-7. Interference with inspectors.**

No person shall interfere with or refuse to permit the Director or any such inspector to make any inspection or refuse to furnish the information authorized under section 13-5; and if any person shall refuse permission or bar or obstruct any inspection, then any permit issued by the City for such food establishment shall become subject to revocation and shall become null and void on written order of the Director.

**Sec. 13-8. Condemnation of food products.**

(a) Samples of food, drink and other substances shall be taken and examined by the Director as often as he deems necessary for the detection of unwholesome and deleterious qualities. The Director may condemn and forbid the sale of or cause to be removed or destroyed, any food or drink which is unwholesome or deleterious according to the procedure outlined in this section.

(b) When such unwholesome or deleterious food comes to the attention of the Director he shall promptly condemn the same and the owner, manager or other person in charge of the same shall thereupon immediately and in the presence of the Director destroy such food by opening the containers, if it is in containers, and immediately denature and render the food inedible as may be approved by the Director; however, if such owner, manager or other person shall notify the Director of his desire to appeal, such owner, manager or other person shall immediately transport such foodstuff to such place as the Director may designate or approve and shall there store such food. The Director shall promptly, either by request or his own volition, make further inspection and examination of such food. If such inspection and examination shows that the food should not be condemned, then the owner thereof may remove the same again to his place of business for sale or otherwise as he may desire.

(c) Any food or drink which appears to the regulatory authority to be unwholesome, or of possible deleterious quality, or any piece of equipment capable of contaminating food or drink products shall be retained by attaching thereto a "San Antonio Retained" tag. Food and equipment so retained may not be removed, disturbed or used without the permission of the regulatory authority. Anyone, except the regulatory authority, removing a "San Antonio Retained" tag when attached to any food or equipment shall be in violation of this Chapter and subject to all penalties provided for herein.

**Sec. 13-9. Appeals from condemnation of food products.**

In case such owner, manager or other person in charge of such condemned foodstuff, shall desire to appeal from the judgment of any such officer, the owner, manager or other person shall immediately transport such foodstuffs to such place as the officer may designate or approve, and shall there store such foodstuff, and the Director shall promptly, on the written request of the owner or on his own motion, make a further inspection and examination of the foodstuffs, and the judgment of the Director shall be final and conclusive; and if such judgment be that the foodstuff shall be condemned, then the foodstuff shall be immediately destroyed or stored as provided in section 13-8, or in such manner as the Director may direct; but if such judgment be that the foodstuff should not be condemned then the owner thereof may remove it again to his place of business.

**Sec. 13-10. Destruction of condemned food products.**

Unless the owner, manager or other person shall notify the Director of his desire to appeal the condemnation of foodstuff pursuant to section 13-8 and shall immediately comply with the requirements of section 13-8, such destruction of condemned meat, fish, or other foodstuff, may be affected by slashing or otherwise separating the substance of same, after which same shall be immediately denatured and rendered inedible as may be approved by the Director.

**Sec. 13-11. Penalty for violation.**

Any person who violates a provision of this Chapter shall upon conviction in the municipal court of the City be subject to a fine not to exceed two thousand dollars (\$2,000.00) for each offense if the court finds that the offense was committed intentionally, knowingly or recklessly, and each day shall constitute a separate offense.

**Sec. 13-12. Injunctive relief.**

In the addition to and cumulative of all other penalties, the Director shall have the right to seek injunctive relief for any or all violations of this Chapter.

Secs. 13-13 – 13-20. Reserved.

## **ARTICLE II. PERMITS GENERALLY**

### **Sec. 13-21. Required for food establishments in the City.**

It shall be unlawful for any person to operate a food establishment or rendering business in the City who does not possess a valid unsuspending or unrevoked permit from the Department. No person/owner/operator shall, within the City, manufacture, sell, or offer or expose for sale, or have in possession with intent to sell, any food product without the proper permits. A person operating a temporary food establishment shall also be required to secure a permit before they shall be allowed to operate.

### **Sec. 13-22. Filing application.**

Every person desiring a permit to establish, maintain, or operate a food establishment within the City shall make a written application stating the name and residence of the applicant if an individual, or all the members of the firm if an association or partnership, or the name or residence of the applicant, its officers and directors if a corporation, and the location and description of the premises where such food establishment is to be conducted, and file such application with the Department.

### **Sec. 13-23. Investigation of application.**

It shall be the duty of the Director upon the filing of such application to make or cause to be made an investigation of the premises and equipment and appliances to be used in connection therewith for the purpose of determining the fitness and suitability of such premises for a food establishment from a sanitary standpoint, and when such inspection shall have been completed, the Director shall file with the Department his recommendation for or against issuance of a permit.

### **Sec. 13-24. Issuance of permit.**

(a) If the Director is satisfied that the premises, equipment and appliances where a food establishment is to be located, are proper and suitable from a sanitary standpoint, and meet all the requirements of the laws of the State or of the ordinances of the City relating to the conduct and operation of the business named in such application, he shall issue or cause to be issued a permit in accordance with such application, upon receipt of the permit fee provided by section 13-27.

(b) No permit or license for the use, construction, reconstruction or repair of any building or structure used or to be used as a part of a rendering business shall be issued by any department of the City until the plan therefore shall show adequate means for carrying out the provisions of this Chapter and until such plan shall have been approved by the Director.

### **Sec. 13-25. Form, expiration.**

Permits for the operation of food establishments shall be issued under the corporate seal of the City, signed by the Director, and shall authorize the person therein named to establish, maintain and operate a food establishment at the place designated in such permit. Such permit shall expire one (1) year from the month of original issuance or renewal, and shall be renewed in each successive year thereafter.

**Sec. 13-26. Display.**

Every person authorized to operate a food establishment in accordance with the provisions of this Chapter shall post such permit and the latest City health inspection report, or cause them to be posted, in a conspicuous place within the premises where such food establishment is authorized to be established, maintained or operated.

**Sec. 13-27. Fees enumerated.**

(a) The annual permit fee to cover the cost of inspection of such food establishments shall be paid in advance upon issuance of such permit as follows:

- (1) For each establishment employing not more than five (5) persons . . . \$ 220.00
- (2) Six (6) persons and not more than ten (10) persons . . . \$ 440.00
- (3) Eleven (11) persons and not more than twenty-five (25) persons . . . \$ 660.00
- (4) Twenty-six (26) persons and not more than fifty (50) persons . . . \$ 882.00
- (5) More than fifty (50) persons . . . \$1,100.00

(b) A fee of fifty dollars (\$50.00) in addition to those listed above will be charged for inspection of existing food establishments that change ownership and do not require a new Certificate of Occupancy to be issued.

(c) A fee of one hundred fifty (\$150.00) in addition to the appropriate permit fee listed above in section (a) will be charged for inspection and permit of a food establishment that has been operating without a permit.

(d) The owner or operator of a restaurant as defined in Chapter 36 of this Code which chooses to have a designated smoking area shall pay a one-time fee in the amount of fifty dollars (\$50.00) to cover inspection expenses in order to establish that:

- (1) A bar or dining area within the restaurant which is designated as a smoking area is in compliance with the definition of an enclosed area as set forth in subsection 36-1 of this Code; and
- (2) The outdoor seating areas of the restaurant designated as smoking areas are so designated in accordance with subsection 36-6(8) of this Code.

(e) Temporary food establishments shall secure a permit more than three (3) days before beginning operation and shall pay a fee of thirty dollars (\$30.00) per stand, per day, per event. In the event that the temporary food establishment does not secure a permit more than three (3) days before beginning operation they shall pay a fee of thirty-five dollars (\$35.00) per stand, per day, per event. Each event is considered a separate permit period. The fee shall be paid prior to commencing operations. Permit fees are non-refundable. However, the date of the event may be rescheduled or the event may be canceled and rescheduled if the applicant makes a request to reschedule in person at the Development and Business Service Center at least two business days prior to the event.

(f) A special event that has more than one temporary food establishment or booth shall have an event sponsor / coordinator. It shall be the responsibility of the event sponsor / coordinator to collect the temporary food establishment permit fees from the participants

so that all fees may be paid to the Department with a single payment. These fees shall be paid at least 3 days in advance of the event as directed in this section of this Code.

