

ARTICLE III. FOOD¹

DIVISION 1. GENERALLY

Sec. 62-81. Definitions.

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

Employee means any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room in which food or drink is prepared or served.

Food means and includes all articles used by man for food, drink, flavoring, confectioneries, and condiments, whether simple, mixed, or compounded.

Itinerant restaurant means one operating for a temporary period in connection with a fair, carnival, circus, public exhibition, or other similar gathering.

Restaurant means a restaurant, coffee shop, cafeteria, short order cafe, luncheonette, sandwich stand, cafe, tavern, soda fountain, delicatessen, bakery, barbecue-to-go, limited food sales, commissary, food catering, snack bar, state licensed adult or child care facility kitchen, and all other eating/drinking establishments as well as kitchens or other places in which food or drink is prepared for sale elsewhere.

Utensils means and includes any kitchenware, tableware, glassware, cutlery, utensils, containers, or other equipment with which food or drink comes in contact during storage, preparation or serving.

(Code 1961, § 9-1)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 62-82. Insanitary use of towels.

The use in, on or about any place where food or drink for public consumption is handled or sold, of the same towel by two or more persons before it is thoroughly laundered is hereby declared to be an insanitary practice and shall constitute a violation of this article.

¹Charter reference(s)—Authority to make and enforce health regulations, § 2.01.

Cross reference(s)—Businesses, ch. 18; business licenses, § 18-26 et seq.; solid waste, ch. 110; solid waste containers, § 110-36 et seq.

State law reference(s)—Minimum standards of sanitation and health protection measures, V.T.C.A., Health and Safety Code § 341.001 et seq.; Texas Food, Drug, and Cosmetic Act, V.T.C.A., Health and Safety Code § 431.001 et seq.; food service establishments, retail foodstores, mobile food units and roadside food vendors, V.T.C.A., Health and Safety Code § 437.001 et seq.; public health measures relating to food, V.T.C.A., Health and Safety Code § 438.001 et seq.; municipal ordinances relating to food service employees, V.T.C.A., Health and Safety Code § 438.037.

(Code 1961, § 9-3)

State law reference(s)—Use of unlaundered towels, V.T.C.A., Health and Safety Code § 438.035.

Sec. 62-83. Fruit and vegetable peddlers.

All vehicles used for peddling fruits and vegetables, and all of the contents thereof, shall always be kept in a wholesome and sanitary condition and no person owning, using, or driving such vehicle shall permit such vehicle to contain any unwholesome, fermenting, or decaying fruits, vegetables or other substances.

(Code 1961, § 9-4)

Cross reference(s)—Peddlers, solicitors, canvassers, and mobile food units, ch. 90.

Secs. 62-84—62-95. Reserved.

DIVISION 2. FOOD HANDLERS²

Sec. 62-96. Examination; registration certificates.

- (a) It shall be unlawful for any person to accept any person for employment in any food establishment, as such term is defined in this section, unless such person shall have obtained a valid food handler's registration certificate as provided in this section. For the purpose of this section, "food establishment" shall be defined as any place where food or beverage is prepared or served and intended for human consumption. Volunteer handlers will not be required to have a health certificate as provided for in subsection (f) of this section.
- (b) A "food handler" shall be defined as any person who prepares, cooks, or serves food or drinks for consumption by the public. Such food handlers shall include those personnel in a supervisory capacity and those who provide accessory services such as dishwashers, busboys, cashiers and so forth, whether full-time, part-time or temporary employees. The term "food handlers" shall include those who are employed as butchers, meat cutters and wrappers, produce handlers or bakers.
- (c) There shall be two classifications of food handlers:
 - (1) The professional food handler, being any food handler who receives payment for services rendered; and
 - (2) The volunteer food handler, who is any food handler who volunteers his services to a benevolent or nonprofit organization.
- (d) All food handlers shall be thoroughly indoctrinated in personal hygiene and food service sanitation as well as in the methods and importance of preventing food-borne illness. The local health authority or his designated representative shall be in charge of preparing a minimum required three-hour workshop designed to impart the information necessary to the sanitary preparation and handling of food and food service equipment.
- (e) Requirements for professional food handlers to acquire food handler's cards. Those persons defined as professional food handlers in this section shall be required to obtain food handler's cards before working in any capacity that shall require the preparation or service of food for consumption by the public. Professional food handlers will qualify for a food handler's card, initially, by attending and showing knowledge of a course

²State law reference(s)—Food service employees, V.T.C.A., Health and Safety Code § 438.031 et seq.; municipal ordinances, V.T.C.A., Health and Safety Code § 438.037.

designed to impart information necessary to the sanitary preparation and handling of food and equipment. Such food handler's card shall be issued for a period of three years. Professional food handlers shall be able to renew their card after attending a refresher course designed to repeat and update major aspects of good food service sanitation.

