CITY OF FRISCO, TEXAS **ORDINANCE NO.** 16-04-35

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, REPEALING ORDINANCE NO. 08-09-87 AND ADOPTING BY REFERENCE THE TEXAS FOOD ESTABLISHMENT RULES PROMULGATED BY THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES, CODIFIED AT 25 TEXAS ADMINISTRATIVE CODE, CHAPTER 228, AS AMENDED, SAVE AND EXCEPT FOR CERTAIN DELETIONS AND ADDITIONS; ESTABLISHING REGULATIONS FOR FOOD, FOOD ESTABLISHMENTS, MOBILE FOOD UNITS, FOOD TRUCKS, MOBILE FOOD VENDORS, DAY CARE FACILITIES AND TEMPORARY FOOD ESTABLISHMENTS IN THE CITY OF FRISCO; PERMITTING THE PRESENCE OF DOGS ON OUTDOOR PATIOS AT CERTAIN FOOD ESTABLISHMENTS; PROVIDING THE PURPOSE OF THESE RULES; PROVIDING DEFINITIONS INCLUDED IN THESE RULES; PROVIDING FOR THE ESTABLISHMENT AND COLLECTION OF FEES; PROVIDING A PROCESS FOR REVIEW OF PLANS; PROVIDING FOR MANAGEMENT AND PERSONNEL DUTIES; PROVIDING FOR WATER, PLUMBING AND WASTE REQUIREMENTS; PROVIDING FOR THE CONSTRUCTION OF PHYSICAL FACILITIES; PROVIDING FOR THE RESTRICTION OR EXCLUSION OF EMPLOYEES, THE EXAMINATION AND CONDEMNATION OF FOOD, PROVIDING FOR COMPLIANCE, ENFORCEMENT AND INTERPRETATION; PROVIDING FOR SUSPENSION AND REVOCATION OF PERMITS; PROVIDING AN ADMINISTRATIVE PROCESS TO ENFORCE THESE RULES; PROVIDING A PENALTY CLAUSE, SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Frisco, Texas ("Frisco"), to repeal Ordinance No. 08-09-87 for the purpose of establishing additional, updated and more comprehensive regulations for, among other things, food, food establishments, mobile food units, food trucks, and temporary food establishments in Frisco; allowing mobile vendors working within the enclosed venue of outdoor concerts, athletic stadiums or fields and entertainment venues with annual renewal permits; and permitting the presence of dogs on outdoor patios at certain food establishments; and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of Frisco to adopt by reference the provisions of the Texas Food Establishment Rules adopted by the Texas Department of State Health Services, codified at 25 Texas Administrative Code Chapter 228, which are adopted and incorporated herein by reference, save and except the deletions and additions set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Purpose. The purpose of these rules is to safeguard public health and provide to consumers food that is safe, unadulterated and honestly presented.

SECTION 3: Repeal of Ordinance No. 08-09-87. Ordinance No. 08-09-87 is hereby repealed in its entirety and replaced by this Ordinance. The effective date of the repeal discussed in this Section shall not occur until the effective date of this Ordinance, at which point Ordinance No. 08-09-87 shall be repealed. Such repeal shall not abate any pending prosecution or lawsuit or prevent any prosecution or lawsuit from being commenced for any violation of Ordinance No. 08-09-87 occurring before the effective date of this Ordinance

SECTION 4: Adoption of the Texas Food Establishment Rules. Frisco hereby adopts by reference the provisions of the current Texas Food Establishment Rules set forth in 25 Texas Administrative Code Chapter 228, as amended, which establish regulations regarding, among other things, food, food establishments, mobile food units, food trucks and temporary food establishments, save and except the deletions and additions set forth below. The Texas Food Establishment Rules ("TFER") are made a part of this Ordinance as if fully set forth herein. Copies of the TFER are on file in the Office of the City Secretary of Frisco, being marked and designated as the 2015 TFER, published by the Texas Department of State Health Services. The following deletions and additions to the TFER are hereby approved and adopted:

Section 228.2 Definitions is amended as follows:

For the purpose of this Ordinance, the following terms, phrases, words and their derivation shall have the meaning given below (regardless of the case used, whether upper or lower case), unless the context clearly indicates otherwise:

(1) AUTHORIZED AGENT OR EMPLOYEE – the employees or agents of the regulatory agency.

(2) BED AND BREAKFAST LIMITED –

(i) an establishment with up to five (5) or fewer rooms for rent;
(ii) an establishment that serves breakfast to overnight guests; and
(iii) an establishment that provides for guest stays of up to 14 consecutive calendar days, but that does not offer weekly rates.

(3) CONCESSION STAND – a food establishment operated on a seasonal basis for the purpose of providing food at sporting events

associated with an Independent School District, university, community college, non-profit organization, privately owned school or the City of Frisco.

(4) EVENT – a unique public gathering of persons at which food products will be served or offered directly to consumers, such as a seasonal sale, marketing event, festival, bazaar, carnival, circus, fundraiser, public exhibition, celebration, sporting event, or other public gathering which is civic, political, public or educational in nature and for which an appropriate regulatory authority is required to grant permission for the operation of the event, whether by permit, license or other official written document.

(5) FOOD TRUCK – a Mobile Food Unit (MFU), as defined herein, that is permitted to operate at one location for a period of time exceeding fifteen (15) minutes under this Ordinance or other City of Frisco ordinance, as they exist or may be amended.

(6) FRISCO, CITY OF FRISCO or MUNICIPALITY – the City of Frisco, Texas.

(7) LAW – any applicable local, state and/or federal law, statute, ordinance, resolution, rule, regulation and/or requirement, as it/they currently exist, may be amended or in the future arising.

(8) LIMITED FOOD ESTABLISHMENT – an operation that is required by any regulatory agency to be inspected by the local regulatory authority, but which does not meet the definition of food establishment; or an operation meeting the definition of Bed and Breakfast Limited, as amended.

(9) MISBRANDED – the presence of any written, printed, or graphic matter, upon or accompanying food or containers of food, which is false or misleading, or which violates any applicable state or local labeling requirement, as they exist or may be amended.

(10) MOBILE FOOD UNIT (MFU) – a vehicle-mounted, self-contained food service operation, designed to be readily moveable (including catering trucks) and used to store, prepare, display, serve or sell food. Mobile Food Units must completely retain their mobility at all times. A Mobile Food Unit does not mean a stand or a booth.

