

City of Houston, Texas, Ordinance No. 2015-1202

AN ORDINANCE AMENDING CHAPTER 20 OF THE CITY OF HOUSTON CODE OF ORDINANCES PERTAINING TO FOOD AND DRUGS; CONTAINING FINDINGS; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

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WHEREAS, Chapter 20 of the City of Houston Code of Ordinances (the "Code") contains the City's provisions governing food and food establishments; and

WHEREAS, existing provisions of the Code that safeguard public health in food and food establishments are based in part upon the 2009 Food Code of the United States Food and Drug Administration ("FDA") and the Texas Food Establishment Rules ("TFER"); and

WHEREAS, the FDA updated and revised its Food Code in 2013 to incorporate findings and mandates such as new cuisines, food sources, methods of preparation, and food storage methods; and

WHEREAS, the Texas Department of State Health Services ("TDSHS") adopted a new version of the Texas Food Establishment Rules ("TFER") on October 11, 2015, with the intent to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented; and

WHEREAS, the TDSHS has amended some of its training and certification requirements; and

WHEREAS, updates should be made to reflect changes to state and federal food safety regulations; and

WHEREAS, there are some clerical errors in the ordinance that need to be corrected; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2. That Item (1) of Section 20-4 of the Code of Ordinances, Houston, Texas, (the "Code") is hereby amended to read as follows:

"(1) The items offered for sale shall be limited to baked food products that are not time/temperature controlled for safety (TCS) food;"

Section 3. That Section 20-18 of the Code is hereby amended by adding, each in the appropriate alphabetical order position, the following new definitions:

"Balut shall mean an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching."

"Clostridium botulinum shall mean the name of a group of rod-shaped bacteria that grow best in low oxygen conditions and cause a serious paralytic illness called botulism."

"Conditional employee shall mean a potential food employee to whom a job offer is made, conditional upon responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food administered in compliance with Title 1 of the Americans with Disabilities Act (ADA) of 1990."

"Cut leafy greens shall mean fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. This does not include the harvest cut. The term 'leafy greens' includes iceberg lettuce, romaine lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term *cut leafy greens* does not include herbs such as cilantro or parsley."

"Egg product shall mean all or portion of the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, that is intended for human consumption, such as dried, frozen, or liquid eggs. Egg product does not include food that contains egg only in a relatively small portion such as cake mixes."

"Food handler shall have the same meaning as *food employee*."

"Imminent health hazard shall mean a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operations to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury."

"Light-colored shall mean having a 40% or greater light reflectance value (LRV)."

"Listeria monocytogenes shall mean rod-shaped bacteria that can be found in soil and water. Animals can carry the bacterium without

appearing to be ill and can contaminate foods of animal origin. This bacterium is capable of surviving with or without the presence of oxygen. Consumption of food contaminated with *Listeria monocytogenes* is a common cause of a serious infection called 'Listeriosis.'

Low risk food establishment shall mean any food establishment which is a packaged-food-only- food establishment, restricted bar, restricted warehouse, or an establishment that only manufactures and packages ice on premises, or serves only non-time/temperature controlled for safety (TCS) food that is popped, cut, assembled or packaged on the premises, such as candy, popcorn, non-time/temperature controlled for safety (non-TCS) baked goods, or hand-dipped ice cream."

Major food allergen shall mean a food protein that causes an adverse immune response. The 8 specific foods that are known as major food allergens include dairy, eggs, wheat, soy, peanuts, tree nuts, fish and shellfish or any food ingredients that contain protein derived from these foods. This does not include any highly refined oil derived from a food specified in this paragraph or any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282)."

Psychotropic organisms shall mean organisms or bacteria that are capable of surviving or even thriving in a cold environment. They are responsible for spoiling refrigerated foods."

Re-service shall mean the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer to another person."

Time/temperature controlled for safety (TCS) food (formerly potentially hazardous food (PHF)) shall mean a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

- (1) Time/temperature controlled for safety (TCS) food includes food of animal origin, including fresh shell eggs, that is raw or heat-treated; food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and except as specified in (2)d of this definition, a food that because of the interaction of its a_w and pH values is designated as Product Assessment Required (PA) in one of the tables listed in Tables 20-18-A or 20-18-B below, unless a product assessment or vendor

documentation acceptable to the regulatory authority is provided.

(2) Time/temperature controlled for safety (TCS) food does not include:

- a. An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable *Salmonellae*;
- b. A food that because of its pH or a_w value, or interaction of a_w and pH is designed as non-TCS Food in Tables 20-18-A and 20-18-B of this definition;
- c. A food, in an unopened hermetically-sealed container that is commercially-processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;
- d. A food that is designated as Product Assessment Required, in Table 20-18-A or 20-18-B of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:
 - [1] Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulate, or nutrients.
 - [2] Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use.
 - [3] A combination of intrinsic and extrinsic factors;
or
- e. A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the subitems (2)a-d of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury."

Section 4. That Section 20-18 of the Code is hereby further amended by amending the definitions of the terms *demonstrates knowledge*, *egg*, *exotic animal*, *food*

service establishment, group residence, poultry, produce, ready-to-eat food, reduced oxygen packaging, service animal, and shiga toxin-producing Escherichia coli (STEC) to read as follows:

“Demonstrates knowledge shall mean based on the risks of foodborne illness inherent to the food operation, during inspection and upon request, the person in charge demonstrates or exhibits to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles and the requirements of this article as specified in section 20-20(b) of this Code by, upon request of the health officer:

- (1) Complying with article II of this chapter by having no critical violations during the current inspection.
- (2) Having a certification card under division 3 of this article.
- (3) Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:
 - a. The relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
 - b. The responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;
 - c. The symptoms associated with the diseases that are transmissible through food;
 - d. The significance of the relationship between maintaining the time and temperature of time/temperature controlled for safety (TCS) food and the prevention of foodborne illness;
 - e. The hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;
 - f. The required food temperatures and times for safe cooking of time/temperature controlled for safety (TCS) food including meat, poultry, eggs, and fish;
 - g. The required temperatures and times for safe refrigerated storage, hot holding, cooling, and reheating of time/temperature controlled for safety (TCS) food;

- h. The relationship between the prevention of foodborne illness and the management and control of cross-contamination, bare hand contact with ready-to-eat foods, hand-washing, and maintaining the food establishment in clean condition and in good repair;
- i. The description of foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction;
- j. The relationship between food safety and providing equipment that is sufficient in number and capacity and properly designed, constructed, located, installed, operated, maintained and cleaned;
- k. Correct procedures for cleaning and sanitizing utensils and other food-contact surfaces of equipment;
- l. Identification of the source of water used and measures taken to ensure that it remains protected from contamination, such as protection from backflow, and precluding the creation of cross connections;
- m. Identification of poisonous and toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of in accordance with all applicable laws;
- n. Critical control points in the operation, from purchase through sale or service, that when not controlled may contribute to the transmission of foodborne illness, and steps taken to ensure that the points are controlled in accordance with the requirements of this article;
- o. The details of how the person in charge and food employees comply with the HACCP plan if a plan is required by this article;
- p. The responsibilities, rights, and authorities assigned by this article to the food employee, the person in charge and the health officer; and
- q. Explanation of how the person in charge and food employees complies with reporting responsibilities and exclusion or restriction of food employees."

"*Egg* shall mean the shell egg of an avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey. The definition of an egg does

not include a balut, shell egg of reptile species such as an alligator, or an egg product."

"*Exotic animal* shall mean a member of a species of game not indigenous to this state, including axis deer, nilga antelope, red sheep, or other cloven-hoofed ruminant animals. Exotic animals are considered livestock and are amenable to inspection under §433.035 of the Texas Health and Safety Code, referring to Inspection and Other Regulation of Exotic Animals in Interstate Commerce."

"*Food service establishment* shall mean any place where food is prepared and intended for individual portion service or any site at which individual portions of food are provided, including any retail food store, catering establishment, commissary, delicatessen-type operation that prepares sandwiches intended for individual portions, group residence, bed and breakfast, or any operation that is conducted from a mobile food unit. The term applies regardless of whether the food is intended to be consumed on or off the premises and regardless of whether there is a charge for the food. The term does not include any private home where food is prepared or served for individual family consumption, premises where a food vending machine is located, supply vehicle, institutional premises where only food items packaged or wrapped at an approved location are then delivered for immediate consumption or, except for purposes of division 3 of this article, bed and breakfast limited."

"*Group residence* shall mean a private or public housing corporation or institutional facility that provides living quarters and meals to ten or more persons who are unrelated by blood or marriage and shall include a domicile for unrelated persons, such as a retirement home, a correctional facility, or a health care facility."

"*Poultry* shall mean any domesticated birds (chickens, turkeys, ducks, geese, guineas, ratites or squabs), whether live or dead, as defined in 9 CFR 381.1, Poultry Products Inspection Regulations and §433.003 of the Texas Health and Safety Code (Texas Meat and Poultry Inspection Act), and any migratory waterfowl or game birds, such as pheasants, partridges, quail, grouse, or pigeons, whether live or dead, as defined in 9 CFR 362.1, Voluntary Poultry Inspection Regulations, and in §433.003 of the Texas Health and Safety Code."