- (f) Volunteer food handlers will not require a food handler's card. However, each chairperson heading an event will be given an information package containing sanitation requirements at the time of licensing. Each volunteer food handler will be responsible for knowing the information presented them through this channel. A list of rules and information will be provided by the local health authority or his designated representative and must be posted conspicuously at each event site. The volunteer worker will be expected to follow the rules in practice.
- (g) The local health authority or his designated representative shall be responsible for enforcing the rules set out in this section.
- (h) As an administrative charge for registering food handlers under this section and other work involved, the health department shall impose a nonrefundable administrative charge of \$15.00 for the issuance of a three-year professional health certificate. There shall not be a charge for volunteers voluntarily working for nonprofit or civic organizations on a noncontinuing basis.
- (i) It shall be the duty of the local health authority or his designated representative to prepare the workshop for educating the food handlers. The city/county nurse shall be instructing the basic bacteriology and personal hygiene section and the city sanitarian will conclude the workshop with general food service sanitation regulations. In order to maintain personal cleanliness and to eliminate the possible contamination of food by infected individuals and insanitary food handling practices, the local health authority or his designated representative shall periodically issue rules and regulations concerning cleanliness and the handling of food by food handlers, whether professional or volunteer.

(Code 1961, § 9-5; Ord. No. 99-47, § I, 7-12-99)

State law reference(s)—Physical examination, doctor's certificate, V.T.C.A., Health and Safety Code § 438.033.

Sec. 62-97. Communicable diseases and carriers—Reports of suspected cases.

No employer of a restaurant as defined in this article shall employ any person suspected of being affected with any disease in a communicable or infectious form or of being a carrier of such disease. If the restaurant manager or employer suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the local health authority immediately.

(Code 1961, § 9-6)

State law reference(s)—Infected persons, food handling prohibited, V.T.C.A., Health and Safety Code § 438.032.

Sec. 62-98. Same—Authority of local health authority.

When suspicion arises as to the possibility of transmission of infection from any restaurant employee, the local health authority is authorized to require any or all of the following measures:

- (1) Immediate exclusion of the employee from all restaurants.
- (2) Immediate closing of the restaurant concerned until in the opinion of the local health authority no further danger of disease outbreak exists.
- (3) Adequate medical examinations of the employee and of his associates with such laboratory examinations as may be indicated.

(Code 1961, § 9-7)

Sec. 62-99. Food-borne diseases—Proprietors not to employ infected persons.

No person operating or managing any public eating place or any place where food or drink of whatsoever kind, nature or description and intended for human consumption is manufactured, processed, prepared, dispensed, sold, offered for sale, served or otherwise handled, in such manner or under such circumstances as would permit probable transmission of disease from any handler thereof to the consumer, shall employ or allow any person to handle such products, or utensils, dishes, or serving implements used in connection therewith, who is infected with any transmissible condition of any disease known to be normally communicable through the handling of food and drink.

(Code 1961, § 9-8)

Sec. 62-100. Same—Persons infected; prohibited from working as food handlers.

No person infected with a disease, the condition of which is transmissible to another through the handling of food or drink or who resides in a household with a transmissible case of a communicable disease which may be food-borne or who is known to be a carrier of the organisms causing such disease, and no person having a local infection transmissible through food or drink, shall be employed at any place or vehicle in which food or drink is manufactured, processed, prepared or dispensed; nor shall any such person at any time handle any food or drink or utensils, dishes, or serving implements used in connection therewith, which may be, directly or indirectly, intended for public sale or offered for the use or consumption of another.

(Code 1961, § 9-9)

Sec. 62-101. Same—Examination of employees to determine transmissible condition.

All persons employed or seeking employment in any of the capacities set forth in the definition of "employee" in this article, upon the request of any employer, or any legally appointed state or local health officer or their duly authorized representative, shall secure an adequate examination of themselves by a licensed physician and secure in evidence thereof a certificate signed by such physician stating that such examination has been made and that, to the best of his knowledge, the person examined was found on that date to be free of any transmissible condition of any disease or local infection commonly transmitted through the handling of food or drink. Such examinations shall be actual and thorough and conducted within the framework of practical scientific procedures for the determination of the existence of communicable disease which may be transmissible through the handling of foods.