(11) MOBILE FOOD VENDOR – any person who operates or sells food from a stationary cart, or trailer-mounted on chassis, but without an engine, for period of fifteen (15) days or greater per

year. Mobile Food Vendors who operate for fourteen (14) days or less shall be considered temporary food establishments. Mobile Food Vendors shall operate under the guidelines set forth in the City of Frisco Zoning Ordinance, as it exists or may be amended, in addition to meeting the requirements for food establishments set forth in these rules. Mobile Food Vendors that are approved to operate within the enclosed venue of outdoor concerts, athletic stadiums or fields and entertainment venues are exempt from Sections 3.02.01(20)(f), (g), (i), (j) and (k) of the City of Frisco Zoning Ordinance.

(12) PRIVATE EVENT – an event at which food and/or beverages are offered to participants and:

(i) That is held on publicly or privately owned premises or a location operated by an organization, group, club, association or institution that is not available for use by the general public and where entry to the event is governed by regulations or invitation of that organization, group, club, association or institution; or

(ii) where food and/or beverages are offered, sampled, sold or given only to event volunteers and/or event staff.

(13) REGULATORY AUTHORITY or LOCAL REGULATORY AUTHORITY – the City of Frisco, Texas, or its authorized designee.

(14) RETAIL ONLY – a business offering only foods which are pre-packaged, non-potentially hazardous (PHF/non-TCFS).

(15) ROADSIDE FOOD VENDOR – a person who operates a mobile retail food store from a temporary location adjacent to a public road or highway. Food is not prepared or processed by a roadside food vendor. A roadside food vendor is classified as a Food Truck under this Ordinance.

(16) RULES, STATE RULES, TEXAS FOOD ESTABLISHMENT RULES or "TFER" — the Texas Food Establishment Rules adopted by the Texas Department of State Health Services, codified at 25 Texas Administrative Code Chapter 228, as amended.

Section 228.31 Responsibility is amended as follows:

(a) Responsibility; Food Manager Certification Requirements.

(1) Responsibility, assignment. Food establishments that serve, sell, or distribute only prepackaged foods, non-potentially hazardous beverages and foods such as sno-cones or popcorn, and temporary food establishments, are exempt from the certified food protection manager requirement. Concession stand operators must successfully take and pass a food safety class, such as food handler certification class, approved by the City of Frisco, or a class that educates food service workers which is approved by the regulatory authority, before operating a concession stand. Proof of successful course completion may be required of food establishments that are exempt from the certified food protection manager requirement under this subsection if the regulatory authority determines that the food establishment is capable of causing foodborne illness or increased public health risk.

(2) A food establishment shall provide proof of food protection manager certification to the regulatory authority prior to opening the establishment.

(3) A food establishment shall have thirty (30) days to meet the certified food protection manager requirement upon the transfer or termination of a certified food protection manager.

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

(5) A concessionaire or temporary food establishment must have a certified food handler on duty during all hours of operation.

...

(c) Bed and Breakfast Limited. The owner/operator of a bed and breakfast limited shall successfully complete a food protection manager certification course approved by the regulatory authority and submit proof of certification to the regulatory authority when applying for a permit.

Section 228.43 Hair Restraints is amended as follows:

(a) Except as provided in subsection (b) of this section, all food employees, regardless of title, position or establishment's own policy, shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their

hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles. Methods which only partially restrain hair, such as braids, hair ties, or visors, shall only be used in conjunction with one of the approved hair restraint methods listed above.

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

Section 228.70 Preventing Contamination by Consumers is amended as follows:

(a) Food display. Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards that comply with NSF standards; completely enclosed display cases; or other means approved by the regulatory authority. A letter may be required from the fabricator or installer of any food guard required by this subsection to confirm compliance with NSF standards if compliance is not evident through the use of labels or listings posted directly on the food guard by the authority approved to affix such label or listing.

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Section 228.106 Functionality of Equipment is amended as follows:

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(x) Acceptability. Food equipment certification, classification. Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program will be deemed to comply with §§ 228.101-228.106 of this title. Food equipment shall display certification label(s) from an ANSI-accredited certification program or express approval is required from the Regulatory Authority for use. A letter may be required from the fabricator or installer of such equipment to confirm compliance with ANSI-accredited certification program if compliance is not evident through the use of labels posted directly on the equipment by the authority approved to affix such label.

Section 228.107 Equipment, Numbers and Capacities is amended as follows:

(a) Cooling, heating, and holding capacities. Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified under Subchapter C of this chapter (relating to Food), provided, however, that the regulatory authority may calculate capacities required for limited food establishments or for any food establishment in order to ensure food is held at proper temperatures. This may include a requirement for a limited food establishment to provide a single refrigerator that complies with § 228.106(x) of this title to maintain student food brought in to be maintained at all times under mechanical refrigeration.

(1) Businesses that sublet, rent or share space adjacent to or within an existing food service operation shall have separate refrigeration units to serve each business adequately.

(b) Manual warewashing, sink compartment requirements.

(1) Except as specified in paragraph 3 of this subsection, a sink with at least three compartments shall be provided for manually washing, rinsing and sanitizing equipment and utensils. If a mechanical warewashing machine as specified by the rules in this section is provided and approved to accomplish proper washing and sanitizing of equipment and utensils, this does not allow for exemption from the requirement of at least one three-compartment sink. The sink shall have each compartment labeled as to its function and use with a sign affixed to each compartment. The sink shall also have sanitizing instructions posted in an area adjacent to the warewashing area.

(2) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils.

(3) Alternative manual warewashing equipment may be used when there are special cleaning needs such as specialized equipment and its use is approved. Alternative manual warewashing equipment may only be used in existing establishments having Certificate of Occupancy dating before the effective date of this ordinance and may include:

...

Section 228.143 Water Quantity and Availability is amended as follows:

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(c) Hot water. Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment. Sizing of supply systems shall comply with NSF standards approved by the regulatory authority.

Section 228.147 Plumbing, Numbers and Capacities is amended as follows:

(a) Handwashing Facilities.