"*Produce* shall mean herbs and spices in their natural or dried state, and vegetables, fruits, nuts, berries, grains, honey, watermelons and other melons, and cantaloupes and other edible plant material in their natural state."

"*Ready-to-eat food* shall mean:

- (1) Food in a form that is edible without washing, cooking or additional preparation by the food establishment or the consumer and that is reasonably expected to be in that form;

- (2) Food in a form that is edible without additional preparation to achieve food safety, as specified under sections 20-21.4(c)(1) and 20-21.4(c)(3) of this Code, section 20-21.4(c)(2) of this Code, or sections 20-21.1(b)(8) and 20-21.3(b)(8) of this Code;
- (3) Raw or partially cooked animal food for which a consumer advisory is required as specified under section 20-21.4(c)(4) through (7) of this Code;
- (4) Food prepared in accordance with a variance that is granted as specified under sections 20-21.4(c)(4)(b) of this Code; and that may receive additional preparation for palatability or aesthetic epicurean, gastronomic, or culinary purposes;
- (5) Unpackaged time/temperature controlled for safety (TCS) food that is cooked to the temperature and time required for the specific food under section 20-21.4 of this Code and cooled as specified under section 20-21.3(b) of this Code;
- (6) Raw, washed, cut fruits and vegetables; whole, raw, fruits and vegetables that are presented for consumption without the need for further washing;
- (7) Food presented for consumption for which further washing or cooking is not required and from which rind, peels, husks, or shells have been removed;
- (8) Substances derived from plants such as spices, seasonings, and sugar;
- (9) Bakery items such as bread, cake, pie, filling, or icing for which further cooking is not required for food safety;
- (10) Products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens, such as dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks; and
- (11) Foods manufactured according to 21 CFR 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers."

"Reduced oxygen packaging.

- (1) Reduced oxygen packaging shall mean:
 - a. The reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or

otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level); and

- b. A process as specified in subitem a of item (1) of this subsection that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.
- (2) Reduced oxygen packaging shall include:
- a. Vacuum packaging, in which air is removed from a package and the package is hermetically sealed so that a vacuum remains inside the package;
 - b. Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from the air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes: reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;
 - c. Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material;
 - d. Cook chill packaging, in which cooked food is hot filled into impermeable bags that have the air expelled and are then sealed or crimped closed, and the bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotropic pathogens; or
 - e. Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotropic pathogens."

"*Service animal* shall mean a canine that is individually trained to do work or perform tasks for the benefit of an individual with a disability,

including a physical, sensory, psychiatric, intellectual or other mental disability as defined in §437.023 of the Health and Safety Code."

"*Shiga toxin-producing Escherichia coli (STEC)* shall mean any *E. coli* capable of producing Shiga toxins (also called verocytotoxins or 'Shiga-like' toxins). STEC can cause infections that can be asymptomatic or may result in a spectrum of illness ranging from mild non-bloody diarrhea to hemorrhagic colitis (i.e., bloody diarrhea), to hemolytic uremic syndrome (HUS – a type of kidney failure). Examples of serotypes of STEC are available in the 2014 TFER."

Section 5. That Section 20-18 of the Code is hereby further amended by replacing the definition of the term *non potentially hazardous beverage* with the following:

"*Non-time/temperature controlled for safety (non-TCS) beverage* (formerly non-potentially hazardous beverage) shall mean a non-alcoholic liquid intended for consumption, whether natural or synthetic, that does not require temperature control because it is not capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms or the growth and toxin production of *Clostridium botulinum* and growth of *Listeria monocytogenes*. The term includes:

- (1) Tea and coffee, excluding espresso, with powdered creamer or ultra-high, pasteurized half and half in individual servings;
- (2) Commercially made, high acid beverages with a pH level of 4.6 or below, such as, apple juice, lemonade, limeade, and orange juice;
- (3) Fresh-squeezed, high acid beverages prepared according to department guidelines;
- (4) Commercially filled carbonated beverages;
- (5) High acid beverages made from a commercial mix; and
- (6) Mineral water sold in open, single-service cups with ice from an approved source."

Section 6. That Section 20-18 of the Code of Ordinances, Houston, Texas is hereby further amended by replacing the definition of the term *ratite* with the following:

"*Ratites* shall mean a diverse group of flightless birds that includes emus, ostrich, rhea or kiwis."

Section 7. That Section 20-18 of the Code is hereby further amended by deleting the definitions of the terms *potentially hazardous food (PHF)* and *TCS*.

Section 8. That Tables 20-18-A and 20-18-B shall be moved to the end of Section 20-18 of the Code and are hereby amended to read as follows:

"Table 20-18-A. Interaction of pH and a_w for control of spores in food heat-treated to destroy vegetative cells and subsequently PACKAGED.			
Critical a_w Values	Critical pH Values		
	4.6 or less	> 4.6—5.6	>5.6
≤ 0.92	non-TCS food**	non-TCS food	non-TCS food
$> 0.92—0.95$	non-TCS food	non-TCS food	PA***
> 0.95	non-TCS food	PA	PA

***TCS food* means time/temperature controlled for safety (TCS) food.
 ****PA* means product assessment required."

"Table 20-18-B. Interaction of pH and a_w for control of vegetative cells and spores in food not heat-treated or heat-treated but NOT PACKAGED.				
Critical a_w Values	Critical pH Values			
	< 4.2	4.2—4.6	>4.6—5.0	> 5.0
< 0.88	non-TCS food**	non-TCS food	non-TCS food	non-TCS food
$0.88—0.90$	non-TCS food	non-TCS food	non-TCS food	PA***
$> 0.90—0.92$	non-TCS food	non-TCS food	PA	PA
> 0.92	non-TCS food	PA	PA	PA

***TCS food* means Time/temperature controlled for safety (TCS) food.
 ****PA* means product assessment required."

Section 9. That Section 20-19(d) of the Code is hereby amended to read as follows:

"(d) The permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation. A permit holder or medallion holder shall ensure that the food establishment or mobile food unit is in full compliance with this article at all times, as well as with the conditions of a variance granted under subsection (e)(2) of this

section. If a food establishment is required under subsection (f)(1) of this section to operate under a HACCP plan, the permit holder or medallion holder shall ensure that the food establishment or mobile food unit is in full compliance with the plan as specified under subsection (e)(2) of this section. The person in charge shall ensure that the food establishment is operated in full compliance with this article that all food is stored, prepared, displayed and served in accordance with the provisions of this article, and that food employees are trained in basic food safety principles, including allergy awareness as it relates to their assigned duties. The person in charge shall ensure that food employees and conditional employees are informed in a verifiable manner of their responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under section 20-21.7 (b) of this Code. The person in charge shall ensure that written procedures and plans, where specified by this Code and as developed by the food establishment, are maintained and implemented as required."

Section 10. That Section 20-19(f)(1)b of the Code is hereby amended to read as follows:

"b. Before engaging in reduced oxygen packaging without a variance as specified under section 20-21.4(l)(2) of this Code, a food establishment shall submit a properly prepared HACCP plan to the regulatory authority."

Section 11. That Section 20-19(f)(3) of the Code is hereby amended to read as follows:

"(3) *Critical violations, time frame for correction.* A food establishment shall, at the time of inspection, implement corrective actions as specified in TFER 228.253(a)(1)(2)(B) and verify and document corrections as specified in TFER 228.253(b)(1)(2)."

Section 12. That Section 20-20(a) of the Code is hereby amended to read as follows:

"(a) The health officer shall inspect each food establishment within the city at least once every 12 months, except that *low risk food establishments* shall be inspected at least once every 24 months, and he shall make as many additional inspections as are necessary for the enforcement of this article, based on the public health risks posed by the establishment and the establishment's past compliance history.

Inspections may also be made where consumer complaints and/or reports of foodborne illness outbreaks evidence a need to perform inspections."

Section 13. That Section 20-21.1(a) of the Code is hereby amended to read as follows:

"(a) *General.* Food shall be in sound condition, free from spoilage, filth, or other contamination and safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling as defined in TFER 228.78 and 228.79. Food may not contain unapproved food additives or additives that exceed amounts as specified in TFER 228.63(b). The use of food in hermetically-sealed containers that was not prepared in a food processing establishment is prohibited. Food prepared in or obtained from an unlicensed private home or other unlicensed food establishment is considered to be from an unapproved source and may not be used or offered for sale for human consumption in or from a food establishment. The person in charge or the food service manager shall ensure that employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt."