(g) A person or organization is allowed four (4) special events in a calendar year provided that:

(1) properties overseen by the City or Bexar County and multi-use facilities that are used for trade shows or conventions are exempt from this restriction; or,

(2) persons or organizations may petition the Director or his representative for an exemption to this limitation.

(h) A temporary food establishment may operate for a maximum of fourteen (14) consecutive days after which all operations must cease unless granted an exemption by the Director.

**Sec. 13-28. Effect of additional employees on fees.**

If at any time during the period of validity of any permit issued under this Chapter, additional persons are employed by the establishment operating under such permit, it shall be the duty of the person in charge of such establishment to immediately notify the Department of such increase and if such increase brings that establishment into a higher permit fee bracket, such person shall pay to the Department the additional sum required. This charge shall be prorated according to the month in which the change occurred as set forth in the charges for permit fees for new establishments in paragraph 13-27 (a).

**Sec. 13-29. Disposition of permit fees.** All fees payable under this Chapter for whatever purpose required shall be deposited in the general fund of the City.

**Sec. 13-30. Transferability.**

Permits, as required by section 13-21, shall not be transferable from either one (1) food establishment to another food establishment at a different location or from one (1) person to another person who may subsequently own a certain food establishment, except that a permit holder who operates a food establishment may, upon his closing of that food establishment for the purpose of continuing the business at another food establishment, apply to the Director for a transfer of his permit to the new location. Such application shall be accompanied by an inspection fee of five dollars (\$5.00). The Director shall authorize such transfer if, upon inspection, it is determined that the new establishment complies with the provisions of this Code. The Director may effect such transfer either by endorsement of the address of the new location on the permit, or by cancellation of the permit and issuance of a new permit for the new food establishment.

**Sec. 13-31. Revocation and reinstatement of permits.**

(a) Permits issued under this Chapter may be suspended or revoked by the Director upon violation by the owner or operator of any of the terms of this Chapter and upon written notice from the Director or his representative. When such permit is suspended or revoked the operation of the establishment shall cease as stipulated in the written notice of suspension or revocation.

(b) Whenever a permit to operate an establishment is suspended or revoked, the owner or operator of said establishment may request a hearing with the Director provided that

the request is in writing and it is filed with the Director within ten (10) working days of the suspension or revocation. If no request for hearing is filed within the ten-day period, the suspension or revocation of the permit to operate becomes final. If a request for hearing is filed within the ten-day period, the Director shall hold the hearing and render a decision in writing to the owner or operator of the establishment within ten (10) working days of receipt of the request. The decision of the Director is final.

(c) A suspended permit may be reinstated provided a written application for reinstatement is submitted to the Director and provided that the violated provisions of this Chapter have been corrected. The Director or his representative shall make a reinspection and thereafter as many reinspections as may be necessary to assure that the applicant has complied with the requirements of this Chapter. If the Director finds that compliance has been accomplished, the permit shall be reinstated. The fee for reinstatement of a permit under this Chapter shall be \$100.00.

(d) Whenever a revocation of a permit has become final the holder of such revoked permit may make written application for a new permit to operate provided the Director is satisfied that the provisions of this Chapter have been met and any additional provisions, with regard to training, that the Director deems necessary, are met. The new permit shall be processed and the fee paid as provided in this Chapter for new permits.

(e) Any establishment which had its permit revoked two (2) times in a thirty-six-month period will be ineligible to apply for a new permit for six (6) calendar months after the second or subsequent revocation.

**Sec. 13-32. Reinspection fee.**

(a) A reinspection fee is required for any food establishment or food vendor regulated under this Chapter. Any establishment or vendor that requires an inspection beyond the normal schedule will be charged a fee as follows for each reinspection:

- (1) 1st reinspection . . . \$45.00
- (2) 2nd reinspection . . . 70.00
- (3) 3rd reinspection . . . 100.00
- (4) 4th and subsequent reinspection . . . 120.00

(b) Fees are due upon the reinspection and failure to pay the fee will result in the immediate suspension of the appropriate permit. Such suspension will only be lifted at such time as the reinspection fee is paid and violations noted are corrected.

**Sec. 13-33. Replacement of permits.**

The Department shall collect a fifteen dollar (\$15.00) fee for the replacement of any lost, damaged or otherwise absent permit or certificate issued under this Chapter.

**Sec. 13-34. Food permit late charge.**

The Department shall collect a late charge equal to ten (10) percent of the amount due for each month that any permit or certificate fee issued under any section of this Chapter that is more than thirty (30) days overdue. No permit or certificate shall be issued until all charges and fees have been paid.

Secs. 13-35 – 13-40. Reserved.

## **ARTICLE III. FOOD ESTABLISHMENTS**

### **Sec. 13-41. Exemption for establishments selling non-potentially hazardous food.**

If a food establishment has no open food handling and sells only pre-packaged, non-potentially hazardous foods it is exempt from all of the following requirements:

- (a) hot water
- (b) mop sink
- (c) powered exhaust vents

### **Sec. 13-42. Bed and Breakfast Limited.**

- (a) A bed and breakfast limited establishment, as defined in the Texas Food Establishment Rules, must possess a valid food establishment permit.
- (b) A bed and breakfast limited shall be exempt from the following food establishment requirements:
  - (1) a three compartment sink or commercial dish machine
  - (2) a separate handwashing sink in the kitchen
  - (3) a mop sink/service sink
- (c) The ceiling, walls, and floors of a bed and breakfast limited need only be constructed and maintained in an easily cleanable condition.

### **Sec. 13-43. Sanitation requirements of temporary food service establishments.**

(a) Sanitation of temporary food establishments will be governed by section 229.170 of the Texas Food Establishment Rules as adopted in section 13-1 of this Chapter.

(b) At the close of business a temporary food establishment may not store prepared food for re-serving. Food left in the temporary food establishment overnight must be secured to prevent any possibility of contamination or tampering.

Secs. 13-44 – 13-60. Reserved.

## **ARTICLE IV. MOBILE FOOD ESTABLISHMENTS**

### **Sec. 13-61. Exclusions.**

This Article does not apply to those vehicles which are permitted, approved, or allowed to distribute food under other provisions of this Code.

### **Sec. 13-62. Permit requirements.**

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

(b) A person seeking a mobile food establishment permit from the Director shall make application on a form provided by the Director, and shall provide all of the information listed in sub-sections (1) through (10) as part of the application:

- (1) The name and address of the owner and/or operator.
- (2) A description of the owner and/or operator.
- (3) If the applicant represents a corporation, association or partnership, the names and addresses of the officers or partners.
- (4) The name under which the food vending operation will be operated.
- (5) A description of the type of food or the specific foods to be vended; as for example prepackaged peanuts, prepackaged candy, prepackaged food not potentially hazardous and nonperishable food, nonprepackaged food, produce, etc.
- (6) The manner of mobile food vending operation to be conducted; as for example foot vending, truck, trailer, pushcart, etc.
- (7) A description of any vehicle to be used in the mobile food vending operation along with the license or registration and vehicle identification number of any vehicle licensed or registered with the state.
- (8) The address and food establishment permit number of the commissary required by this Article.
- (9) Any other information reasonably required by the Director; and
- (10) If the person seeking a mobile food establishment permit from the Director vends on a public street, sidewalk or right-of-way, or travels with the person's mobile food establishment on a public street, sidewalk or right-of-way to or from a location where the person vends, then the person shall provide as part of the application to the Director a written statement from the San Antonio Police Department certifying that the person seeking a mobile food establishment's permit is not a sex offender registered with the Texas Department of Public Safety and that the records reviewed by the San Antonio Police Department indicate that the person seeking a mobile food establishment permit has not been convicted of any sexual offense or any offense against a child as defined by applicable law. The basic requirements for submitting requests for criminal backgrounding of persons engaged in mobile food vending are specific in Exhibit 1 hereto on file in the office of the City Clerk, and hereby adopted and incorporated herein for all purposes by reference.

(c) Upon receiving a proper application for a permit, the Director shall make appropriate inspections of the food, equipment, vehicles and other reasonable inspections concerned with the mobile food vending operation and shall issue a permit and a sticker only if:

- (1) The application complies with subsection (b) of this section; and,
- (2) The inspection reveals compliance with the applicable requirements of all federal and state statutes and regulations, and City ordinances governing the proposed mobile food establishment operation.