(1) Except as specified in paragraphs (2) and (3) of this subsection, at least one (1) handwashing lavatory, a number of handwashing lavatories necessary for their convenient use by employees in areas specified under § 228.148 of this title, and not fewer than the number of handwashing lavatories required by the Plumbing Code, as it exists or may be amended by the City of Frisco, shall be provided. Lavatories in addition to those defined herein may be required by the regulatory authority.

...

(c) Service Sink. At least one (1) floor-curbed cleaning facility, equipped with a floor drain, shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

...

Section 228.148 Plumbing, Location and Placement is amended as follows:

(a) Handwashing facilities.

(1) A handwashing facility shall be located:

(A) to allow convenient use by employees in all food preparation, food dispensing and warewashing areas; and

(B) in, or immediately adjacent to, toilet rooms; and

(C) such that at least one (1) handwashing facility shall be on each cook line, for direct use by all employees while working on the cook line; and

(D) within every twenty-five (25) linear feet of unobstructed space in food preparation and utensil washing areas, or as otherwise approved by the regulatory authority. Any door,

wall, partial wall, stairway or other barrier, fixed or moveable, shall be considered an obstruction for the purposes of these rules.

(2) If a handwashing facility is located immediately adjacent to food preparation, serving, or storage areas, an approved splash guard separating the handwashing facility from these areas may be required by the regulatory authority.

(3) Dedicated food preparation sink. A minimum of one (1) sink shall be provided for food preparation in food establishments that prepare raw animal proteins and/or that prepare fruits or vegetables on site.

(4) At least one (1) waste sink shall be provided where blender, coffee or tea service is performed.

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Section 228.150 Sewage Retention, Drainage, and Delivery is amended as follows:

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(d) Grease trap, grease interceptor.

(1) A grease trap or grease interceptor is required unless otherwise approved by the regulatory authority, and shall be located to be easily accessible for cleaning, operation, and maintenance. The location of a grease trap or grease interceptor must be approved by the regulatory authority and shall not be within an area where food is held, prepared, stored, or transferred. Grease traps and grease interceptors shall be sized and installed in compliance with the Plumbing Code. All grease traps and interceptors shall also be approved by the regulatory authority prior to installation. Grease separators designed to be serviced manually by food establishment employees shall not be permitted. Grease interceptors or separators located above ground, beneath one (1) fixture, are prohibited unless otherwise approved by the regulatory authority.

(2) Grease traps and grease interceptors shall be serviced within ninety (90) days of the food establishment opening, undergoing extensive renovation, or change in ownership, and subsequently at an interval necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease interceptor or trap; to ensure the discharge of grease into public sewers does not exceed local discharge limits not to exceed 100mg/L; to ensure no

visible grease is observed in discharge; and not to exceed ninety (90) operational days between servicing. Self-cleaning of grease interceptors by operators is expressly prohibited. Grease traps and grease interceptors shall be completely evacuated a minimum of four (4) times yearly, unless otherwise approved by the regulatory authority by written variance approval, and liquid waste transportation paperwork documenting complete service of the grease interceptor or trap shall be provided to the regulatory authority, or designee having jurisdiction, upon request. Testing of effluent shall be done at the business owner's expense upon request by the regulatory authority for failure to produce requested liquid waste transportation paperwork, or should the regulatory authority have knowledge of a grease interceptor or trap dysfunction or suspicion of misuse that allows grease to be discharged into the sewer system. Food establishments shall enter into a contract with a waste hauler licensed by the state regulatory authority having jurisdiction over waste haulers, to provide for regularly scheduled servicing. No "will call" or "on call" scheduling shall be permitted for servicing, except for emergency servicing when required to prevent imminent health hazard or the discharge of grease into the sewer system. Liquid waste transportation documentation, as approved by the state regulatory authority including, but not limited to, the Texas Commission on Environmental Quality or the department, shall be kept on file for one (1) year in the food establishment for review by the local regulatory authority.

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Section 228.152 Refuse, Recyclables, and Returnables, Facilities on the Premises is amended as follows:

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(b) Outdoor storage surface. An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of concrete and shall be smooth, durable, and sloped to drain.

(c) Outdoor enclosure. An outdoor enclosure for refuse, recyclables, and returnables, constructed to City of Frisco specifications and being comprised of, among other requirements, one hundred percent (100%) masonry, shall be provided, unless otherwise approved by the regulatory authority.

...

(f) Outside receptacles.

(1) Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers and be within an approved, as solely determined by the regulatory authority, enclosure as to shield from public view. All outside receptacles and waste handling units shall be approved by the regulatory authority prior to construction, installation, or use.

...

(k) Storing refuse, recyclables, and returnables. Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents and shielded from public view by an approved, as solely determined by the regulatory authority, enclosure. Food waste shall be securely bagged prior to placing in receptacle or waste handling unit. All methods of storing and recycling waste shall be approved by the regulatory authority.

...

(m) Outside storage prohibitions.

...

(2) Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem, is shielded from public view by an approved enclosure, and approved by the regulatory authority.

...

(p) Maintaining refuse areas and enclosures. A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified under § 228.186(n) of this title (pertaining to Physical Facilities), and obstructions, and shall be clean.

...

Section 228.171 Indoor Areas, Surface Characteristics is amended as follows:

Except as specified in § 228.222(j) and (k)(1) of this title, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

...

(3) nonabsorbent for areas subject to moisture such as food preparation areas, areas used for the storage or transportation of open containers of food, walk-in refrigerators, warewashing areas, toilet rooms, mobile food unit servicing areas, and areas subject to flushing or spray cleaning methods.

Section 228.172 Outdoor Areas, Surface Characteristics is amended as follows:

(a) Walking and driving areas. The outdoor walking and driving areas shall be surfaced with concrete or other material approved by the regulatory authority.

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Section 228.173 Floors, Walls, and Ceilings is amended as follows:

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(d) Floor carpeting, restrictions and installation.