Section 14. That Items (2) and (3) of Section 20-21.1(b) of the Code are hereby amended to read as follows:

"(2) Fresh and frozen shucked molluscan shellfish shall be packed in nonreturnable packages that bear a legible label identified with the name and address of the original shellstock processor, shucker-packer, or repacker, the certification number issued according to law, and the 'sell by' date for packages of less than 1.89 L (one-half gallon) or the date shucked for packages with a capacity of 1.89 L (one-half gallon) or more. A package of raw shucked shellfish that does not bear a label or that bears a label that does not contain all the information as specified shall be subject to detention. Molluscan shellfish may not be removed from the container in which they were received, other than immediately before sale or preparation for service. For display purposes, shellstock and shucked shellfish may be removed from the container in which they were received and held in a display container maintained at 41°F, and a quantity specified by the consumer may be removed from the display or display container and provided to the consumer if the source of the shellfish on display is identified in accordance with federal law and

the shellfish are protected from contamination. For the purposes of display only, shellstock may be displayed on drained ice. Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers according to TFER 228.64(d)(1)-(4). Shellstock shall be obtained and identified as specified in TFER 228.63(i). When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish and broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded. Each container of unshucked shellstock shall be identified by an attached tag that states the name and address of the original shellstock processor, the kind and quantity of shellstock, and an interstate certification number issued by the state or foreign shellfish control agency.

(3) *Shellstock tags.*

- a. Except as specified under item (3)c[2] of this subsection, shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.
- b. The date when the last shellstock from the container is sold or served shall be recorded on the tag or label.
- c. The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date that is recorded on the tag or label, as specified under item (3)b of this subsection, by:
 - [1] Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under item (3)b of this subsection; and
 - [2] If shellstock are removed from their tagged or labeled container (as specified in item (2) of this subsection):
 - [a] Preserving source identification by using a record keeping system as specified under item (3)c[1] of this subsection; and
 - [b] Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different shellfish certification numbers, different harvest dates or different growing areas as identified on the tag or label before being ordered by the consumer."

Section 15. That Section 20-21.1(b)(4) of the Code, through the introductory paragraph of Subitem b[2], is hereby amended to read as follows:

"(4) Only clean and sound shell eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs, or pasteurized dry egg products shall be used, except that hard boiled, peeled eggs, commercially prepared and packaged, may be used. Eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in TFER 228.63(c). Raw shell eggs shall be received and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less, except that shell eggs that have been specifically processed to destroy all viable Salmonella shall be exempt from this requirement. Shell eggs that have not been specifically treated to destroy all viable Salmonella shall be labeled to include safe handling instructions as specified in TFER 228.62(a)(7) and shall be stored in refrigerated equipment that maintains an ambient air temperature of 45 °F (7°C) or less. If the United States Department of Agriculture and the United States Food and Drug Administration determine by law that a lower temperature must be maintained, the lower temperature shall prevail.

a. Pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods:

- [1] Such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, egg fortified beverages, and other similar foods; and
- [2] That are not cooked as specified in Table 20-21.4-1 of this Code; and
- [3] Not included under section 20-21.4(c)(4) of this Code.

b. In a food establishment that serves a highly susceptible population, pasteurized shell eggs, or pasteurized liquid, frozen or dry eggs or egg products shall be substituted for shell eggs in the preparation of foods:

- [1] Such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, egg fortified beverages, and other similar foods; and
- [2] Except as specified in section 20-21.2(a)(2)d of this section, recipes in which more than one egg is broken and the eggs are combined. This part [2] does not apply if:"

Section 16. That Items (6) through (9) of Section 20-21.1(b) of the Code are

hereby amended to read as follows:

- "(6) All food manufactured, processed, or packaged in commercial food processing establishments or commissaries shall be labeled according to all applicable laws as defined in TFER 228.78 and 228.79.
- (7) Game animals and exotic animals will be approved for sale or service only as authorized by TFER 228.62(g).
- (8) Fish may not be received for sale or service unless commercially and legally caught or harvested, or unless their sale or service is otherwise approved by the health officer.
 - a. *Freezing of fish, parasite destruction.* Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than Molluscan shellfish that are intended for consumption in their raw form shall be frozen as specified under section 20-21.3(b)(8) of this Code. This subsection does not apply to:
 - [1] Molluscan shellfish.
 - [2] Scallop product consisting only of the shucked adductor muscle.
 - [3] Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern).
 - [4] Aquacultured fish, such as but not limited to salmon, carp, channel catfish, trout, and tilapia, that:
 - [a] If raised in open water, are raised in net-pens; or
 - [b] Are raised in land-based operations such as ponds or tanks, and are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish.
 - [5] Fish eggs that have been removed from the skein and rinsed as specified in TFER 228.72(a)(2).
 - b. *Records, creation and retention.*
 - [1] Except as specified in subsection (b)(8)a of this section and part [2] of this subitem, if raw, raw-marinated, partially cooked, or marinated-partially

cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain and have accessible the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish.

[2] If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under section 20-21.3(b)(8) of this Code, may substitute for the records specified under part [1] of this subitem.

[3] If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in section 20-21.1(b)(8), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in item (8)a[4] of this subsection shall be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish.

(9) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified as defined in TFER 228.63(d)(4)."

Section 17. That Section 20-21.1(b)(10)a of the Code is hereby amended to read as follows:

"a. Pre-packaged treated juice shall (i) be obtained from a processor with a HACCP system as specified in TFER 228.63(g)(1), (ii) be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in TFER 228.63(g)(2), or (iii) bear a warning label as specified in TFER 228.74(b)."

Section 18. That Section 20-21.1(b)(10)c[3] of the Code is hereby amended to read as follows:

"[3] Unpackaged juice that is prepared on premises for service or sale in a ready to eat form shall be processed under a HACCP plan as specified in TFER 228.82(1)(C)."

Section 19. That Section 20-21.1(b)(12) of the Code is hereby amended to read as follows:

"(12) Meat or poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for human consumption shall be labeled to include safe handling instructions as specified in TFER 228.62(a)(6)."

Section 20. That Section 20-21.1(b) of the Code is hereby amended by replacing Item (13) with new Items (13) and (14) to read as follows

"(13) *Temperature of food when received.*

- a. Except as specified in subitem b of this item, refrigerated, time/temperature controlled for safety (TCS) food shall be at a temperature of 41°F (5°C) or below when received.
- b. If a temperature other than 41°F (5°C) for a time/temperature controlled for safety (TCS) food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish as specified in subitems c, d, and e of this item, the food may be received at the temperature specified in such law.
- c. Raw shell eggs shall be received as specified under section 20-21.1(b)(4) of this Code and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.
- d. Grade A Milk shall be received in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less in compliance with the Texas Milk and Dairy Rules, 25 TAC §217.28(1) and cooled to 41°F (5°C) or below within 4 hours as specified in section 20-21.3(b)(2)(c).
- e. Molluscan shellfish shall be received in refrigerated equipment or on ice that maintains a temperature of 45°F (7°C) or less in compliance with the Texas Molluscan Shellfish Rules, 25 TAC §241.61(a) and cooled to 41°F (5°C) or below within 4 hours as specified in section 20-21.3(b)(2)(c).

(14) Wild mushrooms.

- a. Except as specified in subitem b of this item, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert.

- b. This section does not apply to:
- [1] Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or
 - [2] Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant."

Section 21. That Items (1) and (2) of Section 20-21.2(a) of the Code are hereby amended to read as follows:

- "(1) At all times, including while being stored, prepared, displayed, served, received, or transported, food shall be protected from potential contamination by all agents, including dust, insects, rodents, toxic materials, cross-contamination, damaged or spoiled products, distressed merchandise, recalled products, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, draining, and overhead leakage or overhead drippage from condensation. Upon receipt, time/temperature controlled for safety (TCS) food shall be free of previous temperature abuse. The internal temperature of time/temperature controlled for safety (TCS) food shall be 41°F (5°C) or below or 135 F (57°C) or above at all times, except as otherwise provided in this article or unless a packaged product is so labeled as exempted and approved by the appropriate state or federal health authority.
- (2) *Time without temperature control.* Except as specified under subitem d of this item, if time without temperature control is used as the public health control for a working supply of time/temperature controlled for safety (TCS) food before cooking, or for ready-to-eat time/temperature controlled for safety (TCS) food that is displayed or held for service:
- a. Written procedures shall be prepared in advance, maintained in the food establishment and made available to the regulatory authority upon request that specify:
 - [1] Methods of compliance with subitems b[1]-[3] or c[1]-[5] of this item; and
 - [2] Methods of compliance with section 20-21.3(b)(2) of this Code for food that is prepared, cooked, and refrigerated before time is used as a public health control.

- b. If time without temperature control is used as the public health control up to a maximum of 4 hours:
 - [1] The food shall have an initial temperature of 41°F (5°C) or less when removed from cold holding temperature control, or 135°F (57°C) or greater when removed from hot holding temperature;
 - [2] The food shall be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the food is removed from temperature control;
 - [3] The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within 4 hours from the point in time when the food is removed from temperature control; and
 - [4] The food in unmarked containers or packages, or marked to exceed a 4-hour limit shall be discarded.

- c. If time without temperature control is used as the public health control up to a maximum time period of 6 hours:
 - [1] The food shall have an initial temperature of 41°F (5°C) or below when removed from temperature control and food temperature may not exceed 70°F (21°C) within a maximum time period of 6 hours;
 - [2] The food shall be monitored to ensure the warmest portion of the food does not exceed 70°F (21°C) during the 6-hour holding period, unless an ambient air temperature is maintained that ensures the food does not exceed 70°F (21°C) during the 6-hour holding period;
 - [3] The food shall be marked or otherwise identified to indicate:
 - [a] The time when the food is removed from 41°F (5°C) or less cold holding temperature control; and
 - [b] The time that is 6 hours past the point in time when the food is removed from cold holding temperature control;
 - [4] The food shall be:
 - [a] Discarded if the temperature exceeds 70°F (21°C); or
 - [b] Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum

of 6 hours from the point in time when the food is removed from 41°F (5°C) or less cold holding temperature control; and

[5] The food in unmarked containers or packages, or marked with a time that exceeds the 6-hour limit shall be discarded.