(Code 1961, § 9-10)

Sec. 62-102. Personal cleanliness.

Every person engaged in the handling of food, drink or unsealed containers therefor shall maintain personal cleanliness, shall wear clean outer garments, shall keep his hands clean at all times, and shall thoroughly wash his hands with soap and water after each visit to the toilet.

(Code 1961, § 9-2)

State law reference(s)—Employee cleanliness, V.T.C.A., Health and Safety Code § 438.034.

Secs. 62-103—62-115. Reserved.

DIVISION 3. RESTAURANTS³

Sec. 62-116. Compliance with article.

No restaurant shall be operated within the city unless it conforms with the requirements of this article. When any restaurant fails to qualify, the local health authority is authorized to suspend the permit required in section 62-118.

(Code 1961, § 9-11)

Sec. 62-117. Enforcement of article; Texas Food Establishment Rules.

- (a) *Adoption of state regulations.* This article shall be enforced by the local health authority in accordance with the interpretations thereof contained in the Texas Department of State Health Services, Texas Food Establishment Rules, and amendments thereto, adopted by the Texas Board of Health, as found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and 173 through 175, regarding the regulation of food establishments in this jurisdiction, which are hereby adopted and incorporated by reference and made a part of this article as if set out herein in full, except for any penalties contained therein.
- (b) *Conflicting provisions.* In the event of conflict with the provisions of this article and the code incorporated by reference in subsection (a) of this section, the provisions of this article shall govern.

(Code 1961, § 9-12; Ord. No. 2006-106, § 1, 12-11-06)

Editor's note(s)—Ord. No. 2006-106, § 1, adopted December 11, 2006, changed the title of § 62-117 from "Enforcement of article; rules on food service sanitation" to "Enforcement of article; Texas Food Establishment Rules." The historical notation has been preserved for reference purposes.

Sec. 62-118. Permits—Required; posting; fees.

- (a) *Required for restaurants and itinerant restaurants.* It shall be unlawful for any person to operate a restaurant or an itinerant restaurant in the city who does not possess a valid, current permit from the local health authority. Only persons who comply with the requirements of this article shall be entitled to receive and retain such a permit.
- (b) *Posting.* The permit required by this section shall be posted in a conspicuous place in the restaurant.
- (c) *Fee.* The following nonrefundable fees shall be paid for permits under this section:
- (1) Food establishments, and restaurants, as defined in this chapter, except sandwich stands, taverns, licensed foster care, state licensed adult or child care facility kitchens, temporary food vending operations and mobile food court units, shall be assessed a fee based on employees as reflected below:

No. of Employees	Fee
1—3	\$156.25
4—6	312.50

³Cross reference(s)—Businesses, ch. 18.

7—10	468.75
11—20	625.00
21 and above	781.25

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 referenced above.

- (2) Itinerant restaurants, \$75.00 for any period during a ten-day span, for each location or booth.
 - (3) Nonprofit organization restaurant, \$18.00 annually.
 - (4) Nonprofit organization itinerant restaurant, cake sale or food sale permit, \$25.00 for any period during a ten-day span, for each location, but assessed only if a structure tent or booth is proposed.
 - (5) Taverns, sandwich stands, and state licensed adult or child care facility kitchens shall be assessed an annual fee of \$100.00. Additionally a \$50.00 fee shall be assessed for each initial and subsequent re-inspection of all residential adoption and foster care placement environmental assessment reviews. Temporary food vendor operations, as described in section 144-5.23, shall be assessed a fee of \$50.00 for each 90-day period. Mobile food court units, as described in section 144-5.26, shall be assessed an annual fee of \$150.00 for each individual permitted location, for any period of time during a calendar year at that permitted location.
 - (6) An environmental health construction plan review fee equaling one-half of the full year annual food establishment permit to operate fee shall be assessed to all constructed, extensively remodeled or converted structures to be used as a food service establishment.
 - (7) Expired health permit late fee. Health permit applications submitted after January 1 of each calendar year shall be assessed a late fee of \$65.00.
- (d) *Proration of fees.* All restaurant permits shall be issued as of January 1 and shall expire on December 31 of the year; provided, however, that if any permit is issued at any time during the year to a new establishment, the initial fee shall be prorated and the applicant for the permit shall only be responsible for the amount due for the unexpired portion of such year. Subsequent permits for existing establishments under the same ownership shall require the full annual permit fee.