(1) Floors and floor coverings of all food preparation and utensil-washing areas, walk-in refrigeration units, dressing rooms, locker rooms; and toilet rooms provided for employee use shall be constructed of smooth durable material such as terrazzo, ceramic, quarry tile, or equivalent, with a six (6) inch coved tile base installed integral and flush with finished floor, and shall be maintained in good repair. Top-set, square or thin-lip installations of coved base tiles are prohibited. Sealed concrete, sheet vinyl, vinyl products or VCT may not be used in these areas. Epoxy resin and other poured monolithic floors, and other durable seamless flooring systems may be used in these areas installed to a finished product thickness of a minimum of one-quarter (1/4, 0.25) inch when approved by the regulatory authority prior to installation. Poured monolithic floors and seamless flooring systems shall be constructed to a finished product thickness of a minimum of one-quarter (1/4, 0.25) inch with coved base monolithic, integral, and flush with floor. The regulatory authority may impose additional requirements such as, but not limited to, the addition of non-skid additives and may approve alternative minimum thicknesses of floors and base if it is proven in writing that a finished product of different thickness and/or additives

render the same or increased standards. Written documentation of compliance with these requirements shall be submitted to the regulatory authority at time of installation and no later than the date of issuance of the Certificate of Occupancy. Durable grades of sheet vinyl or other approved vinyl products may be used in dry storage areas if approved by the regulatory authority, and shall be maintained in good repair. In dedicated janitorial, laundry, or mechanical areas, sealed concrete may be used in lieu of the above listed materials if approved by the regulatory authority. Food areas within food establishments that are temporarily set up for use during specified hours during each day or one day such as buffet lines or bar service areas may be exempt from this rule. Food areas of a food establishment that are used for sole purpose of class instruction and where consumption of food on premise is minimal and of secondary to primary instruction use may be exempt from this rule.

At least one (1) floor drain must be provided, with total number of required drains to be approved by the regulatory authority. Properly installed, trapped floor drains shall be provided in floors that are water flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Properly trapped floor drains shall be provided in all toilet rooms and in food preparation areas in compliance with any and all applicable laws. Floors must be graded to drain properly.

(2) Prohibited floor covering. The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is expressly prohibited.

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(f) Wall and ceiling coverings and coatings.

(1) Wall and ceiling covering materials shall be attached so that they are easily cleanable. Walls where excessive heat from equipment such as grills, griddles, fryers or gas burners must be covered with stainless steel sheets from floor to ventilation hood, unless otherwise approved by regulatory authority. Walls in areas where food is not prepackaged at all times, shall be nonabsorbent, easily cleanable and covering must be approved by the regulatory authority. Wall coatings, including epoxy paint, are not approved as wall coverings in areas where uncovered food is located, stored, transferred, processed, passed, cooked, prepared or sold. Wall coatings, including epoxy paint, may be used in areas where food

is prepackaged at all times or in non-food storage areas with approval by the regulatory authority. Ceilings in areas where food is not prepackaged at all times shall be nonabsorbent, easily cleanable and covering must be approved by the regulatory authority. Ceiling coatings, including epoxy paint, are not approved as ceiling coverings in areas where uncovered food is located, stored, transferred, processed, passed, cooked, prepared or sold, except in areas such as bars, temporary buffet lines and other areas if approved by the regulatory authority. Exception to this rule may be made for food establishments that are used for sole purpose of instructional and where consumption of food on premise is minimal and of secondary use.

(2) Concrete, concrete blocks or bricks, when used in areas of a food establishment not open to the general public, shall be used only where non-food activities occur such as can washing or outdoor janitorial use or storage areas. Concession stands may use concrete, concrete blocks, or bricks for indoor wall construction if finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface and re-sealed for maintenance in a timely manner or when mandated by the regulatory authority.

(3) Wall surfaces in dedicated bar service areas of a food establishment and toilet rooms provided for employee or worker use shall be durable, nonabsorbent and easily cleanable to a minimum height of four (4) feet. Wall coatings including epoxy paint may only be used above forty-eight (48) inches.

...

(i) Indoor areas, food service segregated where exterior openings are open to the environment. Where the construction of a food establishment allows for a door, wall or outdoor environment left exposed, the food service areas of the food establishment shall be fully enclosed by 4 walls and tight fitting openings including entry and exit.

(j) All shelving and millwork within food service areas of the food establishment shall be rendered washable and impervious.

Section 228.174 Functionality is amended as follows:

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(e) Outer openings, protected.

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(3) ...

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(D) protected by auto-activated air curtain.

(4) ...

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(C) other effective means approved by the Regulatory Authority such as a fan which protects such opening and is documented to do so by a registered mechanical engineer.

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(6) If drive-through service is provided by the food establishment, all drive-through windows shall be solid and self-closing.

...

Section 228.175 Handwashing Sinks is amended as follows:

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(b) Handwashing cleanser, availability. Each handwashing lavatory or group of two (2) adjacent lavatories shall be provided with a supply of hand cleaning liquid or powder provided through a wall mounted dispenser. Bar soap is expressly prohibited.

...

Section 228.184 Distressed Merchandise, Segregation and Location is amended as follows:

Products that are held by the permit holder for credit, redemption, or return to the distributor, such as damaged, expired, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles. Such products shall be clearly marked that they are not to be used or served.

Section 228.186 Premises, Buildings, Systems, Rooms, Fixtures, Equipment, Devices, and Materials is amended as follows:

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(o) Prohibiting animals

(1) Except as specified in paragraphs (2), (3), and (4) of this subsection, live animals may not be allowed on the premises of a food establishment. This prohibition includes, but is not limited to, brief entry for purposes of picking up take-out food or the entry of the interior of any store where food is offered for sale or any establishment where a sign is posted prohibiting animals other than service dogs.

...

(4) Notwithstanding anything to the contrary herein, a food establishment with an outdoor patio under its exclusive ownership or control may permit dogs to be present in the outdoor patio area of the food establishment if the food establishment obtains from the regulatory authority a variance waiving the prohibition against dogs on the premises of the food establishment and complies with the following conditions and standards:

(A) Except as allowed under § 228.186(o)(2) of this title, no dog may be present in the interior of the food establishment or on any playground area designated for children on the premises of the food establishment.

(B) A separate entrance must be provided from the outside of the food establishment to the outdoor patio so that a dog has direct access to the patio without entering the interior of the food establishment or any playground area of the food establishment. A dog may not be allowed within seven (7) feet of any entrance to the interior of the food establishment, except when necessary to enter or exit the patio.