(d) Mobile food establishment fees shall be as follows:

(1) The permit for an afoot vendor vending food which is prepackaged, nonperishable, and not potentially hazardous shall be forty-eight dollars (\$48.00) per year. A person vending afoot must have a permit for vending afoot even though he or she also may have a permit for vending from a vehicle.

(2) The permit fee for a mobile food establishment carrying food which is described as snow cones/shaved ice/raspas, as well as food which is prepackaged, nonperishable and not potentially hazardous shall be sixty-six dollars (\$66.00) per year.

(3) The permit fee for a mobile food establishment vending prepackaged perishable and potentially hazardous foods or a combination of the above with prepackaged nonperishable and not potentially hazardous foods shall be one hundred dollars (\$100.00) per year.

(4) The permit fee for a mobile food establishment vending perishable and potentially hazardous foods or nonperishable and not potentially hazardous foods or snow cones/shaved ice/raspas that are prepared on or in the mobile unit or a combination of the above with prepackaged foods shall be two hundred sixty-five dollars (\$265.00) per year.

(5) The permit fee for a pushcart mobile food establishment shall be seventy-two dollars (\$72.00) per year.

(6) The permit fee for a corn roaster mobile food establishment shall be one hundred fifty dollars (\$150.00) per year.

(7) The fee for each written statement from the San Antonio Police Department for persons age seventeen (17) and older as required in subsection 13-62(b)(10) shall be the sum of the fees required to obtain the local, state and national criminal histories for the applicant. There shall be no fee for the written statement for persons under the age of seventeen (17).

(8) The permit fee for a special permit for mobile food establishment in the Downtown Business District shall be three hundred fifty dollars (\$350.00) per year. The permit fee for vending in the Downtown Business District shall be in addition to any other fees set out in this Chapter.

(e) All funds collected for permits under the provisions of this Article shall be deposited in the general fund of the City.

(f) The valid sticker shall be displayed by a mobile food establishment:

(1) Inside the vehicle, used in connection with the mobile food vending operation, at the top of the windshield on the passenger side of the vehicle; or

(2) On the trailer fender above the tailgate and license plate of an open, flat bed or enclosed trailer used in connection with the mobile food vending operation; or

(3) At the top right-hand corner on the front of a pushcart, bicycle or tricycle used in connection with the mobile food vending operation; or

(4) In front of the two-compartment sink of a corn roaster used in connection with the mobile food vending operation.

(g) Mobile food establishment and afoot vendor's permits shall be valid for only one (1) year from the date of issuance unless sooner suspended or revoked.

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

(i) Every mobile food establishment and afoot vendor's permit shall be renewed each year in like manner as the original permit application, except that the written statement from the San Antonio Police Department required under subsection 13-62(b)(10) shall be renewed every two (2) years from the date of issuance by the San Antonio Police Department of such written statement, with a current written statement to be provided to the Director by the permit holder every two (2) years at the time the permit holder is seeking permit renewal.

(j) The Director shall make routine, unannounced inspections of mobile food establishments, and commissaries when applicable, to determine whether or not the vending operation is being conducted in such a manner as to comply with the conditions of the permit, the provisions of this Article, other applicable City ordinances and state and federal statutes, regulations and rules.

(k) Samples of food and other substances used in the preparation of food may be taken or retained until examined by the Director for the detection of unwholesome and deleterious qualities. The Director may condemn and forbid the sale of or cause to be removed or destroyed, any food which is adulterated, tainted, diseased, fermented, decaying or otherwise unwholesome, unclean or deleterious to health. The owner, operator or other person in charge of such food shall immediately and in the presence of the Director, destroy such adulterated, tainted, diseased, fermented, decaying or otherwise unwholesome, unclean food as directed by the Director.

### **Sec. 13-63.Operation requirements and restrictions.**

(a) Mobile food establishments are subject to the following requirements and restrictions:

(1) It shall be unlawful for an afoot food vendor to sell any potentially hazardous food within the City. It shall be unlawful for an afoot food vendor to sell from a stand or other temporary structure located upon any public street, sidewalk, right-of-way, or other adjacent public or private area without a permit as required under this Chapter.

(2) It shall be unlawful for the operator of a mobile food establishment as defined in subsections 13-62(d)(2) through (6) to remove the food from the mobile establishment to vend from a stand or other temporary structure located upon any public street, sidewalk, right-of-way, or other adjacent public or private area without a permit as required by this Chapter; except that mobile food establishments may sell produce from no more than three (3) tables that are six (6) feet long and stand at least eighteen (18) inches above the ground, and that are located adjacent to the permitted mobile food establishment.

(3) It shall be unlawful to operate a mobile food establishment on streets where a traffic hazard is created and as listed in Exhibit No. 1 of Section 16-236(b).

(4) Mobile food establishments may operate in parks subject to the requirements set in section 22-2 of this Code.

(5) Mobile food establishments may stop in a public street, or right-of-way, provided:

(A) This area is not in or within fifty (50) feet of an intersection; and,

(B) This area is not an area prohibited to the standing or parking of vehicles; and,

(C) All items are vended from the curbside of the vehicle or the rear of the vehicle; and,

(D) The mobile food establishment is in compliance with the requirement for hazard lamps as set forth in subsection 13-63(14); and

- (E) The mobile food establishment is vending in a safe manner.
- (6) Mobile food establishments may be stopped on private property, properly zoned and with the written permission of the property owner if approved flush type toilet facilities, connected to an approved type sewage system area are available on the private commercial property. Overnight parking is prohibited.
- (7) Food vendors shall comply with this Code as well as with state and federal law and nothing in this Article shall exempt a food vendor from zoning ordinances.
- (8) Mobile food establishments operating within Market Square or El Mercado shall comply with the appropriate provisions of Chapter 32, Article 2.
- (9) No person shall operate a mobile food establishment within three hundred (300) feet of any public, private elementary, middle or high school grounds one hour before, during, and one hour after school hours.
- (10) Mobile food vending operations shall not be carried on within three hundred feet (300') of any permitted food establishment as defined under Article I of this Chapter. A mobile food establishment may be exempt from this provision if written, notarized permission is given by the food establishment owner with regards to a mobile food establishment operating within three hundred feet (300') of his establishment. The written permission shall be kept with the mobile food establishment unit at all times as the unit is located within three hundred feet (300') of said food establishment.
- (11) It shall be unlawful to operate a mobile food establishment in the Downtown Business District with the exception of vendors who have obtained a special permit from the City Downtown Operations Department in addition to having all required valid mobile food establishment permit(s). The City Manager or her designee shall have authority to establish policies and procedures governing the issuances and regulation of the Special Permit for mobile food establishments in the Downtown Business District.
- (12) The hours of operation of any mobile food establishment operating in a residential area shall be 7:00 a.m. Central Standard Time to thirty minutes after sunset, except during the months of June, July and August, wherein such hours of operation shall be 7:00 a.m. Central Standard Time to 10:00 p.m. Central Standard Time.
- (13) The total noise level of any mobile food establishment shall comply with Chapter 21, Article III of this Code. The mobile food establishment shall turn off all music and recorded messages while stationary, except when stopped at a controlled intersection.
- (14) Mobile food establishments that are operating in a residential area shall comply with Section 547.703 of the Texas Transportation Code. When stationary, the mobile food establishment must turn on its hazard lamps as defined in Section 547.331 of the Texas Transportation Code, except when stopped at a controlled intersection.
- (15) No mobile food establishment shall be parked in violation of section 35-311 of the Unified Development Code.
- (16) No food vendor or food handler who meets the requirements set forth in subsections 13-62(b)(10) or 13-63(17) shall be a sex offender registered with the Texas Department of Public Safety or shall have been convicted of any sexual offense or any offense against a child as defined by applicable law.
- (17) Prior to vending, each food vendor and food handler, who vends on a public street, sidewalk, or right-of-way, or who travels with a mobile food establishment on a public street, sidewalk or right-of-way to or from a location where the food vendor or food handler vends, shall be required to obtain a written statement issued by the San Antonio Police Department certifying that the food vendor or food handler is not a sex offender registered with the Texas Department of Public Safety and that the records reviewed by the San Antonio Police Department indicate that the food vendor or food handler has not been convicted of any sexual offense or any offense against a child as defined by applicable law. The basic requirements for submitting requests for criminal

backgrounding of persons engaged in mobile food vending are specific in Exhibit 1 hereto on file in the office of the City Clerk, and hereby adopted and incorporated herein for all purposes by reference.