- d. A food establishment that serves a highly susceptible population may not use time as specified under subsection (a)(2) of this section as the public health control for raw eggs."

Section 22. That Section 20-21.2(b)(1) of the Code is hereby amended to read as follows:

- "(1) Except as specified in subitem c of this item, food shall be protected from cross contamination by separating raw animal foods during storage, preparation, holding and display from:
- a. Raw ready-to-eat foods including other raw animal food such as fish for sushi or molluscan shellfish or other raw ready-to-eat food such as vegetables;
 - b. Cooked ready-to-eat foods; and
 - c. Frozen, commercially processed and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food."

Section 23. That Section 20-21.2(c)(4)a[3] of the Code is hereby amended to read as follows:

"[3] When to wash their hands as specified under section 20-21.8(a) of this Code;"

Section 24. That the introductory phrase of Section 20-21.2(d) of the Code is hereby amended to read as follows:

"Imminent health hazard."

Section 25. That Section 20-21.2(d)(1)a of the Code is hereby amended to read as follows:

- "a. Except as specified in item (2) of this subsection, a food establishment shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency, such as a fire, flood, power outage, sewage water back-flow, extended interruption of electrical or water service, misuse of poisonous or toxic materials, onset of an apparent foodborne disease outbreak, gross unsanitary occurrence or condition or similar event, that might result in the contamination of food, or that might prevent time/temperature controlled for safety (TCS) food from being held at required temperatures, the person in charge shall immediately discontinue operation and contact the health officer. Upon receiving notice of this occurrence, the health officer shall, consistent with the nature of the emergency and the risks posed, take appropriate action as he deems necessary to protect the public health."

Section 26. That Items (1) through (3) of Section 20-21.3(b) of the Code are hereby amended to read as follows:

- "(1) *Refrigeration facilities.* Equipment for cooling and holding cold food shall be sufficient in number and capacity to provide food temperatures as specified under item (9) of this subsection.

Each mechanically refrigerated facility storing time/temperature controlled for safety (TCS) food shall be provided with numerically scaled indicating thermometer, accurate to 3°F if scaled in Fahrenheit only. The sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of the mechanically refrigerated unit and designed to be easily readable. Recording thermometers, accurate to 3°F if scaled in Fahrenheit only, may be used in lieu of indicating thermometers. Thermometers that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to $\pm 1.5^{\circ}\text{C}$ in the intended range of use.

- (2) *Rapid cooling temperatures.* Time/temperature controlled for safety (TCS) food except as specified in subitem c of this item, requiring refrigeration after cooking shall be rapidly cooled as specified under item (9) below to 41°F (5°C) or below with cooling occurring within the following parameters:

- a. An initial rapid cooling from 135°F (57°C) to 70°F (21°C) within two hours; and from 135°F (57°C) to 41°F (5°C) or below.

- b. To 41°F (5°C) or below within 4 hours if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.
 - c. Except as specified in section 20-21.1(b)(13)c of this Code, if received in compliance with laws allowing a temperature above 41°F (5°C) during shipment from the supplier as specified in 20-21.1(b)(13) of this Code, to 41°F (5°C) or below as specified under item (9) of this subsection within 4 hours.
- (3) *Methods for rapid cooling.* Time/temperature controlled for safety (TCS) food that requires cooling shall be rapidly cooled in accordance with the time and temperature criteria specified under item (2) of this subsection by utilizing methods such as shallow pans, agitation, quick chilling, separating the food into smaller or thinner portions, using rapid cooling equipment, using containers that facilitate heat transfer, adding ice as an ingredient, water circulation external to the food container; or other effective methods. Time/temperature controlled for safety (TCS) food to be transported shall be prechilled and held at a temperature 41°F (5°C) or below unless maintained in accordance with item (2) of subsection (c) of this section regarding hot storage of time/temperature controlled for safety (TCS) food. The person in charge shall ensure that employees are using proper methods to rapidly cool time/temperature controlled for safety (TCS) food that is not held hot or are not for consumption within four hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling."

Section 27. That Items (8) through (10) of Section 20-21.3(b) of the Code are hereby amended to read as follows:

- "(8) *Cold storage of certain fish.* Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish and a scallop product consisting only of the shucked adductor muscle shall be frozen to a temperature of -4°F (-20°C) or below for 168 hours (7 days) in a freezer; frozen until solid at -31°F (-35°C) or below and stored at -31°F (-35°C) or below for 15 hours, or frozen at -31°F (-35°C) or below until solid and stored at -4°F (-20°C) or below for a minimum of 24 hours, except for tuna species, aquacultured fish, and fish eggs that have been removed from the skein, as specified under section 20-21.1(b)(8) of this Code.
- (9) *Cold storage of foods.* Except during preparation, cooking or cooling, or when time is used as the public health control as

specified under section 20-21.2(a)(2) of this Code, time/temperature controlled for safety (TCS) food shall be maintained at 41°F (5°C) or below.

(10) *Date marking of ready-to-eat foods.*

- a. The following definitions apply to the provisions of this item and item (11) of this subsection:

Disposition date shall mean the date or day by which a ready-to-eat time/temperature controlled for safety (TCS) food shall be consumed, sold or disposed of.

Opening /preparation date shall mean the date counted as day 1 that a ready-to-eat time/temperature controlled for safety (TCS) food is prepared or that a container of ready-to-eat time/temperature controlled for safety (TCS) food is opened.

Refrigerated-hold time shall mean the length of time that a ready-to-eat time/temperature controlled for safety (TCS) food was held refrigerated before being frozen, counting the commencement date.

- b. Except when packaging food using a reduced oxygen packaging method as specified in 20-21.4(l)(2) of this Code and except as specified in this subitem, each refrigerated ready-to-eat time/temperature controlled for safety (TCS) food prepared and held refrigerated in a food establishment for more than 24 hours and, except for subitems d-i of this item, each container of refrigerated ready-to-eat time/temperature controlled for safety (TCS) food prepared and packaged by a food processing plant that is opened in a food establishment shall be clearly marked using calendar dates, days of the week, color-coded marks, or other effective means, provided that the marking system is disclosed to the regulatory authority upon request, to indicate the date or time the original container is opened in a food establishment and, if held for more than 24 hours, to indicate that the date and time by which the food shall be consumed on the premises, sold, or discarded, based on the following temperature and time combinations shall be the seventh calendar day after the opening/preparation date, counting the opening/preparation date, when the food is maintained at 41°F (5°C) or below.

The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer

determined the use-by date based on food safety. A refrigerated, ready-to-eat time/temperature controlled for safety (TCS) food ingredient or a portion of a refrigerated, ready-to-eat, time/temperature controlled for safety (TCS) food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

- c. A refrigerated, ready-to-eat time/temperature controlled for safety (TCS) food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine, may be marked as specified in subitem b of this item or by an alternative method acceptable to the health officer.
- d. Alternative date marking systems must receive prior approval from the health officer.
- e. Subitem b of this item does not apply to shellstock.
- f. Subitem b of this item does not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:
 - [1] Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured as specified in TFER 228.75 (g)(7)(A);
 - [2] Hard cheeses containing not more than 39% moisture as specified in TFER 228.75 (g)(7)(B), such as cheddar, gruyere, parmesan and reggiano, and romano; and
 - [3] Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as specified in TFER 228.75 (g)(7)(C).
- g. Subitem b of this item does not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.
- h. Subitem b of this item does not apply to the following prepared and packaged by a food processing plant inspected by a regulatory authority:
 - [1] Shelf stable, dry, fermented sausages; and
 - [2] Shelf stable salt-cured products such as prosciutto and Parma (ham).

- i. Subitem b of this item does not apply to cultured dairy products, as defined in TFER 228.75 (g)(7)(D), Milk and Cream, such as yogurt, sour cream, and buttermilk, that are maintained under refrigeration as specified in item (9) of this subsection.
- j. Subitem b of this item does not apply to preserved fish products, such as pickled herring, dried or salted cod, and other acidified fish products defined in TFER 228.75 (g)(7)(E).
- k. A refrigerated, ready-to-eat, time/temperature controlled for safety (TCS) food ingredient or a portion of a refrigerated, ready-to-eat, time/temperature controlled for safety (TCS) food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient."

Section 28. That Section 20-21.4(b) of the Code is hereby amended to read as follows:

"(b) *Raw fruits and raw vegetables.* Raw fruits and raw vegetables shall be washed thoroughly in potable water under pressure before being cut, combined with other ingredients, cooked, or served for human consumption or offered for consumption in ready-to-eat form, except fruits and vegetables may be washed by using chemicals as specified in this subsection. Chemicals, including those generated on-site, used to wash or peel raw, whole fruits and vegetables shall:

- (1) Be an approved food additive listed for this intended use in 21 CFR 173; or
- (2) Be generally recognized as safe (GRAS) for this intended use; or
- (3) Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification); and
- (4) Meet the requirements in 40 CFR 156 Labeling Requirements for Pesticide and Devices.

Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a food establishments shall meet the requirements specified in 21 CFR 173.368 Ozone.

Whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold."

Section 29. That the introductory text of Section 20-21.4(c)(1) of the Code is hereby amended to read as follows:

"Time and temperature specifications. The person in charge shall ensure that employees are properly cooking *time/temperature controlled for safety (TCS) food*. and being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under section 20-21.10(f) of this Code. Except as specified under Tables 20-21.4-1, 20-21.4-2, and 20-21.4-3 and section 20-21.4(l)(2)b[9][b]{2} of this Code, raw animal foods, such as eggs, fish, meat, or poultry, and foods containing any of these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:"

Section 30. That Section 20-21.4(c)(1)a[2] of the Code is hereby amended to read as follows:

"[2] Except as specified under subsections (b) and (c) of this section and in Tables 20-21.4-2 and 20-21.4-3, fish, meat, and pork, including game animals and exotic animals commercially raised for food as specified under TFER 228.62(g)(1)(A) and 228.62(g)(2)(A), and game animals and exotic animals subjected to a voluntary inspection program as specified under TFER 228.62(g)(2)B)."

Section 31. That Section 20-21.4(c)(1)b[2] of the Code is hereby amended to read as follows:

"[2] The following if they are comminuted: fish, meat, game animals and exotic animals commercially raised for food as specified under TFER 228.62(g)(1)(A) and (g)(2)(A), and game animals and exotic animals subjected to a voluntary inspection program as specified under TFER 228.62(g)(2)(B); and"

Section 32. That Section 20-21.4(c)(1)c[1] of the Code is hereby amended to read as follows:

"[1] Poultry, baluts, game animals and exotic animals as specified under TFER 228.62(g)(1)(C), 228.62(g)(2)(C), and 228.62(g)(2)(D);"

Section 33. That the paragraph immediately preceding Section 20-21.4(c)(4) of the Code is hereby designated as Section 20-21.4(c)(3) and shall hereafter read as follows:

"(3) *Raw, rare or partially cooked foods.* Raw or undercooked whole-muscle, intact beef steak may be served or offered for sale if it meets the requirements in Table 20-21.4-1 of this Code."

Section 34. That Items (1) and (4) of Section 20-21.4(f) of the Code are hereby amended to read as follows:

"(1) *Time and temperature specifications.* time/temperature controlled for safety (TCS) food that was cooked and then refrigerated shall be reheated rapidly to the temperature and for the applicable time specified in the third column of Table 20-21.4-1 of this Code before being served or placed in a hot food storage facility. The temperature of the food shall reach the minimum temperature specified in the table within two hours from the removal of the food from refrigeration."

"(4) *Sealed or packaged food.* Ready-to-eat food taken from a commercially-processed, hermetically-sealed container or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant shall be heated to a temperature of at least 135°F (57°C), for hot holding."

Section 35. That Subsections (h), (i), (j) and (k) of Section 20-21.4 of the Code are hereby amended to read as follows:

"(h) *Nondairy products.* Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one gallon in capacity and cooled to 41°F (5°C) or below within four hours after preparation.

(i) *Temperature measuring device, food.* Food temperature measuring devices accurate to $\pm 2^{\circ}\text{F}$ in the intended range of use shall be provided and used to assure attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all

time/temperature controlled for safety (TCS) food if the thermometers are scaled only in Fahrenheit. If the thermometers are scaled in Celsius or dually scaled, they shall be accurate to $\pm 1^{\circ}\text{C}$ in the intended range of use. A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and kept readily accessible to accurately measure the temperature in thin foods, such as meat patties and fish fillets.

(j) *Thawing time/temperature controlled for safety (TCS) food.* Except as specified in item (5) of this subsection, time/temperature controlled for safety (TCS) food shall be thawed:

- (1) In refrigerated units at a temperature not to exceed 41°F (5°C);
- (2) Completely submerged under potable running water of a temperature of 70°F (21°C) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow, provided the temperature of the thawed portions of time/temperature controlled for safety (TCS) food shall not remain above 41°F (5°C) for more than four hours, including the time the food is exposed to the running water and the time needed for preparation for cooking or the time it takes under refrigeration to lower the food temperature to 41°F (5°C);
- (3) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven;
- (4) As part of the conventional cooking process; or
- (5) Using any other safe procedure that thaws a portion of frozen ready-to-eat food that is prepared for immediate service in response to an individual consumer's order.

Reduced oxygen packaged fish that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment prior to its thawing under refrigeration as specified in item (1) of this subsection, or prior to, or immediately upon completion of, its thawing using procedures specified in item (2) of this subsection.

(k) *Time/temperature controlled for safety (TCS) food, slacking.* Frozen time/temperature controlled for safety (TCS) food that is slacked to moderate the temperature shall be held under refrigeration that maintains the food temperature at 41°F (5°C) or below or at any temperature if the food remains frozen."

Section 36. That Section 20-21.4(m) of the Code is hereby redesignated as Section 20-21.4(l), and Subitems d, f and h of newly redesignated Section 20-21.4(l)(1) are hereby amended to read as follows:

- "d. Packaging time/temperature controlled for safety (TCS) food using a reduced oxygen packaging method except where the growth of and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes* in addition to are controlled as specified in item (2) of this subsection."
- "f. Custom processing animals that are for personal use as food and not for sale or service in a food establishment; such as indigenous deer processing."
- "h. Sprouting seeds or beans, such as wheat grass and alfalfa sprouts, in a retail food establishment."

Section 37. That Item (2) of newly redesignated Section 20-21.4(l) of the Code is hereby amended to read as follows:

- "(2) *Clostridium botulinum* and *Listeria monocytogenes* controls, reduced oxygen packaging criteria without a variance.
 - a. Except for a food establishment that obtains a variance as specified under item (1) of this subsection, a food establishment that packages time/temperature controlled for safety (TCS) food using a reduced oxygen packaging method shall control the growth of and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.
 - b. A food establishment that packages time/temperature controlled for safety (TCS) food using a reduced oxygen packaging method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*, except as specified under [11] of this section, shall have a HACCP plan that contains the information specified under section 20-19(f)(2)(b) and (d) of this Code, and that:
 - [1] Identifies the food to be packaged;
 - [2] Except as specified in parts [8] – [10] of this subitem, requires that the packaged food shall be maintained at 41°F (5°C) or less and meet at least one of the following criteria:

- [a] Has an a_w of 0.91 or less;
 - [b] Has a pH of 4.6 or less;
 - [c] Is a meat or poultry product cured at a food processing plant regulated by the USDA or the department using substances specified in 9 CFR § 424.21, Use of food ingredients and sources of radiation, and is received in an intact package; or
 - [d] Is a food with a high level of competing organisms such as raw meat, raw poultry or raw vegetables;
- [3] Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
- [a] Maintain the food at 41°F (5°C) or below; and
 - [b] Discard the food within 30 calendar days of its packaging if it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;
- [4] Limits the refrigerated shelf life to no more than 30 calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's 'sell by' or 'use by' date, whichever occurs first;
- [5] Includes operational procedures that:
- [a] Prohibit contacting ready-to-eat food with bare hands, as specified in 20-21.2(c)(2);
 - [b] Identify a designated area and the method by which:
 - 1 Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination; and
 - 2 Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation; and
 - [c] Delineate cleaning and sanitization procedures for food-contact surfaces; and

- [6] Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
 - [a] Concepts required for a safe operation;
 - [b] Equipment and facilities; and
 - [c] Procedures specified under part [5] of this subitem and section 20-19(f)(2)(b) and (d) of this Code.
- [7] Is provided to the regulatory authority prior to implementation as specified under section 20-19(f)(1)(b).
- [8] Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.
- [9] Except as specified in parts [8] and [11] of this subitem, a food establishment that packages time/temperature controlled for safety (TCS) food using a cook-chill or sous vide process shall:
 - [a] Provide to the regulatory authority prior to implementation, a HACCP plan that contains the information as specified under section 20-19(f)(2)(b) and (d).
 - [b] Ensure that the food is:
 - {1} Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer.
 - {2} Cooked to heat all parts of the food to a temperature and for a time as specified in section 20-21.4(c) or cooked in a scheduled process for a continuous time-temperature combination as specified in section 20-21.4(l)(1)(g) or based on a variance from section 20-21.4(c)(1) granted by the department as specified under section 20-19(e).
 - {3} Protected from contamination before and after cooking, as specified in sections 20-21.2(a)(1) (protecting food

from potential contamination), 20-21.2(a)(3) (protecting food from unapproved additives), 20-21.2(b) (protecting food from cross contamination), 20-21.2(c) (protecting food from contamination by employee's hands), 20-21.10(a)(8) (glove use), and 20-21.11(a)(9) (tasting spoons).