(C) Signs must be posted at each and every public entrance of the food establishment and at each and every patio entrance so that the signs are easily visible to the public at all times. The sign at each public entrance of the food establishment must be located within 36 inches of the door handle and must state in 1-inch lettering in the color red: "DOG-FRIENDLY PATIO – DOG ACCESS ONLY THROUGH OUTDOOR PATIO GATE. NON-SERVICE DOGS PROHIBITED." The sign at each patio entrance must be affixed directly to the fence or other enclosure that is

adjacent to the patio entrance gate and located within 12 inches of the gate latch when the gate is closed, and shall state in 2-inch lettering in the color red: "DOG-FRIENDLY PATIO." The background color for all signs required by this subsection shall be white in color and display the approved City logo. The owner/operator shall obtain all signs required by this subsection from the City. The fee for each sign required by this subsection shall be $25.00. All signs required by this subsection shall be replaced at owner/operator expense in a timely manner so as to comply with this subsection.

(D) Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio from the interior of the food establishment and must be kept closed when not in use.

(E) No food preparation, including mixing drinks or serving ice, may be performed in the outdoor patio area, except that a beverage glass may be filled on the patio from a pitcher or other container that has been filled or otherwise prepared inside the food establishment.

(F) The outdoor patio must be continuously maintained free of visible dog hair, dog dander, and other dog-related waste or debris. The outdoor patio must be hosed down or mopped with a product approved under the Rules at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), not less frequently than every 12 hours, except that cleaning under this subsection is not required if no dog has been present on the outdoor patio since the last cleaning.

(G) All table and chair surfaces shall be non-porous, easily cleanable material and cleaned and sanitized with a product approved under the Rules. Spilled food and drink shall be removed from the floor or ground within five (5) minutes of the spill.

(H) Waste resulting from a dog's bodily functions must be cleaned up immediately with a product approved under the Rules and not harmful to dogs within five (5) minutes of each occurrence. All dog waste must be disposed of outside of the food establishment and outside of any patio in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept outside of the food

establishment and outside of any patio. Exterior storage of such equipment must be screened from public view.

(I) While on duty, wait staff or other food handlers at the food establishment may not pet or have contact with any dog.

(J) A dog must be kept on a leash, or in a secure bag or container specifically designed to carry and provide continuous restraint of dogs while providing adequate ventilation, and must remain under continuous physical control of the owner or other responsible adult while in the outdoor patio area. The dog must be wearing a collar or harness with a current rabies tag attached to it.

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

(L) A dog is not allowed to be tied to anything affixed or non-affixed as a means to be restrained.

(M) A dog may not have contact with any non-disposable dishes or utensils used for food service or preparation at the food establishment.

(N) A dog may not be given any food (including, but not limited to, dog kibble, biscuits, and edible treats) while in the outdoor patio area, but may be given water in a disposable container.

(O) The food establishment shall notify and maintain written procedures regarding the notification of the City of Frisco's Animal Control Division of any local rabies control incident as required by Chapter 14 (Animals) of the Frisco Code of Ordinances, or any other incident in which two or more dogs are involved in any altercation where they physically come into contact with each other, regardless of whether any of the animals are injured.

(P) The flooring of a patio where dogs are permitted shall be constructed only of sealed concrete or other non-porous, approved material and have no covering that would inhibit thorough cleaning.

(Q) A food establishment shall not permit dogs to be present in the outdoor patio area of the food establishment if:

(i) The regulatory authority determines that a health hazard or nuisance will or has resulted; or

(ii) The food establishment is in violation of this title or state law.

(R) Variance Required.

(i) Except as allowed under § 228.186(o)(2) of this title, any food establishment that allows dogs on its premises without a variance is in violation of this ordinance. The owner or operator of a food establishment with an outdoor patio under the establishment's exclusive ownership or control may apply to the regulatory authority for a variance waiving the prohibition against dogs on the premises of the food establishment. The variance application shall be on a form provided by the regulatory authority. The application shall be accompanied by a non-refundable variance application fee.

(ii) An inspection must be performed by the regulatory authority to ensure that the food establishment complies with the conditions and standards set forth in § 228.186(o)(4) of this title.

(iii) A variance granted under this subsection is nontransferable. The variance shall expire two (2) years after the date it is granted by the regulatory authority unless it is sooner revoked by the regulatory authority or terminated by the food establishment. A variance may be renewed through the application process set forth in subsection (i) of this section.

(iv) The regulatory authority shall deny or revoke a variance if:

1. The application for variance contains a false statement;

2. The food establishment does not hold a valid permit issued under this ordinance;

3. The regulatory authority determines that a health hazard or nuisance will result or has resulted from the variance;

4. The food establishment failed to pay a required fee at the time it was due under this ordinance;

5. The food establishment is in violation of any term or condition of the variance as established by the regulatory authority, this title, or state law.

(v) If the regulatory authority denies or revokes a variance, the regulatory authority shall notify the applicant in writing by personal service or regular United States mail. The notice must include the reasons for the denial or revocation.

(vi) A food establishment whose variance under this subsection is denied or revoked may appeal by requesting a hearing within ten (10) days after service of the notice of the denial or revocation. Such request shall be in writing, shall specify the reasons why the variance should not be denied or revoked and shall be filed with the regulatory authority. A hearing shall be conducted by the regulatory authority within fifteen (15) days from receipt of the appeal.

(S) Nothing in this ordinance shall be construed to waive or limit the regulatory authority's governmental immunity from suit or from liability.

(p) Except where allowed under Section 54-24 of the Code of Ordinances, ash trays, pipes, hookahs or other smoking paraphernalia shall not be made available for use to patrons of a food establishment.

Section 228.221 Mobile Food Units is amended as follows:

(a) Mobile food unit provisions.

(1) General. ...

(A) Limited operating area, limited duration of operation.

(i) Except when classified as a mobile food vendor in compliance with the City of Frisco Zoning Ordinance or as a food truck under this Ordinance or other City of Frisco ordinance, as they exist or may be amended, a mobile food unit shall not operate at one location for a period of time exceeding fifteen (15) minutes. A mobile food unit shall not operate at any location in which such operation would be prohibited under the City of Frisco Zoning Ordinance or any other ordinance, as they exist or may be amended.