(18) Each food vendor and food handler who is required under subsection 13-63(17) to obtain a written statement from the San Antonio Police Department must renew this written statement every two (2) years from the date of issuance by the Police Department of such written statement.

(19) The fee for each written statement from the San Antonio Police Department for persons age seventeen (17) and older as required in subsections 13-63(17) and (18) shall be the sum of the fees required to obtain the local, state, and national criminal histories for the applicant. There shall be no fee for the written statement for persons under the age of seventeen (17).

(20) Each food vendor and food handler who vends on a public street, sidewalk, or right-of-way, or who travels with a mobile food establishment on a public street, sidewalk or right-of-way to or from a location where the food vendor or food handler vends, shall carry a current written statement from the San Antonio Police Department, as required under subsection 13-63(17), on their person at all times while vending.

(21) It shall be unlawful for a person who has obtained a mobile food establishment permit pursuant to section 13-62, and to whom subsection 13-62 (b)(10) applies, to hire or allow a food vendor or food handler to vend on a public street, sidewalk, or right-of-way, or to travel with a mobile food establishment on a public street, sidewalk or right-of-way to or from a location where the food vendor or food handler will vend, who has not first obtained a current written statement issued by the San Antonio Police Department as required by subsections 13-63 (17) and (18).

(22) It shall be unlawful for a person operating a mobile food establishment to place or allow the placement of any table, chair, awning or other seating or eating area at, near or around the location of the mobile food establishment; provided, however, that this provision shall not be construed to conflict with or prohibit what is allowed by subsection 13-63(2) for the display of produce by mobile food establishments.

### **Sec. 13-64. Sanitation requirements generally.**

Mobile food establishments shall comply with the following requirements. These requirements pertain to all mobile food establishments unless specifically addressed otherwise:

(1) Mobile food establishments shall comply with all sanitation and construction regulations as outlined in section 229.169 of the Texas Food Establishment Rules as adopted in this Chapter unless specifically addressed in this section.

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

(3) Mobile food establishments that dispense snow cones/shaved ice/raspas, shrimp, fish, shellfish, or crustacea shall provide a gravity fed hand washing system, soap, and paper towels.

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

(5) All food that requires packaging or preparation by the vendor shall be processed in the commissary that is required as a support facility for a mobile food establishment.

(6) Mobile food establishments dispensing snow cones/shaved ice/raspas shall be designed so as to enable the operator of the unit to protect the equipment, syrup, ice and utensils used in the operation of the unit from dust, insects and rodents while the unit is in transit or overnight storage.

(7) Mobile food establishments shall provide waste containers for customers at such times when the unit is parked.

### **Sec. 13-65. Sanitation requirements for units with facilities to prepare food.**

In addition to the sanitation requirements described in section 13-64 of this Article, food vendors preparing and vending food from a mobile food establishment, commonly referred to in the trade as a "hot truck", shall comply with the following requirements:

(1) A mobile food establishment servicing area shall be provided at the commissary required in subsection 13-64(2) of this Article, and shall include at least overhead protection for any supplying, cleaning or servicing operation. Within this servicing area, there shall be a location provided for the flushing and the draining of liquid waste separate from the location provided for water servicing and for the loading and the unloading of food and related supplies.

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

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

(4) A ten-gallon capacity heating device, or an instantaneous heater, capable of producing one hundred ten (110) degrees Fahrenheit hot water shall be provided in the mobile food establishment.

(5) All food service operations shall be carried on from within the mobile food establishment.

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

**Sec. 13-66. Special requirements for units which are hand pushed.**

(a) In addition to the requirements described in section 13-64 of this Article, the following requirements shall be met by mobile food establishments of perishable foods and potentially hazardous foods from a hand pushed mobile food establishment; except that snow cones/shaved ice/raspas, produce, prepackaged novelty ice cream and prepackaged nonperishable food vendors are exempt from the provisions of subsections (6), (7), and (8).

(1) All equipment utilized in the mobile food establishment shall have prior approval of the Director.

(2) Snowcones/shaved ice/raspa vendors shall provide a gravity fed hand washing station. Soap and paper towels are to be provided. Waste water from handwashing is to be collected in a sealable container and disposed of in a sanitary sewer.

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

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

(5) A push cart vendor shall be prohibited from operating on the public streets.

(6) The mobile food establishment shall be cleaned and serviced at the commissary at the beginning of each day and shall be stored inside a building when not in operation. The mobile food establishment shall acquire needed supplies from the commissary or other approved source. The mobile food establishment shall provide documentation of each visit to the commissary and shall have that documentation available for inspection. With prior approval from the Director or his designee, however, the mobile food establishment may be kept on site in a location that is secured, fenced and inaccessible to the public during nonoperating hours. When so stored on site, such mobile food establishment must be covered for protection from the elements and potential vectors with covering approved by the Director or his agent. The mobile food establishment stored on site shall be cleaned and serviced on the same standards as those units cleaned and serviced in a central commissary and must meet all other requirements of this Chapter.

(7) Hand pushed mobile food establishments dispensing unpackaged food and drink shall be equipped with a two-compartment stainless steel sink, soap and paper towels, and provided with an adequate amount of hot and cold running water.

(8) Facilities to heat water and potentially hazardous food products on hand pushed mobile food establishments shall be installed and operated in accordance with the San Antonio Fire Department rules and regulations.

Secs. 13-67--13-80. Reserved.

## **ARTICLE V. RENDERING**

### **Sec. 13-81. Purpose.**

The regulations established in this Article have been in accordance with a comprehensive plan for the purpose of promoting health, safety, morals and the general welfare of the community. They have been designed to regulate the location, the equipment and the mode of operation of the rendering establishments or business within the City, as defined in this Article, for the purpose of protecting the general public as well as the residents of this City from health hazards arising from unsanitary conditions which may exist in conjunction with the operation of rendering establishments.

### **Sec. 13-82. Nuisance declared and disposal required.**

All dead animals, dead fowl, dead fish, inedible offal, meat scraps, bones, suet, feathers, unrendered animal fat, waste cooking greases, and similar animal matter located within the City not properly kept under refrigeration or not disposed of as garbage under the provisions of Chapter 14 of this Code are hereby declared a nuisance and menace to the public health, requiring the prompt collection and disposal thereof under the authority and direction of the Director.

### **Sec. 13-83. Methods of disposal generally.**

(a) All matter declared a nuisance in section 13-82 above, which is derived in whole or in part, directly or indirectly, from the carcass or carcasses of any cattle, horses, mules, asses, sheep, goats, hogs, or other livestock, domestic animals or domestic fowl which at the time of death had any disease or diseases shall be disposed of in a manner consistent with state law.

(b) All matter declared a nuisance in section 13-82 above, not covered by subsection (a), shall be turned over or delivered by the owner thereof:

- (1) Directly to a rendering establishment having a current permit as herein provided in this Article; or
- (2) To collector of material for processing, as defined in this Article, having a current permit as provided in this Article; or
- (3) To a City sanitary landfill designated by the Director. The person having such animals and fowl in his possession and desiring to avail himself of this means of disposal shall contact the Department for the location of the sanitary landfill, shall have such animals and fowl transported there at his expense, and shall supply sufficient personnel to unload and place same where designated.

### **Sec. 13-84. Permit application, fee and requirements for issuance.**

(a) Every person who is operating or desires to operate a rendering business or any phase thereof, shall immediately make application in writing to the Director, upon forms prescribed and furnished by such health officer, for all required permits to operate and do business within the City, and shall pay therefore an annual fee based upon the cost of inspecting the facilities of such rendering business or phase thereof to be computed as prescribed in this Article. The annual fee shall include the cost of re-inspecting the facilities as a result of failure to keep such facilities in such a manner as to meet the requirements of this Article. No permit shall be issued for any premises which are in violation of the zoning ordinance of the City.