(Code 1961, § 9-13; Ord. No. 99-47, § I, 7-12-99; Ord. No. 2003-33, § 5, 5-12-03; Ord. No. 2013-64, § II, 10-28-13; Ord. No. 2014-80, § II, 11-24-14; Ord. No. 2017-25, § 4, 2-27-17)

Sec. 62-119. Same—Suspension; revocation.

The permit required in section 62-118 may be temporarily suspended by the local health authority upon the violation by the holder of any of the terms of this article, or may be revoked after an opportunity for a hearing by the local health authority upon serious or repeated violations of this article.

(Code 1961, § 9-14)

Sec. 62-120. Same—Reinstatement; procedure.

Any restaurant, the permit of which has been suspended, may at any time make application for the reinstatement of such permit. Within one week after the receipt of a satisfactory application, accompanied by a

statement signed by the applicant to the effect that the violated provision has been conformed with, the local health authority shall make a reinspection, and thereafter as many additional reinspections as he may deem necessary to assure himself that the applicant is again complying with the requirements, and, if the findings indicate compliance, shall reinstate the permit.

(Code 1961, § 9-15)

Sec. 62-121. Regular inspection; reinspection of violators; suspension of permit; posting of reports; records.

- (a) *Regular inspection.* At least once every three months, the local health authority shall inspect every restaurant located within the corporate limits of the city.
- (b) *Reinspection of violators.* If the local health authority discovers the violation of any sanitary requirement he shall make a second inspection after the lapse of such time as he deems necessary for the defect to be remedied. A reinspection fee of \$65.00 shall be paid the city for the reinspection of any food service related establishment that requires reinspection due to a failure rating.
- (c) *Suspension of permit.* Failure to remedy the defects and violations at the time of the second inspection, as provided in subsection (b) of this section, shall call for immediate suspension of permit.
- (d) *Reports posted and filed.* One copy of the inspection report shall be posted by the local health authority upon an inside wall of the restaurant, and such inspection report shall not be defaced or removed by any person except the local health authority. Another copy of the inspection report shall be filed with the records of the health department.
- (e) *Records.* The person operating the restaurant shall upon request of the local health authority permit access to all parts of the establishment, and shall permit the copying of any or all records of food purchased.

(Code 1961, § 9-17; Ord. No. 2003-33, § 6, 5-12-03)

Sec. 62-122. Variance for establishments seeking to permit dogs in outdoor eating areas.

- (a) A food establishment may apply for a variance of Section 229.167(p)(15) of the Texas Food Establishment Rules pursuant to Section 229.171(c) of the Texas Food Establishment Rules and this section. The application must be accompanied by a nonrefundable application fee of \$200.00. A variance granted under this section is nontransferable and shall expire one year after the date it is granted, unless sooner revoked or terminated by the city. A variance may be renewed annually by a food establishment upon payment of an annual fee of \$50.00.
- (b) If pursuant to this section and the Texas Food Establishment Rules Section 229.171(c), the city grants a variance to Section 229.167(p)(15) of the Texas Food Establishment Rules (which prohibits animals on the premises of a food establishment) to allow dogs to be present in the outdoor patio area of a food establishment, the food establishment shall comply with the following conditions and standards in addition to any other conditions and standards established by the city for the variance:
 - (1) Except as allowed under Section 229.167(p)(15) of the Texas Food Establishment Rules, no dog may be present inside the food establishment or on any playground area of the food establishment.
 - (2) A separate entrance must be provided from the outside of the food establishment to the outdoor patio so that a dog will have direct access to the patio without entering the interior of the food establishment or any playground area of the food establishment. A dog on an outdoor patio may not be allowed within seven feet of any entrance to the interior of the food establishment, except when necessary to enter or exit the patio.