- {4} Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below (135°F) 57°C.
- {5} Cooled to 41°F (5°C) in the sealed package or bag as specified in section 20-21.3(b)(2) and:
 - a Cooled to 34°F(1°C) within 48 hours of reaching 41°F(5°C) and held at that temperature until consumed or discarded within 30 days after the date of packaging;
 - b. Held at 41°F (5°C) or less for no more than seven days, at which time the food must be consumed or discarded; or
 - c. Held frozen with no shelf life restriction while frozen until consumed or used.
- {6} Held in a refrigeration unit that is equipped with an electronic system that continuously monitors and records time and temperature, such as thermocouple data loggers that connect with thermocouple probes, or similar technology, and is visually examined for proper operation twice daily,
- {7} If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices as specified in paragraph 6 of this section to ensure

that times and temperatures are monitored during transportation; and

{8} Labeled with product name and date packaged; and

[c] Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are met as part of the HACCP plan and:

{1} Make such records available to the department upon request; and

{2} Hold such records for at least 6 months; and

[d] Implement written operational procedures as specified under paragraph {1} of this subpart and a training program as specified under paragraph 2 of this subpart:

{1} Includes operational procedures that:

{a} Prohibit contacting ready-to-eat food with bare hands;

{b} Identify a designated area and the method by which:

1. Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination; and

2. Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation; and

{c} Delineate cleaning and sanitization procedures for food-contact surfaces;

{2} Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:

- {a} Concepts required for a safe operation;
- {b} Equipment and facilities; and
- {c} Procedures specified under paragraph 1 of this subpart and section 20-19(f)(2)(b) and (d) of this Code.

[10] Except as specified under part [11] of this subitem, a food establishment that packages cheese using a reduced oxygen packaging method shall:

- [a] Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR 133.150 Hard cheeses, 21 CFR 133.169 Pasteurized Process cheese or 21 CFR 133.187 Semisoft cheeses;
- [b] Have a HACCP plan that contains the information specified in section 20-19(f)(2)(b) and (d) of this Code, and as specified in subsections (l)(2)b[1], (l)(2)b[3][a], (l)(2)b[5] and (l)(2)b[6];
- [c] Labels the package on the principal display panel with a 'use by' date that does not exceed thirty (30) days from its packaging or the original manufacturer's 'sell by' or 'use by' date, whichever occurs first: and
- [d] Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging.

[11] A HACCP plan is not required when a food establishment uses a reduced oxygen packaging method to package time/temperature controlled for safety (TCS) food that is always:

- [a] Labeled with the production time and date,
- [b] Held at 41^oF (5^oC) or less during refrigerated storage, and
- [c] Removed from its package or exposed to atmospheric oxygen by cutting open the entire

package in the food establishment within 48 hours after packaging."

Section 38. That Tables 20-21.4-1, 20-21.4-2 and 20-21.4-3 of the Code are hereby amended to read as follows:

**"TABLE 20-21.4-1
Cooking Time/Temperature Controlled for Safety (TCS) Foods**

Food	Cooking Temperature & Time and Instructions	Reheating Minimum Temperature & Time (minimum temperature to be reached within 2 hours)
•Fruits and vegetables cooked for hot holding	135°F (57°C)	165°F (74°C) for 15 seconds
•A raw or undercooked whole muscle, intact beef steak, not served in a food establishment serving a highly susceptible population and labeled to indicate that it meets the definition of whole muscle intact beef as specified in section 20-21.1(b)(11) of this Code	Shall be cooked on both the top and bottom to a surface temperature of 145°F (63° C) or above and a cooked color change is achieved on all external surfaces.	
•Raw animals foods not specified below •Raw shell eggs that are broken and prepared for immediate service •Fish, meat, game animals and exotic animals commercially raised for food, and game animals and exotic animals subject to a voluntary inspection program that are not specified below Pork	145°F (63°C) for 15 seconds	165°F (74°C) for 15 seconds
•Ratites •Injected meats •Any of the following if they are comminuted: fish, meat, game animals and exotic animals commercially raised for food, and game animals and exotic animals subject to a voluntary inspection program •Raw shell eggs not	155°F (68°C) for 15 seconds; or 150°F (66°C) for 60 seconds; or 145°F (63°C) for 180 seconds; or 158° F (70°C) for less than 1 second (instantaneous)	165°F (74°C) for 15 seconds

prepared as specified above		
<ul style="list-style-type: none"> •Poultry, baluts, other than ratites •Game animals and exotic animals that are live caught and are subjected to a voluntary inspection program •Stuffed fish/meat/poultry/pasta/ratites •Stuffing containing fish/meat/poultry/ratites 	165°F (74°C) for 15 seconds	165°F (74°C) for 15 seconds
<ul style="list-style-type: none"> •Whole beef roast, •Whole corned beef roast Whole pork roast and cured pork roast 	Shall be cooked in an oven that is preheated to and held at the temperature specified for the roast's weight and the type of oven, as applicable, in Table 20-21.4-2 of this Code and shall be cooked so that all parts of the roast are heated to the temperature and for the holding time that corresponds to that temperature in Table 20-21.4-3 of this Code	Un sliced portions, if cooked in accordance with Cooking Temperature and Time, at left, may be reheated in the same manner
•Raw animal foods cooked in a microwave oven and allowed to stand for two minutes	165°F (74°C) and allowed to stand for two minutes	165°F (74°C) for 15 seconds
•Ready-to-eat food taken from hermetically-sealed container or intact package from an inspected food processing plant	—	135°F (57°C) without time duration"

**"TABLE 20-21.4-2.
Cooking Whole Meat Roasts including Beef, Corned Beef, Lamb, Pork, and Cured Pork Roasts Such as Ham-Oven Preheating/Holding Requirements by Weight**

Oven Type	Oven temperature based on ROAST weight	
	Less than 10 lbs. (4.5 Kg)	10 lbs. (4.5 Kg) or more
STILL DRY	350°F (177°C) or more	250°F (121°C) or more
CONVECTION	325°F (163°C) or more	250°F (121°C) or more
HIGH HUMIDITY@	250°F (121°C) or more	250°F (121°C) or more
@ Relative humidity greater than 90% for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity."		

**"TABLE 20-21.4-3.
Cooking Whole Meat Roasts including Beef, Corned Beef, Lamb, Pork, and
Cured Pork Roasts Such as Ham Roasts-Heating Temperatures and Holding
Times**

Temperature		Time in Minutes @	Temperature		Time in Seconds @
°C	°F		°C	°F	
54.4	130	112	63.9	147	134
55.0	131	89	65.0	149	85
56.1	133	56	66.1	151	54
57.2	135	36	67.2	153	34
57.8	136	28	68.3	155	22
58.9	138	18	69.4	157	14
60.0	140	12	70.0	158	0
61.1	142	8			
62.2	144	5			
62.8	145	4			

@ Holding time may include post oven heat rise."

Section 39. That Section 20-21.5(a) of the Code is hereby amended to read as follows:

"(a) *Time/temperature controlled for safety (TCS) food.* Except when time is used as a public health control as specified in section 20-21.2(a)(2) of this Code, time/temperature controlled for safety (TCS) food shall be kept at an internal temperature of 41°F (5°C) or below or at a temperature of 135°F (57°C) or above during display and service, except that roasts cooked to a temperature and for a time specified in Table 20-21.4-3 of this Code or reheated as specified in Table 20-21.4-1 of this Code may be held for service at a temperature of 130°F (54°C) or above."

Section 40. That Section 20-21.5(f) of the Code is hereby amended by replacing the term *potentially hazardous* with the term *time/temperature controlled for safety (TCS) food*.

Section 41. That Items (1) and (2) of Section 20-21.5(g) of the Code are hereby amended to read as follows:

- "(1) A container of food that is not time/temperature controlled for safety (TCS) food may be transferred from one consumer to another if:
- a. The food is dispensed so that it is protected from contamination and the container is closed between uses,

such as a narrow-neck bottle containing ketchup, steak sauce, or wine; or

- b. The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.
- (2) Re-service of food:
- a. Any food served to patients or clients who are under contact precautions and medical isolation or quarantine, protective environmental may not be re-served to others outside; and
 - b. Packages of food from any patient, client, or other consumer may not be re-served to persons in protective environment isolation."

Section 42. That Section 20-21.7(a) of the Code is hereby amended by replacing Item (3) with new Items (3) and (4) to read as follows:

- "(3) *Contamination event.* Clean-up of vomit and diarrheal events. A food establishment shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment the procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.
- (4) Notification of health officer. The permit holder or person in charge of a food service establishment shall notify the health officer as specified in TFER 228.257 with respect to reporting of communicable diseases."

Section 43. That Section 20-21.7(b) of the Code is hereby amended to read as follows:

"(b) *Reporting responsibility; restriction or exclusion of employees.* In addition to the foregoing requirements, each permit holder, person in charge, food employee and conditional employee to shall comply with and the health officer shall administer and enforce the provisions of TFER 228.35, 228.36, and 228.37 with respect to reporting, restriction and exclusion of food establishment employees and conditional employees, and for the person in charge to manage exclusions and restrictions from opportunities to transmit disease in the establishment. The person in charge shall notify the health officer that a food employee is diagnosed with an illness due to Norovirus, Salmonella typhi or non-

typhoidal Salmonella, Shigella spp., shiga toxin-producing Escherichia coli, or hepatitis A virus."