(ii) Except when located in a fixed, permanent area as allowed under separate City of Frisco ordinance, one or more Food Trucks may operate on non-residential private property, no closer than 10 feet from each other at any point, for so long as the services available on site and for use by the Food Truck staff and patrons remain fully accessible and usable, except that a Food Truck must report to its Central Preparation Facility at least once per day for servicing on the days the Food Truck operates or as otherwise limited by other City of Frisco ordinance. These services include rodent-proof trash containers serviced by a commercial waste hauler and non-temporary restroom facilities plumbed in accordance with the Plumbing Code, as it exists or may be amended, with a sufficient supply of soap, towels and hot water. The location of the site of operation of each Food Truck shall not impede traffic; shall not be in a fire lane; shall not allow a customer line to queue into a driving pathway or street; and is subject to relocation by the regulatory authority if the location poses a hazard to any patron. Each Food Truck must obtain a Health Permit type "Food Truck." Each permit in each location is valid for six (6) months. Renewal of a permit per location is not automatic and must be requested by submitting a new application. The application may be denied if a history of noncompliance with these rules is shown. The Food Establishment application of type "Food Truck" shall be completed in full and submitted with the following for each operational period:

a. Letter from property owner or authorized property management company providing written approval for each Food Truck to occupy the designated premise for the duration of allowed timeframe under each permit; and

b. Letter from a permanent business establishment that holds a valid Certificate of Occupancy and that is located on the same platted lot as the site of operation of the Food Truck; such letter must state that the establishment's permanent restroom facilities will be allowed for public use by any Food Truck operator or patron. In lieu of a letter from a permanent business establishment, the property owner or authorized property management company may provide a letter stating that the owner or company will provide temporary restroom facilities for public use by any Food Truck operator or patron. The location of such temporary restroom facilities will be subject to regulatory authority approval.

(B) Pushcarts. Pushcarts providing food other than pre-packaged, non-potentially hazardous food shall operate only when classified as a mobile food vendor in compliance with the City of Frisco Zoning Ordinance, as it exists or may be amended.

...

(4) Initial permitting inspection.

(A) The regulatory authority shall require a mobile food unit or food truck to obtain an inspection from the Frisco Fire Department prior to seeking a permit from the regulatory authority. Proof of Fire Department inspection and approval must be provided when submitting a completed permit application to the regulatory authority. The regulatory authority shall then require a mobile food unit or food truck to come to a location designated by the authority for inspection. The mobile food unit or food truck must be totally operable at the time of inspection, including but not limited to handwash/warewash facilities, fire suppression-related facilities, generator, fuel facilities, refrigeration and wastewater

disposal. A mobile food unit or food truck may not operate within the limits of the City of Frisco without a valid permit. The following documents shall be submitted with the completed permit application:

i. Written consent to a background check;

ii. Copy of Central Preparation Facility document;

iii. Certificate of Liability Insurance, $100,000 minimum;

iv. Copy of valid Driver's License;

v. Copy of successful completion of Food Manager or Food Handler certification, where required, from accredited and approved vendor;

vi. Proof of Fire Department inspection and approval;

vii. List of food items offered if not pre-packaged;

viii. A signed affidavit acknowledging that sales made in Frisco shall be designated on the individual Sales Tax returns for the owner of the mobile food unit or food truck; and

ix. Any other documents requested by the regulatory authority in the interest of public health.

(B) Once compliance with these rules has been met and documented by inspection, applicable fees shall be paid prior to issuance of permit. Failure of the required mobile food unit inspection will require reinspection at a cost of Fifty and No/100 Dollars ($50.00) per reinspection until approved.

(C) The owner/operator of a mobile food unit shall display a mobile food unit permit, affixed directly to the mobile food unit, and shall keep on file in the mobile food unit the placard for the current valid permit.

(D) The owner/operator of a mobile food unit shall inform the regulatory authority immediately upon changing or discontinuing use of a central preparation facility and shall immediately cease operations until a commissary letter

verifying use of a new central preparation facility has been approved by the regulatory authority. Failure to provide a new commissary letter to the regulatory authority may result in the revocation of the food establishment permit.

(E) Renewal of permit per location is not automatic and must be requested by submitting a new application. Application may be denied if a history of noncompliance with these rules is shown.

...

(c) Servicing area and operations.

(1) Protection.

...

(D) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, approved by the regulatory authority, such as concrete, and shall be maintained in good repair, kept clean, and be graded to drain.

(E) Potable water servicing equipment shall be installed in the servicing area, as required by any and all applicable laws, and stored and handled in a way that protects the water and equipment from contamination.

...

Section 228.222 Temporary Food Establishments is amended as follows:

...

(c) Ice. Ice that is consumed or that contacts food shall be made under conditions meeting the requirements of these rules (pertaining to Food). The ice shall be obtained only in chipped, crushed, or cubed form and in single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. Ice for consumption shall be held in the bags until it is dispensed, and shall be dispensed in a way that protects it from contamination. Ice shall not be used as a coolant for potentially hazardous foods at a temporary food establishment operating for more than four (4) hours. Regardless of event duration, ice shall not be used as a coolant for uncooked animal products.

(d) Equipment and utensils.

(1) Design and construction. Events less than or equal to four (4) hours long in duration shall use equipment and utensils designed and constructed to be durable and to retain their characteristic qualities under normal use conditions. Events greater than four (4) hours long in duration shall use equipment and utensils in compliance with Section 228.106(x) unless otherwise approved by the regulatory authority.

...

(l) Adequate restroom facilities. The regulatory authority may require written proof, by notarized letter or other means, that adequate restroom facilities will be provided for the use of employees and patrons of a temporary food establishment.

(m) Protection from contamination by consumers.

(1) Condiments provided for the customer's use, such as relish, sauces, catsup, mustard, etc. shall be shelf-stable and shall be dispensed as single serving packets or from squeeze-type containers.

(2) Baked goods shall be portioned and wrapped prior to sale.

(n) Refuse. Covered refuse containers must be provided, made of non-absorbent material, and rodent-proof. Food waste shall be securely bagged. Refuse collection areas and servicing must be approved by the regulatory authority.

Section 228.244 **Facility and Operating Plans** is amended as follows.

(a) ...

(1) ...

...

(3) the remodeling of a food establishment, whenever a food establishment is constructed or extensively remodeled; whenever modifications, additions, or reductions are made to areas regulated by these Rules; or whenever an existing structure is converted to use as a food establishment. Extensive remodeling means that twenty (20) percent or greater of the area of the food establishment is to be remodeled.