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- (3) A sign must be posted at the front entrance of the food establishment so that it is easily visible to the public. The sign must state: "DOG FRIENDLY PATIO (with an arrow showing the direction to the patio entrance) DOG ACCESS ONLY THROUGH OUTDOOR PATIO."
 - (4) Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio from the interior of the food establishment.
 - (5) 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.
 - (6) The food establishment shall have hand sanitizer available at or near all entrances and exits to the establishment.
 - (7) 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 animal friendly chemicals at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), or, if a food establishment has continuous food or beverage service without designated shifts, then every six hours that the establishment is open for business, except that cleaning under this subsection is not required if no dog has been present on the outdoor patio since the last cleaning. Waste created from a dog's bodily functions must be cleaned up with animal friendly chemicals within five minutes after each occurrence. All dog waste must be disposed of outside of the food establishment in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept outside of the food establishment.
 - (8) While on duty, wait staff or other food handlers at the food establishment may not pet or have contact with any dog.
 - (9) A dog must be kept on a leash and remain in the control of the customer while in the outdoor patio area. The dog must be currently vaccinated for rabies and wearing a collar or harness with a current license tag attached to it, when applicable.
 - (10) A dog is not allowed on a seat, table, countertop, or similar surface in the outdoor patio area.
 - (11) A dog is not allowed to have contact with any dishes or utensils used for food service or preparation at the food establishment.
 - (12) 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 or from a container provided by the customer.
- (c) An owner, officer, manager, or other person in charge of a food establishment commits an offense if he, either personally or through an employee or agent, violates, allows a violation of, or fails to comply with a term or condition of a variance granted under this section.
- (d) A food establishment granted a variance under this section shall comply with all other applicable Texas Food Establishment Rules and the provisions of this chapter.

The city may deny or revoke a variance under this section if the food establishment is in violation of any term or condition of the variance as established by the city, this chapter or state law. The city may also revoke the variance if 30 or more demerits are assessed on two consecutive food inspections to the food establishment. If the city denies or revokes the variance, the city shall notify the food establishment in writing with the reason(s) for the denial or revocation by personal service or regular United States mail. The food establishment may request a hearing if the request is in writing and is filed with the city within ten working days of the denial or revocation. The hearing shall be held at the New Braunfels Municipal Building. The hearing shall be conducted using the Texas Rules of Evidence, Texas Rules of Civil Procedure and the Texas Administrative Procedures Act as a guide. The parties may appeal pro se or be represented by counsel. The only issues to be decided at the hearing are whether

any violation of this section occurred that would justify revocation or suspension. The standard review shall be a preponderance of the evidence. All decisions made by the city attorney shall be in writing and considered a final decision. If no request for hearing is filed within the ten-day period, the denial or revocation of the variance becomes final.

(Ord. No. 2013-27, § II, 5-13-13)

Secs. 62-123—62-130. Reserved.

DIVISION 4. CAKES, PIES AND SIMILAR PRODUCTS

Sec. 62-131. Street sales.

It shall be unlawful for any person to sell or offer for sale on the streets of the city, or in any other public place within the corporate limits, any cakes, pies, or any other food products for human consumption unless they comply with the following conditions:

- (1) *Permit.* Secure a permit from the local health authority.
- (2) *Wrapping.* Wrap in sanitary containers, subject to the approval of the local health authority, cakes or pies individually before offering for sale, and sold in whole. All other foods offered for sale must be wrapped as required by the local health authority.

(Code 1961, § 9-26)

Secs. 62-132—62-140. Reserved.

DIVISION 5. FROZEN DESSERTS⁴

Sec. 62-141. Definitions.

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

Frozen dessert means any of the following: ice cream, ice milk, fruit sherbet, water ice, nonfruit sherbet, nonfruit water ice, frozen dietary dairy desserts, frozen yogurt, quiescently frozen confection, quiescently frozen dairy confection, mellorine, lorine, parevine, freezer-made milkshake, freezer-made shake, or nondairy frozen dessert. The term includes the mix used in the freezing of one of such frozen desserts.

Frozen desserts retail establishment means premises, including a retail store, approved type stand, hotel, restaurant, vehicle, or mobile unit, where frozen dessert mixes are frozen or partially frozen and dispensed for retail sale or distribution.

Health authority means the local health authority or his representative.

⁴Cross reference(s)—Businesses, ch. 18.

State law reference(s)—Frozen Desserts Manufacturer Licensing Act, V.T.C.A., Health and Safety Code § 440.001 et seq.

Retail frozen desserts manufacturer means a person who manufactures, processes, converts, partially freezes or freezes any mix or frozen desserts for sale at retail.

(Code 1961, § 9-27(b)—(e))

Cross reference(s)—Definitions generally, § 1-2.

Sec. 62-142. Permits—Required; nontransferable.

It shall be unlawful for any person to manufacture retail frozen desserts who does not possess a valid permit from the local health authority. Permits shall not be transferable with respect to persons, vehicles and/or locations.

(Code 1961, § 9-34)

Sec. 62-143. Same—Fees.