(b) The fees shall be computed as follows:

- (1) The amount for a collector's permit shall be based upon the number of transport vehicles to be inspected, at forty dollars (\$40.00) per vehicle per fiscal year;
- (2) The amount for a rendering materials storage facility permit shall be seventy-five dollars (\$75.00) per fiscal year when such facility is not an integral part of a rendering establishment;
- (3) The amount for a rendering establishment permit shall be three hundred dollars (\$300.00) per fiscal year.

(c) All fees listed in subsection (b) of this section, shall be payable to the City, and shall accompany the application for permit. Permit for operation of a rendering business shall be issued under the corporate seal of the City, shall be signed by the Director and shall authorize the person therein named to establish, maintain and operate a rendering business at the place designated in such permits. Such permits shall expire one (1) year from the month of original issuance or renewal, and shall be renewed in each successive year thereafter.

(d) Following the receipt of an application for a permit and proof that the required annual fee has been paid, the Director will conduct such investigation as he deems necessary to determine whether the applicant's premises, personnel and equipment are proper and adequate for the services proposed or offered. Upon a determination by the Director that the applicant has met the requirements of this Chapter, he will issue the applicant the appropriate permit. The collector's rendering materials, storage facility, and/or rendering establishment permit will be displayed upon the wall of the main office located upon the premises for which the permit is issued. Should the application for permit be denied, three-fourths of the fee will be returned.

**Sec. 13-85. Use of streets, etc., for private disposition prohibited.**

It shall be unlawful for any person not having a current collector's permit issued pursuant to this Article to use the streets, alleys or avenues of the City for the purpose of collecting, removing or transporting animal matter declared a nuisance in section 13-82.

**Sec. 13-86. Operation of a rendering establishment without a permit prohibited.**

It shall be unlawful for any owner, operator, or person in charge at the time to operate a rendering establishment within the City without having a current rendering establishment permit issued pursuant to this Chapter. A separate permit is required for each premises.

**Sec. 13-87. Operation of a storage facility for materials to be rendered without a permit prohibited.**

It shall be unlawful for any owner, operator, or person in charge at the time to engage in the rendering business by maintaining, operating or causing to be operated any separate premises as a facility where animal matter, declared to be a nuisance in section 13-82, is collected or stored pending further processing or disposal unless the aforesaid separate premises has a current rendering materials storage facility permit issued pursuant to this Chapter or is an integral part of a currently permitted rendering establishment. A separate permit is required for each premises requiring a rendering materials storage facility permit.

**Sec. 13-88. Operation of transport vehicle without meeting certain requirements prohibited.**

It shall be unlawful for any person to operate or to cause another to operate a transport vehicle upon the roads, highways, streets, alleys, or avenues within the City for the purpose of collecting, removing, or transporting animal matter declared a nuisance in section 13-82 above, unless said transport vehicle is covered by a current collector's permit and meets the requirements for such vehicles set forth in this Chapter.

**Sec. 13-89. Rendering business creating offenses or becoming nuisances.**

It shall be unlawful for any person to operate a rendering business or any phase thereof within the City unless the rendering business or phase thereof shall at all times be so conducted as to create no offense or nuisance.

**Sec. 13-90. Nuisances defined in connection with rendering businesses.**

Any, all or any combination of the following conditions or places within the City are hereby specifically declared to be a nuisance dangerous to public health punishable as such, and shall be abated.

- (1) Any condition or place allowed to exist which permits any dangerous, unwholesome, nauseous, or offensive odors, gases or fumes to escape into the open air in such amounts as to be substantially offensive, uncomfortable and annoying to any community, family, or person or ordinary sensibilities, tastes, and habits at a distance of more than two hundred (200) feet from the building, premises, or processing area where such odors, gases or fumes emanated; or
- (2) Any condition or place allowed to exist which constitutes a breeding place for flies; or
- (3) Any condition or place allowed to exist where sewage, sewerage, human excreta, waste water, garbage, or any other matter is deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in the transmission of disease to or between any person or persons; or
- (4) Any condition or place allowed to exist, harboring rats; or
- (5) Any condition or place allowed to exist which may be proven to injuriously affect the public health; or
- (6) Any collection of water in which mosquitoes are breeding.

**Sec. 13-91. Construction and general layout of processing areas of rendering business.**

(a) All processing areas of rendering businesses shall have sufficient space for the conduct in a sanitary manner of operations carried on therein; for the installation of necessary utility equipment; and for the installation of processing equipment in such a manner that such equipment shall be easily accessible for cleaning.

(b) All processing areas of rendering businesses shall be constructed in accordance with the subsequent applicable provisions of these regulations so as to be easily maintained in a sanitary condition and to prevent harborage areas for rodents, roaches and other vermin.

(c) All processing areas of rendering businesses shall be in a closed building which is constructed in accordance with this Chapter and shall be kept clean and in good repair.

(d) All raw materials shall be received into, unloaded and/or stored in a closed room or area immediately upon arrival at the processing area.

(e) Storage facilities for finished products shall be located, constructed and maintained so as to prevent contamination of finished products by materials for rendering- entering into and processed through, the rendering establishment. Storage facilities for finished products shall be separate from receiving and processing areas. Any opening between receiving or processing areas and storage areas shall be equipped with tight fitting self-closing completely metal clad doors which shall be maintained in good working order. There shall be no direct openings between areas where materials for rendering are received and prepared for processing and the storage areas for finished products.

(f) Hide storage shall be separate from material for rendering and finished product areas and all openings between these areas shall be provided with self-closing doors.

(g) A paved area constructed of concrete or other equally impervious material adequate in size and provided with adequate drains in good working order leading to a sanitary sewer system shall be provided and used for the washing of transport vehicles. This area shall be provided with adequate supply of hot water of 180° F or other suitable cleaning and sanitization provision for transport vehicles.

(h) A paved area constructed of concrete or other equally impervious material adequate in size and provided with adequate drains in good working order leading to a sanitary sewer shall be provided at the unloading area for materials for rendering and any other area where spillage of raw, finished or waste products is likely to occur. Said areas shall be provided with an adequate supply of hot water of 180° F or other suitable cleaning and sanitization provisions.

**Sec. 13-92. Transport vehicles.**

(a) The beds of all transport vehicles used in hauling materials for processing, as defined in this ordinance, on public streets shall be completely enclosed with fixed tight fitting top, sides and ends, The transport vehicle bed, top, sides and ends shall be constructed of impervious material which can be easily cleaned and sanitized and shall be leak proof.

(b) All transport vehicles used on the roads, highways, streets, alleys or avenues within the City to haul materials for processing shall be identified on each side of the transport vehicle as follows:

- 1) Name of company in letters at least three inches (3") high and three-quarters of an inch (3/4") depth.
- 2) The words "inedible" in letters at least two inches (2") high and three-eighths of an inch (3/8") depth on the panel as (a) above.

(c) All vehicles used to transport finished products shall be properly cleaned and sanitized before usage.

**Sec. 13-93. Premises.**

(a) The premises shall be kept in a clean, neat condition and shall be free of rodent infestation, of places conducive to insect breeding and of unwarranted collection of refuse, waste material and other objectionable conditions; provided, that for the purposes of this section, the premises shall be deemed to include the back, front and side yards of property occupied by the processing phase of a rendering business, docks and areas where vehicles are loaded or unloaded; driveways, approaches, pens, and alleys; and buildings or portions of buildings which are part of such establishments even though not used for processing purposes.

(b) Loose lumber and other building or salvage materials shall be stored in an orderly manner at least eighteen inches (18") above the ground; non-salvageable materials shall be removed from the premises.

(c) The premises shall be well drained and shall be so maintained that there are no pools of standing water.

**Sec. 13-94. Floors.**

(a) Floors in processing areas shall be smooth, in good repair and kept clean.

(b) Floors in all rooms or areas where processing is done or where utensils are washed shall be constructed of good quality concrete or equally impervious and easily cleanable material. All surfaces of such floors shall be graded to drain to floor drains in good working order which shall be trapped in accordance with the Uniform Plumbing Code as adopted by the City of San Antonio and which shall be connected to a sanitary sewer. There shall be a minimum of one floor drain to each four hundred (400) square feet of floor area. Gutters, if used to conduct such drainage, shall be so constructed and located as to be easily cleanable; in such case floors shall be properly graded to drain to such gutters and said gutters shall be provided with traps, cleanouts and vents as required by the Uniform Plumbing Code as adopted by the City of San Antonio.