(b) Contents of the plans and specifications. The plans and specifications shall include the following whether existing or not:

(1) proposed layout;

(2) equipment arrangement and schedule including type and model of proposed equipment;

(3) finish schedule of all floors, walls and ceilings;

(4) manufacturer's equipment specification sheets for all equipment;

(5) grease interceptor proposed location;

(6) water heater calculations and proposed size;

(7) grease waste storage receptacle location;

(8) waste receptacle or dumpster enclosure location;

(9) mechanical, electrical and plumbing plans;

(10) menu of all food items offered; and

(11) Other plan requirements to be submitted where applicable include proof of location of Consumer Advisory and submittal of Bare Hand Contact Policy.

...

(e) Review of plans. The approved plans and specifications must be followed in construction, remodeling, modification and/or conversion of a food establishment. All work must be inspected by the regulatory authority for compliance with these Rules. After compliance with these Rules is deemed to be met, a food establishment permit may be approved. Failure to follow the approved plans and specifications will result in a permit denial, suspension or revocation.

(f) Plan review fee. If a determination is made by the regulatory authority that no building permit is required, a plan review fee shall be assessed for any plan review required to ensure compliance with these rules. This fee shall be assessed at a rate of Fifty and No/100 Dollars ($50.00) per hour, with a minimum charge of one (1) hour. Additional plan review required by changes, additions, or revisions to plans approved under a building permit, will be assessed a plan review fee at the rate of Fifty and No/100 Dollars ($50.00) per hour, with a minimum charge of one (1) hour.

Section 228.249 Inspection Frequency, Performance-based and Risk-based is amended as follows:

(a) The regulatory authority shall inspect each food establishment at least once every six (6) months, and may inspect as often as necessary to ensure the health and safety of the public. Establishments classified as limited

food establishments, concessions, kiosks and mobile food vendors shall be inspected as needed in order to provide inspection documentation to any requesting regulatory agency. Limited food establishments not requiring such documentation shall be reviewed once per year to confirm limited food establishment status and proper food protection manager certification.

...

Section 228.251 Report of Findings is amended as follows:

...

(e) Public information. Except as specified in § 228.245 of this title, the regulatory authority shall treat the inspection report as a public document and shall make it available for disclosure to a person who submits a written request to the Office of the City Secretary of the City of Frisco, as required by law.

...

Section 228.253 Priority Item/Priority Foundation Item, Time Frame for Correction is amended as follows:

(a) Timely correction.

(1) ...

(A) Risk Violation Fee; Fee for timely correction. Should corrective action not be completed, observed and documented on site by an inspector at the time of inspection, one or more subsequent inspections will be required until compliance is observed and documented. The fee for each inspection of each noncompliant item or condition shall be Fifty and No/100 Dollars ($50.00).

...

(b) Verification and documentation of correction.

...

(3) When the total cumulative demerit value of an establishment exceeds thirty (30) demerits, defined as "failing," the establishment shall initiate immediate corrective action on all identified priority or priority foundation violations and shall initiate corrective action

on all other violations within forty-eight (48) hours. One (1) or more reinspections shall be conducted at reasonable time intervals to assure correction of each violation known to have increased risk for foodborne illness, as defined by the Centers for Disease Control. There shall be a separate reinspection fee of Two Hundred Fifty and No/100 Dollars ($250.00) for each reinspection for correction until all risk factors are under managerial control. The reinspection fee shall be paid no later than the business day immediately following each reinspection. The reinspection fee is required to be paid for each failure occurrence. Each reinspection shall be scored.

...

Section 228.256 Investigation and Control is amended as follows:

(a) ...

...

(2) requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees. Such laboratory analysis, examinations by a physician, transportation, costs and applicable fees shall be the responsibility of the employee or establishment suspected.

..."

SECTION 5: Application for Permit and Fees.

(a) Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Applications for temporary food establishments must be received by the regulatory authority ten (10) days prior to the proposed event. Failure to provide all required information, falsification of required information, may result in denial or revocation of the permit. A fee of Fifty and No/100 Dollars ($50.00) will be incurred for failing to timely submit a temporary food establishment permit application, which must be submitted at least ten (10) days prior to the event.

(b) Any person or business required to or desiring to have review of any variance or plan as required by Regulatory Authority or by the State including HACCP plan or Bare Hand Contact Policy plan shall pay a fee of One Hundred and No/100 Dollars ($100.00).

(c) Requirement. It shall be unlawful for any person to operate a food establishment in Frisco unless he possesses a valid food establishment permit issued by the regulatory authority.

(d) Posting. A valid food establishment permit shall be posted in public view in a conspicuous place at the food establishment for which it is issued.

(e) Permit Nontransferable. A food establishment permit issued under this Ordinance is not transferable. Upon change of ownership of a business, the new business owner will be required to meet current standards set forth in this Ordinance, state law or regulation before a food establishment permit is issued.

(f) Multiple Permits.

(1) A separate Permit shall be required for every fixed, mobile, or temporary food establishment with separate and distinct facilities and operations, as determined by the regulatory authority, whether situated in the same building or at separate locations.

(2) Separate and distinct lounge operations in a food facility require a separate food establishment permit from food operations. However, multiple lounges on the same floor in the same building and under the same liquor license will not require a separate food establishment permit.

(g) Any person desiring to renew an existing food establishment permit must make written application for renewal of permit on forms provided by the regulatory authority. Renewals of permits are required on an annual basis, except where otherwise stated. An incomplete application for renewal will not be accepted. No food establishment permit renewal shall be issued until all outstanding fees required under this Ordinance, such as fees levied for reinspections for compliance, permit renewal late fees and plan review fees, have been paid.

(h) Prior to the approval of an initial permit, a change of ownership, or upon completion of additions, remodels, or modifications as specified in § 228.244, the regulatory authority shall inspect the food establishment to determine compliance with this Ordinance. A food establishment that does not comply with this Ordinance will be denied a food establishment permit. Food establishments with an existing food establishment permit that do not comply with this Ordinance may be denied the renewal of a food establishment permit. The owner/operator of a food establishment must pay a preoperational inspection fee as set by the fee schedule. Failure to follow the approved plans and specifications will result in denial, suspension or revocation of a food establishment permit.