For the enforcement and operation of this division, an annual permit fee of \$200.00 will be charged for each retail frozen dessert manufacturer. A fee of \$50.00 will be charged for a temporary retail frozen dessert manufacturer permit. The temporary permit shall not exceed 14 days.

(Code 1961, § 9-35; Ord. No. 99-47, § I, 7-12-99; Ord. No. 2003-33, § 7, 5-12-03; Ord. No. 2014-80, § II, 11-24-14)

Sec. 62-144. Same—Effective dates; apportioned fee.

- (a) *Effective dates.* Permits under this division will be issued to run from January 1 to December 31, and must be renewed annually on or before January 1 of the year such permit is to be in effect.
- (b) *Apportioned fee.* Any person applying for a permit during the year for a new retail frozen dessert manufacturing location shall initially be issued a permit effective to the next January 1 and the permit fee shall be apportioned in accordance with the effective date it is in force during the calendar year. Subsequent permits for existing locations under the same ownership shall require the full annual permit fee.

(Code 1961, § 9-36)

Sec. 62-145. Same—Suspension and revocation.

The permit required in section 62-142 may be suspended by the local health authority, or revoked after an opportunity for a hearing by the local health authority, upon the violation by the holder of any of the terms of this division.

(Code 1961, § 9-37)

Sec. 62-146. Laboratory testing of products; sampling; notice of substandard conditions; reinstatement of permit.

- (a) *Samples; laboratory standards.* Samples shall be collected from each retail frozen dessert manufacturer at least once a month or as often as the local health authority directs. Samples shall be supplied to the local health authority at no cost. Bacterial counts (standard plate count) shall not exceed 50,000 per gram or milliliter. The coliform count shall not exceed ten per gram or milliliter.

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- (b) *Notice of substandard condition.* Whenever two of the last four consecutive bacteria or coliform counts exceed the limit of the standard for frozen desserts, the local health authority shall send a written notice thereof to the retail frozen dessert manufacturer. This notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standards. An additional sample shall be taken within 14 days of the sending of such notice, but not before the lapse of three days. Immediate suspension of the permit required in section 62-142 shall be instituted whenever the standard is violated by three of the last five bacteria or coliform counts.
- (c) *Reinstatement of permit.* Any retail frozen dessert manufacturer whose permit has been suspended may make application at any time for the reinstatement of his permit. The application shall indicate the probable causes for the excessive counts and action taken for correction. Upon receipt of such application and a reinstatement fee of \$25.00, the local health authority shall issue a temporary permit and shall collect at least two samples during the temporary period. If the samples meet the standards of this section, then the annual permit shall be reinstated.

(Code 1961, § 9-41)

Secs. 62-147—62-155. Reserved.

DIVISION 6. MILK⁵

Sec. 62-156. Sale of raw milk prohibited.

It shall be unlawful for any person, grocer, business, firm, corporation, or partnership to sell at retail any raw milk or raw milk products within the corporate limits of the city. Only Grade A pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments.

(Code 1961, § 9-49)

State law reference(s)—Grade A milk specifications, V.T.C.A., Health and Safety Code § 435.003.

Secs. 62-157—62-165. Reserved.

DIVISION 7. MEAT⁶

Sec. 62-166. Short title.

The rules and regulations governing the sanitation of custom slaughterhouses and establishments where meat food products are prepared, processed, manufactured, stored or sold, as contained in this division, shall be known and cited as the "City of New Braunfels Meat Inspection Regulations."

⁵State law reference(s)—Dairy products, V.T.C.A., Health and Safety Code § 435.001 et seq.; municipal regulation authorized, V.T.C.A., Health and Safety Code § 435.013.

⁶Cross reference(s)—Businesses, ch. 18.

State law reference(s)—Texas Meat and Poultry Inspection Act, V.T.C.A., Health and Safety Code § 433.001 et seq.

(Code 1961, § 9-53)

Sec. 62-167. Definitions.

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

Custom abattoir means a slaughterhouse operated only for the purposes of slaughter and subsequent processing of customer owned animals, intended for consumption by the owner, his family and nonpaying guests. All custom killed carcasses and wrapped packages of custom products shall be identified and stamped "not for sale."

Director of public health means the local health authority.

Inspector means the city sanitarian or city health inspector.