Section 44. That Section 20-21.10(a)(2) of the Code is hereby amended to read as follows:

"(2) *Wood, use limitations.*

- a. Except as specified in subitems b through d of this item, wood and wicker may not be used as a food-contact surface. Hard grained wood; such as but not limited to maple, walnut, mahogany, bamboo and pecan may be used for cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used for single-service articles, such as chop sticks, stirrers, or ice cream spoons. The use of wooden paddles used in confectionery operations for pressure scraping kettles during confectionary preparation at high temperatures is permitted. Treated wooden wicker baskets as specified in subitem d[2] of this item may be used for proofing of bread, provided the product is fully baked after proofing. The use of wood as a food-contact surface under other circumstances is prohibited. If cutting boards are used, they shall be easily removable in order to facilitate cleaning. The use of wood or wood product shelving, storage racks, or dunnage racks in cold storage units is prohibited.
- b. Hard grained wood; such as but not limited to maple, walnut, mahogany, bamboo and pecan may be used for:
 - [1] Cutting boards, cutting blocks, bakers' tables, and utensils, such as rolling pins, donut dowels, salad bowls, chopsticks and wooden skewers; and
 - [2] Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F (110°C) or above.
- c. Whole, uncut, raw fruits and vegetables and nuts in a shell may be kept in the wood shipping container in which they were received, until the fruits, vegetables, or nuts are used.
- d. If the nature of the food requires the removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:
 - [1] Untreated wood containers; or

- [2] Treated wood containers if the containers are treated with a preservative that meets the requirements of TFER 228.101(g)(4)(B)."

Section 45. That Section 20-21.10(a)(9) of the Code is hereby amended to read as follows:

"(9) *Lead in ceramic, china, and crystal utensils, use limitation.* Ceramic, china, and crystal utensils and decorative utensils, such as hand-painted ceramic or china, that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits as specified in TFER 228.101(c)(1)."

Section 46. That Subsections (f) and (i) of Section 20-21.10 of the Code are hereby amended to read as follows:

"(f) *Temperature and pressure measuring devices.* Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, and accurate to $\pm 2^{\circ}\text{F}$ in the intended range of use if scaled only in Fahrenheit. If a food temperature measuring device is scaled only in Celsius or dually scaled in Celsius and Fahrenheit, it shall be accurate to $\pm 1^{\circ}\text{C}$ in the intended range of use. Temperature and pressure measuring devices shall be maintained in good repair and calibration. Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy. Food temperature measuring devices shall have a numerical scale, printed record, or digital readout in increments no greater than 2°F (1°C) in the intended range of use. Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to $\pm 1.5^{\circ}\text{C}$ in the intended range of use. Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to $\pm 3^{\circ}\text{F}$ in the intended range of use. Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use. Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating, such as candy thermometers, may be used."

"(i) *Existing equipment.* Equipment that complied with the former provisions of this article at the time of its installation but that does not fully meet all of the design and fabrication requirements of this section shall be deemed acceptable in that establishment as long as there is no change of ownership, if it is in good repair, capable of being maintained in a sanitary

condition, and the food-contact surfaces are nontoxic Replacement equipment shall conform to this article and TFER."

Section 47. That Section 20-21.10(p)(2)b[3] of the Code is hereby amended to read as follows:

"[3] The identity of the source of the shellfish is retained as specified under section 20-21.1(b)(2) of this Code, and the source information is displayed with the shellstock as required in TFER 228.64(e)."

Section 48. That Section 20-21.11(a)(3) of the Code is hereby amended to read as follows:

"(3) Where equipment and utensils are used for the preparation of time/temperature controlled for safety (TCS) food on a continuous or production-line basis, utensils and food-contact surfaces of equipment shall be washed, rinsed and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation. Equipment food contact surfaces and utensils shall be cleaned:

- a. Except as specified in subitem b of this item, before each use with a different type of raw animal food such as beef, fish, pork or poultry;
- b. Each time there is a change from working with raw foods to working with ready-to-eat foods;
- c. Between uses with raw fruits or vegetables and with time/temperature controlled for safety (TCS) foods; and
- d. Before using or storing a food temperature measuring device.

Subsection (a)(3)a of this section does not apply if the food contact surface or utensil is in contact with a succession of different raw meat and poultry each requiring a higher cooking temperature as specified in Table 20-21.4-1 of this Code than the previous type."

Section 49. That Section 20-21.11(a)(8)a of the Code is hereby amended to read as follows:

- "a. If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food

residues that are not from time/temperature controlled for safety (TCS) food."

Section 50. That the introductory paragraph of Section 20-21.11(a)(8)c of the Code is hereby amended to read as follows:

"c. Except when dry cleaning methods are used as specified in subitems a and b of this item, surfaces of utensils and equipment contacting food that is not time/temperature controlled for safety (TCS) food shall be cleaned:"

Section 51. That Section 20-21.11(c)(4) of the Code is hereby amended to read as follows:

"(4) Single-use disposable sanitizer wipes shall be used in accordance with EPA-approved manufacturer's label use instructions."

Section 52. That Section 20-21.12(d)(3)a of the Code is hereby amended to read as follows:

"a. Use of a distinct, separate water rinse after washing and before sanitizing if using: a three-compartment sink or alternative manual utensil-washing equipment equivalent to a three-compartment sink as specified in TFER 228.107(b)(3)); or a three-step washing, rinsing, and sanitizing procedure in a mechanical equipment washing system for CIP equipment;"

Section 53. That Section 20-21.12(d)(3)b[1] of the Code is hereby amended to read as follows:

"[1] Alternative manual utensil-washing equipment that is approved for use with a detergent-sanitizer as specified in TFER 228.107(b)(3); or"

Section 54. That Items (2) through (4) of Section 20-21.12(e) of the Code are hereby amended to read as follows:

"(2) Immersion in a chlorine solution* in a manner that complies with the following:

Minimum		Exposure
---------	--	----------

Concentration ppm (mg/L)	Minimum Temperature F° (C°)		Time (seconds)
	pH 10 or less	pH 8 or less	
25	120 (49)	120 (49)	10
50	100 (38)	75 (24)	7
100	55 (13)	55 (13)	10

- (3) Immersion in an iodine solution* in a manner that complies with the following:

Minimum Concentration ppm (mg/L)	Minimum Temperature F° (C°) pH 5 or less	Exposure Time (seconds)
12.5—25	68 (20)	30

- (4) Immersion in a quaternary ammonium compound solution* in a manner that complies with the following:

Minimum Concentration ppm (mg/L)	Minimum Temperature °F (C°)	Exposure Time (seconds)
According to the manufacturer's label	75 (24)	According to the manufacturer's label

*Chemical sanitizers, including chemical sanitizing solutions generated on site, and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 40 CFR 180.940. Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions) or meet the requirements as specified in 40 CFR 180.2020 (Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-food determinations) shall be used in accordance with the EPA-approved manufacturer's label use instructions."

Section 55. That Subsections (b), (i) and (j) of Section 20-21.13 of the Code are hereby amended to read as follows:

"(b) Mechanical dishwashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure at a location in the supply line immediately before the point where the water enters the dishwashing machine. The flow pressure of the fresh hot water sanitizing rinse in a dishwashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be specified on the machine manufacturer's data plate and may not be less than 35 kilopascals (5 pounds per square inch) or more than 200 kilopascals (30 pounds per square inch). If the flow pressure measuring device is upstream of the

fresh hot water sanitizing rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve. Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of 7 kilopascals (1 pound per square inch) or smaller and shall be accurate to 14 kilopascals (2 pounds per square inch) in the range indicated on the manufacturer's data plate. This subsection does not apply to a dishwashing machine that uses only a pumped or recirculated sanitizing rinse."

"(i) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition. Wash and pump rinse temperatures shall be measured in the respective tanks and final rinse temperature shall be measured both at the entrance of the manifold and at dish level. Testing of the final rinse temperature will be done by means of an irreversible registering temperature indicator or heat sensitive indicating paper traveling through the final rinse chamber in the same manner as equipment and utensils, at the dish level during a normal rinse cycle. The flow pressure of the fresh hot water sanitizing rinse in a dishwashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be specified on the machine manufacturer's data plate and may not be less than 35 kilopascals (5 pounds per square inch) or more than 200 kilopascals (30 pounds per square inch) Except for dishwashing machines that use only pumped or recycled sanitizing rinse, the machine shall be equipped with a pressure gauge or similar device that measures and displays the water pressure at a point in the supply line immediately before the point where the water enters the dishwashing machine. The temperature of fresh hot water sanitizing rinse as it enters the manifold may not be less than 165°F (74°C) nor more than 194°F (90°C) for a stationary rack, single temperature machine, and for all other machines, not less than 180° F (82°C) nor more than 194°F (90°C)."

"(j) *Drying and drying agents criteria.* After sanitization, all equipment and utensils shall be air-dried. Use of towels is prohibited. Drying agents used in conjunction with manual or mechanical sanitization shall meet the requirements of TFER 228.206(d)."