(i) The regulatory authority shall classify each food establishment at the time of application, and assess food establishment permit fees, due at the time of plan submittal or at Health Permit application if only change of ownership applies and in no case later than prior to issuance of the Certificate of Occupancy, according to the table below:

PERMIT SUBTYPE	FEE AMOUNT	PERMIT DURATION

Restaurant	$500.00	1 Year
Convenience	$250.00	1 Year
Daycare	$300.00	1 Year
Grocery	$650.00	1 Year
Mobile Food Unit – Hot	$400.00	1 Year
Mobile Food Unit – Cold	$300.00	1 Year
Temporary	$50.00	1 Event /14 Day Maximum
Concession	$50.00	Seasonal/Annual (l)
Limited Food Establishment	$100.00	1 Year
Mobile Food Vendor	$400.00	1 Year
Food Truck	$200.00	6 Months
Health Reinspection Fee	$250.00	Each – for reinspection
Risk Violation Fee	$50.00	Each violation, each day

(j) Concession stands shall be permitted for a length of time corresponding to the duration of the sporting season for which they are permitted. Concession stands owned, operated, and maintained by a single public entity, such as an Independent School District, university, community college, or the City of Frisco, shall be permitted on an annual basis.

(k) Non-fixed establishments that provide only non-potentially hazardous foods, sold or served in original packaging, shall be required to obtain a food establishment permit of the type "Mobile Food Unit – Cold" and may not operate in any location for more than fifteen (15) minutes unless otherwise in compliance with § 228.221(a)(1)(A)(i).

(l) Limited food establishments must obtain a food establishment permit as specified in paragraph (c) of this Section.

(m) Food establishments operated by a public entity, such as an independent school district, university, community college, or the City of Frisco, may be exempt from paying the food establishment permit fee, if approved by the regulatory authority.

(n) A food establishment that is not permanently permitted by the regulatory authority, but that is a recognized charitable or philanthropic organization, or that has attained 501(c)(3) status from the Internal Revenue Service, may be exempt from paying the temporary food establishment fee for a permit for a temporary event, if approved by the regulatory authority.

(o) Fee exemptions granted under paragraphs (m) or (n) do not exempt any food establishment from the requirement of applying for, obtaining, and displaying a food establishment permit or from complying with the provisions of this section or any other applicable law.

(p) Except as noted in paragraph (i), food establishment permits of the type "Concession" shall expire at the end of the sporting season for which they are permitted, food establishment permits of the type "Temporary" shall expire on the last day of the event for which they are issued, but under no circumstances shall exceed fourteen (14) calendar days. All other food establishment permits shall expire annually on the date one (1) year from the date of issuance. The regulatory authority shall assess a permit renewal late fee of fifty percent (50%) of the food establishment permit fee on any yearly food establishment permit that is renewed within thirty (30) days following expiration. Food establishment permit renewals received thirty-one (31) days or greater following the expiration date shall be assessed a permit renewal late fee of one hundred percent (100%) of the yearly permit fee. Food establishments that fail to renew annual permits within sixty (60) days following expiration may be subject to involuntary closure. The assessment of this late fee shall not release a food establishment from any other penalties imposed under this Ordinance.

SECTION 6: Suspension of Permit/Appeal. The regulatory authority may, without warning, notice or hearing, suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon service of notice. A food establishment inspection report may serve as notice. When a permit is suspended, food operations shall immediately cease. The regulatory authority shall post and maintain at the entrance of the food establishment, notice of the conditions therein, or require the owner, operator, or person in charge of the establishment to post and maintain, at the entrance of the establishment, notice that the establishment is closed. Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the

permit is, upon service of the notice, immediately suspended and that an opportunity for an appeal hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit within ten (10) days from the date the notice is received.

If no written request for an appeal hearing is filed within ten (10) days, the suspension is sustained until compliance with this Ordinance is met. It is the responsibility of the permit holder to request a reinspection once full compliance with this Ordinance has been met. A reinspection must be performed by the regulatory authority to ensure compliance prior to ending the suspension. Additional reinspections may be required if compliance is not met. The request for each reinspection must be made to the regulatory authority and a reinspection fee of Two-Hundred and Fifty Dollars ($250.00) shall be paid before each inspection is performed. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist and all fees have been paid.

SECTION 7: Revocation of Permit/Appeal. The regulatory authority may, after providing an opportunity for an appeal hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules and/or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten (10) days following service of such notice unless a written request for an appeal hearing is filed with the regulatory authority by the holder of the permit within such ten (10) day period referred to in the notice.

If no request for an appeal hearing is filed within the ten (10) day period referred to in the notice, the revocation of the permit becomes final.

SECTION 8: Administrative Process. A notice, as required by this Ordinance, is properly served when it is delivered to the holder of the permit or the person in charge via hand-delivery, or when it is sent by registered or certified mail, return receipt requested, or when it is sent via Federal Express or any courier service that provides a return receipt showing the date of actual delivery to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority.

The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority.

SECTION 9: Appeal. All appeals from final suspension or revocation of a food establishment permit shall be made in writing to Frisco's City Manager or his designee. The appeal shall be filed in writing within ten (10) days of the occurrence of the suspension or revocation. The City Manager or his designee shall attempt to hear the appeal within thirty (30) days after notice of the appeal. The City Manager shall have the power to reverse a decision of the regulatory authority where he finds that such a reversal will not affect the health and/or welfare of the public. All decisions of the City Manager or his designee shall be subject to

review by the City Council at one of its regularly scheduled meetings. The decision of the City Manager or his designee will be final unless reversed by the City Council. The City Council's failure to take action on any such appeal shall constitute approval of the decision by the City Manager or his designee.

SECTION 10: Penalty Provision. Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding TWO THOUSAND AND NO/100 DOLLARS ($2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 11: Savings/Repealing. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent prosecution from being commenced for any violation occurring prior to the repeal of the ordinance. Any remaining portions of conflicting ordinances shall remain in full force and effect.

SECTION 12: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 13: Effective Date. This Ordinance shall become effective from and after its adoption and publication as required by the City Charter and by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS on this 19th day of April, 2016.

Maher Maso, Mayor

ATTESTED AND CORRECTLY RECORDED:

Jenny Page, City Secretary

SEAL OF THE CITY OF FRISCO, TEXAS

APPROVED AS TO FORM:

Abernathy, Roeder, Boyd & Hullett, P.C.
Ryan D. Pittman, City Attorneys

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