Processor means and includes all establishments, of any nature whatsoever, that prepare meat and meat food products for retail sale to the general public for human consumption. These operations traditionally and usually include the following:

- (1) Cutting up, slicing and trimming carcasses, halves, quarters or wholesale cuts into retail cuts such as steaks, chops and roasts, and freezing such cuts.
- (2) Grinding and freezing products made from meat.
- (3) Curing, cooking, smoking, or other preparation of meat food products with a meat basis such as chili, sausage and tamales.

Wholesaler means and includes any person who prepares, handles or sells meat, sausage, tamales or other meat food products on a wholesale basis. The wholesaler's establishment shall be under inspection of the state health department or be federally inspected.

(Code 1961, § 9-52)

Cross reference(s)—Definitions generally, § 1-2.

State law reference(s)—Definitions, V.T.C.A., Health and Safety Code § 433.003.

Sec. 62-168. Scope of inspections.

All meat and meat products entering an establishment at which inspection is required by this division, and all meat and meat products prepared in whole or in part therein, shall be inspected, handled, and prepared as required by the regulations in this division.

(Code 1961, § 9-54)

State law reference(s)—Inspections, V.T.C.A., Health and Safety Code § 433.021 et seq.

Sec. 62-169. Inspection marks—Required.

No person shall ship, send, bring or cause to be brought into, expose and offer for sale, sell or otherwise dispose of, or have in his possession for the purpose of sale for human consumption, within the city, any meat of any cattle, calf, sheep, swine or goat which does not have on each primal part of it the meat inspection brand or other mark of identification from either a federal or state health department inspection authority. If any carcass of any animal named in this section, or primal part thereof, is found within the city which does not conform with the

requirements of this section, the city sanitarian shall dispose of the product in accordance with state health department requirements, or exclude same from the city.

(Code 1961, § 9-55)

Sec. 62-170. Same—Counterfeit marks; removal.

It shall be unlawful and a violation of this division for any person to forge, counterfeit, simulate or falsely represent or without proper authority to use or knowingly or wrongly or wrongfully alter, deface or destroy any of the stamps, marks, brands or tags or other identification devices recognized by the city sanitarian of the city, on any cattle, calf, sheep, swine, or goat, or any carcass or any part of any carcass as set out in section 62-169 and as provided for in this division. References in this section to the destruction of any of the stamps, marks, brands, tags or other identification devices shall not apply to butchers during the process of cutting up carcasses for purpose of resale and/or further processing.

(Code 1961, § 9-56)

Sec. 62-171. Annual permits—Generally.

- (a) *Issuing authority.* The director of public health is authorized to issue the permits required in sections 62-172, 62-173 and 62-174 upon receipt of the application therefor, accompanied by the permit fee required, provided such establishments meet the requirements of this division.
- (b) *Expiration; prorated fees.* All permits issued under this division shall be issued as of January 1, and such permits shall expire on December 31 of the year; provided, however, that when any permit is issued at any time during the year, the fee shall be prorated, and the applicant for the permit shall only be responsible for the amount due for the unexpired portion of such year.

(Code 1961, § 9-57)

Sec. 62-172. Same—Custom abattoirs.

- (a) *Required.* No person shall operate any custom abattoir or custom slaughterhouse within the city unless such person has been issued a custom abattoir permit as provided in section 62-171.
- (b) *Fee.* The annual custom abattoir permit fee shall be as follows:
 - (1) *Gross Annual Volume Fee*

Less than \$25,000.00\$ 75.00

\$50,000.00 to \$100,000.00150.00

More than \$100,000.00250.00

(Code 1961, § 9-58; Ord. No. 99-47, § I, 7-12-99)

Sec. 62-173. Same—Wholesalers.

- (a) *Required.* Every wholesaler, as defined in this division, desiring to engage in business in the city shall obtain a permit as provided in section 62-171.
- (b) *Fee.* The annual wholesaler permit fee shall be \$75.00.

(Code 1961, § 9-59; Ord. No. 99-47, § I, 7-12-99)

Sec. 62-174. Same—Processors.

- (a) *Required.* It shall be unlawful and a violation of this division for any person to process a food product with a meat basis for retail sale to the general public for human consumption without first obtaining a permit as provided in section 62-171.
- (b) *Fee.* The annual processor permit fee shall be \$75.00.
(Code 1961, § 9-60; Ord. No. 99-47, § I, 7-12-99)

Sec. 62-175. Facilities.

All buildings, equipment, facilities and appurtenances to be used and to be constructed in the future for the purpose of meat processing or custom slaughtering shall conform to the minimum regulations set out by the state department of public health, except as otherwise provided in this division.