(c) During operations the floors in processing areas shall be kept free of any accumulation of processing wastes, including blood, manure, scraps, grease, water, dirt and litter. When processing is conducted at short irregular intervals, such processing wastes shall be removed from floors and properly disposed of immediately following each individual period of processing. Such floors shall be thoroughly cleaned at a minimum of at least once for each twenty-four (24) hour period.

(d) Floors in all rooms and areas where finished products are stored, handled, ground, or bagged shall be constructed of good quality concrete or other equally impervious material. Such floors shall be kept in good repair and kept clean.

**Sec. 13-95. Walls, ceilings, partitions, and posts.**

(a) Walls, partitions, posts, ceilings and exposed overhead structures of all rooms and areas shall be kept clean and in good repair.

(b) Those sections of walls, partitions, posts, ceilings and exposed overhead structures in processing areas which become soiled during processing shall be thoroughly cleaned at least once in each twenty-four hour period.

(c) Walls, partitions and posts in all processing areas shall be finished with smooth, washable, surfaces of concrete, cement-plaster, or other equally impervious and easily cleanable material.

(d) Interior walls separating one room or area from another shall extend from the floor to the ceiling. Such walls shall be free from openings except for necessary doorways equipped with tight fitting self-closing completely metal clad doors, and necessary openings for conveyors.

(e) All outer walls and roofs and openings therein shall be protected against the entrance and harborage of rodents, and insects.

**Sec. 13-96. Doors, windows and openings.**

(a) All outside doors and openings shall be effectively protected at all times against the entrance of insects, rodents and other vermin.

(b) All outside doors shall be completely metal clad and shall be tight fitting and in good working order.

(c) Screens when used shall be tight fitting, kept clean, in good repair, and of not less than sixteen (16) meshes to the square inch.

(d) All interior doors shall be tight fitting, completely metal clad, and self-closing and in good working order.

(e) Doors and windows shall be kept clean and in good repair.

**Sec. 13-97. Toilet, shower, and dressing rooms**

(a) Well-located and properly separated toilet and dressing room facilities are required for employees of each sex. Each employee shall be provided with a metal locker at least fifteen inches (15") x eighteen inches (18") x sixty inches (60"). The lockers shall be raised at least sixteen inches (16") above the floor on legs or other suitable supports. The lockers shall have sloping tops.

(b) The minimum size of any dressing room shall be at least eight feet (8'0") x ten feet (10'0") for a maximum of four employees. Ten (10) square feet per man shall be provided for each additional man over four and through ten. Five (5) square feet per man shall be provided for each additional man over ten.

(c) Dressing rooms shall be separated from adjoining toilet rooms by tight full-height walls or partitions. Toilet rooms and dressing rooms shall have solid, close fitting, self-closing doors and in good working order.

(d) Water closets, lavatories and showers in good working order shall be provided for each sex according to the Uniform Plumbing Code as adopted by the City of San Antonio Plumbing Code.

(e) A supply of toilet paper with holder shall be provided and maintained at every water closet.

(f) Lavatories in good working order shall be provided and maintained with hot and cold water under pressure and an adequate supply of soap and individual hand towels shall be maintained.

(g) Showers in good working order shall be provided and maintained with hot and cold water under pressure and an adequate supply of soap and individual towels shall be maintained. The provisions of a towel for general or common use shall be prohibited.

(h) The floors and walls of toilet rooms and dressing rooms shall be of impervious material and the floor shall be pitched about 1/8 inch per foot to properly located floor drains in good working order. Such rooms shall be provided and maintained with adequate lighting and good ventilation.

(i) Employee toilet and dressing rooms shall be separated from other areas of the establishment by walls extending from the floor to the ceiling and shall be constructed in accordance with this Article.

**Sec. 13-98. Water supply.**

(a) The water supply of each rendering business shall be from a public water supply; or shall be from a private source complying with the requirements of the Safe Drinking Water Act, with the exceptions as provided in Section 13-98 (b) below.

(b) There shall be no physical connection between the rendering business' water supply and any unsafe or questionable supply. The use of water from any such unsafe or questionable supply shall be permitted only for limited purposes such as fire control or condensers. In all cases supply lines for unsafe or questionable water shall be clearly identified.

(c) Hot and cold water shall be conveniently accessible to all parts of the establishment. Such water shall be under ample pressure and shall be available through such outlets and in such quantities as may be necessary to meet effectively the needs of the establishment at all times.

(d) The hot water system shall have sufficient capacity to furnish ample water with a temperature of at least 180° F during all periods of processing and clean-up operations.

**Sec. 13-99. Plumbing and related facilities.**

(a) The plumbing system in each rendering business shall be installed in compliance with the City of San Antonio Code.

(b) All outlets and connections to fixtures and equipment shall be so installed as to prevent backflow into the water-distribution system.

(c) Plant sewer lines shall be separate from toilet sewer lines to a point outside the building.

(d) Where necessary to prevent discharge into the sewage collection system of solid wastes likely to clog the system, the liquid wastes containing such solid materials shall be passed through a separator or indirect waste receptor which shall effectively retain such solids prior to discharge into the sewage collection system.

(e) All overhead drain lines and piping shall be so located and installed or so protected that leakage and condensation therefrom will not drip upon employees, processing equipment, utensils, finished product, or floors in working areas.

(f) Drinking water facilities of a sanitary type shall be provided and maintained in good working order in the establishment and shall be so located as to be convenient for use by employees.

**Sec. 13-100. Disposal of wastes.**

(a) All wastes shall be handled and disposed of in a manner which will prevent contamination of the water supply, processing equipment, packaging materials, containers, and finished products.

(b) All liquid wastes shall receive such treatment as may be required by the Texas Department of State Health Services and shall be disposed of in a manner approved and permitted by the Texas Commission on Environmental Quality.

(c) Containers shall be used for the collection and holding of solid wastes and shall be kept covered or otherwise protected at all times so that such wastes shall not be accessible to flies, rodents, other vermin or otherwise create a nuisance.

(d) Solid wastes shall be disposed of daily by burial. Such burial shall be in accordance with sanitary landfill operations as prescribed by the Texas Commission on Environmental Quality.

(e) No material for rendering, waste product, offal, polluting material, tallow, spent chemical, liquids, or other wastes of any kind shall be stored, deposited or disposed of in any manner as may cause pollution of the surrounding land.

(f) Drinking water facilities of a sanitary type shall be provided and maintained in good working order in the establishment and shall be so located as to be convenient for use by employees.

**Sec. 13-101. Ventilation.**

(a) An adequate ventilation system shall be provided and maintained in good working order in a rendering establishment to collect odors, condensates and vapors.

(b) The ventilation collecting system described in this section, shall discharge the collected odors into a treatment system which; will remove odorous matter sufficiently to meet the requirements of this Article.

(c) Employee toilet rooms and dressing rooms shall be adequately vented to the outside air. If such venting be provided by a window, the window shall be provided with a tight fitting screen of not less than sixteen (16) meshes to the square inch.

(d) Space heaters, gas stoves and water heaters shall be vented in accordance with the City Code.

**Sec. 13-102. Control of odors.**

(a) Rendering cooker odors shall not be released or emitted into the atmosphere in concentration which will cause a nuisance, as defined in section 13-90 of this ordinance.

(b) All rendering cooker odors shall be collected whereby the odors are collected and passed through scrubbers or condensers; condensibles so removed by the scrubbers or condensers shall be disposed of into a sanitary sewer in accordance with the City Code; the non-condensibles discharged from such scrubbers or condensers shall be collected and discharged to direct flame incineration.

**Sec. 13-103. Equipment and utensils.**

(a) Equipment and utensils in rendering businesses shall be constructed of impervious materials, so designed and fabricated as to facilitate cleaning, so located or placed as to be readily accessible for cleaning, and shall be kept clean and in good repair.

(b) Equipment utilized in handling and processing of materials for rendering shall not be used in connection with finished products or in the finished products room or area.