(Code 1961, § 9-61)

Sec. 62-176. Sanitation requirements.

- (a) Prior to the issuance of a processor permit or a custom abattoir permit, an inspection of the establishment and premises shall be made by the city sanitarian and the requirements for sanitation shall be specified.
- (b) Establishments shall be maintained in a sanitary condition, and to this end the requirements of the following regulations shall be complied with:
 - (1) *Light and ventilation.* There shall be abundant light, both natural and artificial, and sufficient ventilation for all rooms and compartments to ensure sanitary conditions.
 - (2) *Drainage and plumbing.* There shall be an efficient drainage and plumbing system for the establishment and premises. All drains and gutters shall be properly installed with approved traps, vents and interceptors as required by the city plumbing code. Toilet drain lines shall not be discharged into grease interceptors.
 - (3) *Water supply.* All establishments shall be connected to the city water system with adequate facilities for its distribution in the plant and its protection against contamination and pollution.
 - (4) *Sewage disposal.* All establishments shall have their sanitary drain lines connected to the city sewer collection system.
 - (5) *Construction.* The floors, walls, ceilings, partitions, posts, doors and other parts of all structures shall be light-colored, smooth, nonabsorbent and easily cleanable. Concrete or pumice blocks used for interior wall construction shall be finished and sealed to provide an easily cleanable surface. Floors shall be constructed of smooth, durable material such as sealed concrete, terrazzo, ceramic tile, or covered with durable grades of linoleum or tile.
 - (6) *Toilet facilities.* Toilet rooms shall be ample in size, conveniently located and sufficient in number. They shall be properly ventilated and meet all requirements as to sanitary construction and equipment. They shall be separate from and have no direct opening into rooms or compartments in which meat products are prepared, stored or handled. Where both sexes are employed, separate facilities shall be provided.
 - (7) *Lavatory facilities.* Modern lavatory accommodations, including hot and cold water tempered by means of a mixing valve or combination faucet, shall be placed in or near the toilet room and also at

such other places in the establishment as may be essential to assure cleanliness of all persons handling products. Soap and a supply of sanitary towels, or a hand-drying device providing heated air, shall be conveniently located near lavatories.

- (8) *Equipment and utensils.* Equipment and utensils used for preparing, processing or otherwise handling any meat or meat products shall be designed and fabricated for durability under the conditions of normal use and shall be resistant to denting, pitting, buckling, chipping or crazing and shall be easily cleanable, smooth and free of open seams, breaks, cracks, pits or similar imperfections and free of difficult-to-clean internal corners and crevices. Such equipment shall be made of metal or other impervious nontoxic material. Soft metal such as copper, lead and cadmium are not acceptable.
- (9) *Washing and sanitizing.* A sink with at least two compartments shall be provided and constructed of rust-resistant material and shall be of sufficient size for complete immersion of the largest pot, pan, utensil or equipment to be washed. Hot and cold water shall be provided through a mixing faucet. Sink drain boards shall be provided so cleaned utensils may air dry.
- (10) *Use of sawdust, etc.* The use of sawdust, wood shavings, peanut hulls or similar material upon the floors is prohibited.
- (11) *Insect and rodent control.* Management will use every acceptable method possible in order to maintain the establishment free of flies, cockroaches, rats, mice and other vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents. The building shall be protected against the entrance of insects by tightfitting, self-closing doors, closed windows, screening, controlled air currents or other means. Screen doors shall be self-closing. Screens for windows, doors, skylights, transoms and other openings to the outside shall be tightfitting and free of breaks. Screening material shall not be less than 16-mesh to the inch. Insecticides and rodenticides used in the extermination of insects and rodents shall be only those approved by the Food and Drug Administration for use in food establishments, and their use shall be in strict conformance with applicable regulations and label directions.
- (12) *Living quarters.* No establishment shall operate in a building used for living or sleeping quarters unless the part used for meat processing is separated from the living quarters by a solid wall and ceiling, and the wall or ceiling is without an opening directly or indirectly into any part of the building used for living quarters.
- (13) *Animals.* Live animals, including birds, turtles, cats, dogs and other animals, shall be excluded from within the establishment.
- (14) *Employee practices.* Employees shall not use tobacco in any form in the meat processing or meat storage areas. Employees shall wear headgear while handling meat products. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during working periods.

(Code 1961, § 9-60)

Cross reference(s)—Animals, ch. 6.

Secs. 62-177—62-195. Reserved.