**Sec. 13-104. Cleanliness of personnel.**

(a) Persons who engage in rendering businesses shall, while thus engaged, wear washable outer garments such as uniforms, coats, aprons, or coveralls, and shall wear caps or other washable head covering. If gloves are worn, they shall be of easily cleanable material. When such persons change their activity within a rendering establishment from one operation to another, suitable change of garments and personal clean-up shall be made so as to prevent contamination of finished products.

(b) Persons who engage in rendering businesses shall begin each day's work with clean clothing. Suitable receptacles shall be provided to receive soiled clothing. Such clothing shall not be reworn before being laundered.

**Sec. 13-105. Operating procedures.**

(a) Operating procedures of rendering establishments shall be such as to produce finished products which are protected from cross contamination by materials for rendering entering such establishments.

(b) All material for rendering received on the rendering business premises shall be placed in the materials for rendering storage room immediately upon receipt. All materials for rendering shall be received into, unloaded and/or stored in a closed room or area immediately upon arrival at the rendering establishment.

(c) All materials for rendering received by the rendering business shall be rendered within twenty-four (24) hours of receipt; provided that; dry or other non-odorous material may be stored within the materials for rendering storage room for a period not to exceed forty-eight (48) hours, if so stored as to prevent a nuisance and/or development of a malodorous condition.

(d) Collection vehicles used within the rendering business shall be washed and sanitized at least once in each twenty-four (24) hour period.

(e) Adult flies shall be controlled, and places conducive to fly breeding and/or fly development shall be eliminated.

(f) All metal drums or reusable containers utilized in the collection of materials for rendering shall be thoroughly washed, scrubbed and sanitized immediately upon emptying. All cleaned and sanitized containers shall be stored inside.

Secs. 13-106--13-110. Reserved.

## **ARTICLE VI. CERTIFICATION OF FOOD ESTABLISHMENT PERSONNEL**

### **DIVISION 1 FOOD MANAGER**

#### **Sec. 13-111. Food manager certification program.**

There shall be a program of food manager certification conducted under the direction of the Director. Such a program shall have as its primary goal the training of managerial or supervisory personnel within the food service industry in safe food handling practices including instruction on this Chapter. Training shall be accomplished by means of a program consisting of fifteen (15) classroom hours and said program shall be accredited by the Texas Department of State Health Services under provisions of State law. Persons seeking certification may obtain said training from commercial or educational programs accredited by the Texas Department of State Health Services. Certification shall be accomplished after all course requirements have been met and the applicant has demonstrated by means of an examination that he or she possesses the required essential knowledge as determined by the Director.

#### **Sec. 13-112. Food manager's certification required.**

(a) A food establishment shall employ at least one (1) person assigned to each shift of twelve (12) or fewer hours who:

- (1) Meets the "person in charge" definition found in the Texas Food Establishment Rules; and
- (2) Has a valid and current food manager's certificate issued by the Director.

(b) A food establishment is in compliance with the provisions of this section when during each shift of twelve (12) or fewer hours there is at least one certified food manager employed in a supervisory capacity during all hours of open food handling.

(c) If a food establishment cannot meet the requirements of this section because of the termination or permanent transfer of a certified food manager, the food establishment shall:

- (1) Notify the Director, in writing, within twenty (20) days of the effective date of termination or permanent transfer of the certified food manager; and
- (2) Employ another certified food manager within sixty (60) days of the effective date of termination or permanent transfer of the certified food manager.

#### **Sec. 13-113. Exemption from requirements.**

(a) Certification of food managers will not be required for:

- (1) A food establishment that serves, sells or distributes only prepackaged foods and/or non-potentially hazardous beverages; and
- (2) Temporary food establishments that will be in operation for less than four days; and
- (3) Temporary food establishments that are not required to have a certified food manager under Sec 13-120 (c); and

- (4) Mobile food establishments; and
  - (5) Persons supplying food vending machines; however, a certified food manager shall be in charge at the commissary supplying the food vending machines; and
  - (6) A food establishment that serves, sells or distributes prepackaged or unpackaged non-potentially hazardous food products such as pickles, commercially baked products, and Chinese candy, and/or hot dogs and associated non-potentially hazardous condiments, and/or prepackaged dairy and dairy-like products.
  - (7) Any food establishment exempted from the requirements of section 13-112 shall lose this exemption if it scores more than twenty-five (25) demerits on any two (2) regular inspections by the Director within a twelve-month period.
- (b) The Director may waive or modify the requirements for food manager certification if special or extenuating circumstances exist, and public health protection is not compromised.

**Sec. 13-114. Terms of certification.**

- (a) The Director shall issue a food manager's certificate to any person who submits the required application, pays the required fee; and
- (1) Completes a course of study or shows evidence of completion of a course of study approved by and acceptable to the Director and achieves the required minimum score of seventy-five (75) on a written examination administered by or acceptable to the Director; or
  - (2) Provides evidence, acceptable to the Director, of certification within the past three (3) years as a result of a course of study and examination approved by and acceptable to the Director.
  - (3) A minimum score of seventy-five (75) on the written examination shall be required for issue or renewal of a food manager's certificate. Any person who fails to achieve a score of seventy-five (75) on a written examination may retake the examination no sooner than twenty-four (24) hours later at a subsequent examination time.
- (b) A food manager's certificate shall be in the form of an identification card and shall include: (1) the applicant's full name and address; (2) height, gender, and date of birth; (3) the signature of the person certified; (4) the signature of the Director; and (5) the date issued and the expiration date.
- (c) Each valid food manager's identification card issued by the Director shall remain the property of the Department and may be required to be surrendered to the Director to be voided when such has been revoked.
- (d) During those times that a certified food manager is on duty at a food establishment, the certified food manager shall present their Department issued identification card for examination when requested to do so by the Director or designee.
- (e) The Director may deny an application for a food manager's certificate if the applicant knowingly makes any false, fraudulent, or unlawful statement on the application. Any certificate obtained by a falsification of information shall be voided.
- (f) The Department shall recognize a food manager's training certificate from the Texas Department of State Health Services or other accredited courses until such time as the

food service training certificate expires. Renewals shall be made in accordance with section 13-115. An identification card as required by this section shall be issued to a person holding a bona fide food manager's certificate not issued by the Department for the same fee as a replacement card as stipulated in subsection 13-117(c).

**Sec. 13-115. Renewal of certification.**

- (a) A food manager's certificate may be renewed if the holder:
  - (1) Attends a refresher course on food protection approved by the Director; and
  - (2) Passes the required tests at the conclusion of the course; and
  - (3) Makes application on a form provided by the Director prior to the expiration date of the Texas Department of State Health Services or other accredited course certificate.
- (b) The application shall include all information required under section 13-114(a) and must be accompanied by payment of the fee set out in section 13-117 of this Article.
- (c) Obtaining a passing score of seventy-five (75) on a national examination for certification of food manager's certificate shall be deemed to satisfy subsection (a)(2) above.

**Sec. 13-116. Denial of certification or renewal; suspension or revocation of certification.**

- (a) The Director may refuse to issue or renew a food manager's certificate or may suspend or revoke a food manager's certification if the applicant or holder:
  - (1) Refuses to permit the Director or his designee entry into the food establishment or willfully obstructs the inspection of the food establishment by the Director or his designee; or
  - (2) If thirty (30) or more demerits are assessed on two (2) consecutive inspections to the food establishment at times when the certified food manager is in charge.
- (b) Revocation of a food manager's certificate may occur only after repeated suspensions have been initiated due to the provisions outlined in (a)(1) and (2) above.
- (c) Prior to suspension or revocation of a food manager's certificate the Director shall notify the certified food manager, in writing, of the reasons for which the certification is subject to suspension or revocation and that the certification shall be suspended or revoked at the end of a specified time period following service of such notice unless a written request for hearing is filed with the Director within ten (10) days of delivery of the notice. If no request for hearing is filed within the ten (10) day period, the suspension or revocation of certification shall become final.
- (d) An individual whose food manager's certificate has been suspended or revoked shall not be reinstated or granted a new certificate until he or she has fulfilled all the conditions of said suspension or revocation, which conditions may include, but are not limited to, taking a food manager's certification course acceptable to the Director and passing the required examination.

### **Sec. 13-117. Fees.**

- (a) An application fee of fifteen dollars (\$15.00) shall be required to be paid to the Director for a food manager's certificate at the time of application or renewal. This fee is required regardless of whether or not the course requirement is waived.
- (b) Fees are refundable only if the food manager's certificate is denied by the Director. In no other instance shall fees be refundable.
- (c) An individual who requires the replacement of a valid current food manager's certification card may obtain a replacement from the Director for a fee of ten dollars (\$10.00).

## **DIVISION 2 FOOD HANDLERS**

### **Sec 13-118 Food handler certification program.**

There shall be a program of food handler certification conducted under the direction of the Director. Such program shall have as its primary goal the training of persons who are involved with the handling and/or preparation of food within a food establishment, mobile food establishment, or temporary food establishment in safe food handling practices including instruction on this Chapter. Training shall be accomplished by means of a training program consisting of two (2) or less classroom hours and said program shall be accredited by the Texas Department of State Health Services under provisions of State law. Persons seeking certification may obtain said training from the Department or commercial or educational programs accredited by the Texas Department of State Health Services

### **Sec. 13-119. Food handler certification required**

- (a) Effective January 1, 2010, food handler certification will be required as follows:
  - (1) For all personnel performing open food handling in a food establishment that receives thirty (30) or more demerits related to food handling on an inspection conducted under this Chapter.
    - (A) All 5 and 4 point demerit items and 3 point demerit item numbers: 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 will be considered food handler related. All other 3 point demerit items will not count towards the 30 or more food handler related demerits.
    - (B) Employees at the food establishment who have a current food handler certification will not be required to repeat the education process.
  - (2) For all personnel performing open food handling in a food establishment receiving twenty-one (21) or more demerits on a reinspection conducted under this Chapter during which a critical violation is found.
    - (A) The intent of this re-inspection is to verify corrective action of the original inspection.
    - (B) Employees at the food establishment who have a current food handler certification will not be required to repeat the education process.
  - (3) For all personnel performing open food handling in a food establishment that has had its permit temporarily suspended for one or more health violations.

(A) This requirement does not include temporary suspensions due to the occurrence of Imminent Health Hazards as defined in section 229.171(k) of the Texas Food Establishment Rules, limited to fire, flood, or extended interruption of electrical or water service.

(B) This requirement does include temporary suspension due to the occurrence of Imminent Health Hazards as defined in section 229.171(k) of the Texas Food Establishment Rules, limited to sewage backup, misuse of poisonous or toxic materials, onset of an apparent food borne illness outbreak, gross unsanitary occurrences or conditions, such as rodent and insect infestation, or other circumstances that may endanger public health.

(4) For all personnel performing open food handling in a food establishment in which the same critical violation for a food handling related item is found on two (2) consecutive inspections within the same twelve (12) month period.

(5) For at least one person performing open food handling in a mobile food establishment

(6) For at least one person performing open food handling in a temporary food establishment as required by Section 13-120.

(b) Food establishments that are required to have certified food handlers due to meeting the criteria provided in this Section must meet this requirement within sixty (60) days from the date the establishment is notified by the Director and maintain said certifications for all personnel performing open food handling for a period of six (6) months from the date of notification.

(c) If a food establishment cannot meet the requirements of this section because of the termination or permanent transfer of a certified food handler, the food establishment shall:

(1) Notify the Director, in writing, within twenty (20) days of the effective date of termination or permanent transfer of the certified food handler; and

(2) Employ another certified food handler within sixty (60) days of the effective date of termination or permanent transfer of the certified food handler.

### **Sec. 13-120. Food handler certification required for temporary food establishments.**

Effective January 1, 2010, a temporary food establishment with open food handling and operating four (4) or more days must have:

(a) at least one person in the establishment with food manager's certification or food handler's certification; or

(b) a certified food manager on site to oversee the event; and

(1) all booths must conspicuously post written guidelines on food handling and food safety that are approved by the Department; and

(2) all booth workers must also sign a statement that they have read and understand the posted food safety and handling guidelines

(c) Booth workers currently certified as food managers or food handlers are exempt from the requirement in subsection (b)(2).

**Sec. 13-121. Exemption from requirements.**

(a) Certification of food handlers will not be required for:

(1) A food establishment or temporary food establishment that serves, sells or distributes only prepackaged foods and/or non-potentially hazardous beverages; or

(2) Persons operating mobile food establishments vending only non-potentially hazardous food, or supplying only whole, uncut produce, simple snow-cones, fresh fish and fresh shrimp or prepackaged novelty ice cream; or

(3) A food establishment that serves, sells or distributes prepackaged or unpackaged non-potentially hazardous food products such as pickles, commercially baked products, and Chinese candy, and/or hot dogs and associated non-potentially hazardous condiments, and/or prepackaged dairy and dairy-like products; or

(4) Food establishment employees who only handle kitchenware, tableware and utensils.

(b) The Director may waive or modify the requirements for food handler certification if special or extenuating circumstances exist, and public health protection is not compromised.

**Sec. 13-122. Terms of certification.**

(a) The Director shall issue a food handler's certificate to any person who submits the required application, pays the required fee; and

(1) Completes a course of study in person or by internet and receives a certificate of completion; or

(2) Completes a home study course and passes an exam with a minimum score of 75 percent; or

(3) Challenges the course through examination with a minimum score of 75 percent.

(b) A food handler's certificate shall be in the form of an identification card and shall include: (1) the applicant's full name and address; (2) height, gender, and date of birth; (3) the signature of the person certified; (4) the signature of the Director; and (5) the date issued and the expiration date.

(c) Each valid food handlers identification card issued by the Director shall remain the property of the Department and may be required to be surrendered to the Director to be voided when such has been revoked.

(d) During those times that a certified food handler is on duty at a food establishment, the certified food handler shall present their Department issued identification card for examination when requested to do so by the Director or designee.

(e) The Director may deny an application for a food handler's certificate if the applicant knowingly makes any false, fraudulent, or unlawful statement on the application. Any certificate obtained by a falsification of information shall be void.

(f) The Department shall recognize a food handlers training certificate from the Texas Department of State Health Services or other accredited courses until such time as the food service training certificate expires. Renewals shall be made in accordance with section 13-123. An identification card as required by this section shall be issued to a person holding a bona fide food handler certificate not issued by the Department for the same fee as a replacement card as stipulated in subsection 13-125(c).

**Sec. 13-123. Renewal of certification.**

- (a) A food handler's certificate may be renewed if the holder:
- (1) Attends a refresher course on food protection approved by the Director; and
  - (2) Passes the required tests at the conclusion of the course; or
  - (3) Is issued a certificate of completion from a Texas Department of State Health Services certified food handler program; and
  - (3) Makes application on a form provided by the Director prior to the expiration date of the Texas Department of State Health Services-or other accredited course certificate.
- (b) The application shall include all information required under section 13-122. Such application must be accompanied by payment of the fee set out in section 13-125 of this division.

**Sec. 13-124. Denial, suspension or revocation of certification or renewal.**

- (a) The Director may refuse to issue or renew a food handler's certificate or may suspend or revoke a food handler's certification if the applicant or holder obtains a certified food handlers certification under false or deceptive circumstances.
- (b) Prior to suspension or revocation of a food handler's certificate the Director shall notify the certified food handler, in writing, of the reasons for which the certification is subject to suspension or revocation and that the certification shall be suspended or revoked at the end of a specified time period following service of such notice unless a written request for hearing is filed with the Director within ten (10) days of delivery of the notice. If no request for hearing is filed within the ten-day period, the suspension or revocation of certification shall become final.
- (c) An individual whose food handlers certificate has been suspended or revoked shall not be reinstated or granted a new certificate until he or she has fulfilled all the conditions of said suspension or revocation, which conditions may include, but are not limited to, taking a food handlers certification course acceptable to the Director.

**Sec. 13-125. Fees.**

- (a) An application fee of fifteen dollars (\$15.00) shall be required to be paid to the Director for a food handler's certificate at the time of application or renewal. This fee is required regardless of whether or not the course requirement is waived.
- (b) Fees are refundable only if the food handler's certificate is denied by the Director. In no other instance shall fees be refundable.

(c) An individual who requires the replacement of a valid current food handler's certification card may obtain a replacement from the Director for a fee of ten dollars (\$10.00).

Secs. 13-126 – 13-130. Reserved.