Section 56. That Section 20-21.17(d) of the Code is hereby amended to read as

follows:

"(d) *Grease traps.* Grease traps shall be located to be easily accessible for cleaning, operation, and maintenance. Grease traps shall be of an approved type and in an approved location outside the establishment, unless it is impossible."

Section 57. That Subsections (b) and (c) of Section 20-21.19 of the Code are hereby amended to read as follows:

"(b) *Hand-washing sink faucets.* Each hand-washing sink shall be equipped to provide water at a temperature of at least 100°F (38°C) through a mixing valve or combination faucet. Any self-closing, slow-closing or metering faucet used shall be designed to provide a flow of water for at least 20 seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited. Hand-washing sinks in facilities providing custodial care for preschool age children that are used only by the children may provide only cold running water.

(c) *Hand-washing sink supplies.* A supply of hand-cleansing liquid, powder, or bar soap shall be available at each hand-washing sink or group of two adjacent hand-washing sinks. Each hand-washing sink or group of adjacent sinks shall be provided with individual, disposable towels; a continuous towel system that supplies the user with a clean towel, a hand-drying device providing heated air or a hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the hand-washing facilities."

Section 58. That Section 20-21.20(h) of the Code is hereby amended to read as follows:

"(h) *Maintaining refuse areas and enclosures.* A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of items that are unnecessary to the operation or maintenance of the establishment, such as equipment that is nonfunctional or no longer used, as specified in section 20-21.28(a)(3), and clean."

Section 59. That Section 20-21.21(a) of the Code is hereby amended by replacing the word *minimize* with the word *eliminate*.

Section 60. That the fifth sentence of Section 20-21.21(b) of the Code is hereby amended to read as follows:

"Exterior doors used as exits need not be self-closing if they are: solid and tight-fitting; designated by the fire protection authority that has jurisdiction over the food establishment for use only when an emergency exists; and

limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use."

Section 61. That Subsections (b) and (d) of Section 20-21.23 of the Code are hereby amended to read as follows:

"(b) *Construction.* The walls, including nonsupporting partitions, wall coverings, and ceilings, of walk-in refrigerating units, food preparation areas, food storage areas, food display areas, equipment-washing areas, and utensil-washing areas shall be light-colored, smooth, nonabsorbent, and easily cleanable except for ceilings over areas used only for beverage preparation and/or service. The walls, including nonsupporting partitions and wall coverings of toilet rooms and vestibules, shall be smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface except in dry storage areas."

"(d) *Wall protection.* The walls within water closet compartments, walls within two feet of the front and sides of urinals, hand-washing sinks, utensil-washing sinks, food sinks, and mop or utility sinks, and walls subject to damage from moisture shall be provided to a height of at least four feet above the finished floor with a smooth, light-colored impervious surface of a type not adversely affected by moisture or grease except that light-colored wall protection is not required in toilet rooms. The walls behind and adjacent to cooking equipment utilizing a ventilation hood, shall, from the floor to the base of the hood, have the same type of material as indicated above for plumbing fixtures. Materials utilized for wall protection shall be fiber-glass reinforced plastic (FRP), nonferrous metal, ceramic tile, plastic laminate or the equivalent for the purpose intended."

Section 62. That Section 20-23(c)(7) of the Code is hereby amended to read as follows:

"(7) *Item 7. Floors.* A floor should be smooth and easy to clean such as concrete, machine-laid asphalt or plywood. Dirt or gravel may be used if covered with mats, removable platforms, or duckboards. Other suitable materials that are effectively treated to control dust and mud may be used if approved by the department."

Section 63. That the first sentence of Section 20-24(a) of the Code is hereby amended to read as follows:

"The health officer shall, when he has reasonable cause to believe that a food employee has possibly transmitted disease, may be infected with

disease in a communicable form that is transmissible through food, or is affected with a boil, an infected wound or acute respiratory infection, secure a morbidity history of the suspected employee or make any other investigation as may be indicated and take appropriate action."

Section 64. That the first sentence of Section 20-25(e) of the Code is hereby amended to read as follows:

"The applicant shall pay to the department a nonrefundable plan review fee based on the project valuation for the review of plans required hereunder."

Section 65. That Section 20-25 of the Code is hereby amended by replacing Subsection (f) with new Subsections (f) and (g) to read as follows:

"(f) The applicant shall pay to the department the nonrefundable preoperational inspection fee for this provision in the city fee schedule for each preoperational inspection required hereunder. In the event that the constructed, remodeled or altered space or area is occupied prior to the preoperational inspection approval, the applicant shall pay the nonrefundable inspection fee stated for this provision in the city fee schedule for each preoperational inspection performed while the constructed, remodeled or altered space or area is occupied. No permit shall be issued or renewed if there are any outstanding preoperational fees.

(g) Whenever a food establishment changes ownership a preoperational inspection or inspections shall be completed prior to operation under the new ownership. The applicant shall pay to the department a nonrefundable preoperational inspection fee as stated for this provision in the city fee schedule for each preoperational inspection required hereunder. In the event that the food establishment is in operation prior to the preoperational inspection approval, the nonrefundable inspection fee shall be as stated for this provision in the city fee schedule for each preoperational inspection performed. No permit shall be issued if there are any outstanding preoperational fees."

Section 66. That Section 20-26 of the Code is hereby amended by deleting Subsection (a), redesignating Subsections (b) through (d) as new Subsections (a) through (c), and inserting a new Subsection (d) to read as follows:

"(d) *FOG notice.* Within each food establishment registered under section 20-38(d) there shall be conspicuously posted in an area

accessible to all employees thereof a notice that describes ordinance requirements of grease traps."

Section 67. That Section 20-38(b) of the Code is hereby amended by adding a new Subsection (1b) to read as follows:

"(1b) Temporary food establishments, as defined, shall be charged a non-refundable base fee for each day that the permit is valid, provided, however, that the total fee for a temporary food service establishment while participating in an event with a duration of ten consecutive days or more at the same location shall be the same fee as for a duration of ten consecutive days. The temporary food service permit fee including the applicable technology and administrative fee shall be paid at the time the application is submitted."

Section 68. That Items (4) and (5) of Section 20-38(b) of the Code are hereby amended to read as follows:

"(4) *Special investigative fee.* In addition to the permit fee as specified in item (1) above, there is hereby assessed the special investigative fee stated in the city fee schedule, which shall be payable for any renewal of a food dealer's permit if the renewal application is not received in the offices of the department in completed form and accompanied by the permit fee therefor on or before the business day after the date of expiration of the permit to be renewed. For purposes of this fee, any new permit issued to the same person(s) for a food establishment at the same location shall be deemed to be a renewal, unless the person(s) demonstrate to the health officer, by clear and convincing evidence, that the food establishment has not been operated since the prior permit expired. This investigative fee shall also be applicable in the event that the complete application including payment for a temporary food service establishment permit is not received at the department at least seven days prior to beginning of temporary food service operations as specified in section 20-36(b) of this Code.

This special investigative fee is imposed to partially defray the additional inspection and administrative costs related to late renewals and applications. It shall not be considered to be a civil or criminal penalty, nor shall its imposition bar or constitute a defense to any prosecution for operation of a food establishment without a food dealer's permit.

- (5) *Electronic monitoring system fee.* A person requesting a medallion for the operation of a mobile food unit, other than a restricted operations mobile food unit, a licensed park vending unit, or a fixed location mobile food unit, shall pay the electronic monitoring system fee stated in the city fee schedule. Funds from this account may be expended only for activities related to maintenance, operation, and utilization of the electronic monitoring system and for other permitting, inspection, monitoring, controlling, education and enforcement activities pertaining to environmental health services of the Houston Health Department."

Section 69. That Section 20-38(e) of the Code is hereby amended to read as follows:

"(e) All fees collected pursuant to this section are not refundable."

Section 70. That the title of Division 3 of Article II of Chapter 20 of the Code is hereby amended to read as follows:

"DIVISION 3. FOOD SERVICE MANAGER'S CERTIFICATION
AND FOOD HANDLER REQUIREMENTS"

Section 71. That Section 20-52 of the Code is hereby amended to read as follows:

"Sec. 20-52. Programs established.

(a) There shall be a program of food service manager's certification conducted under the direction of the health officer. The program shall have as its primary goal the training of persons within the food service industry in safe food handling practices, including knowledge of the provisions of this article. Except as otherwise provided in this division, training shall be accomplished by means of a special course that will be made available to those persons seeking certification. Certification shall be provided after all requirements of this division have been met as determined by the health officer.

(b) There shall also be a program of food handler education and training. The program shall include employee knowledge, responsibilities and training as required in this article and TFER. A food handler training or education course shall include the following basic food safety principles.

- (1) *Foodborne disease outbreak.* Instruction on foodborne disease outbreak, shall include the definition of foodborne

disease outbreak, the causes and preventative measures, including employee reporting requirements as required in section 20-21.7 of this Code.

- (2) *Good hygienic practices.* Instruction on good hygienic practices shall include the procedures as required in sections 20-21.7, 20-21.8, and 20-21.9 of this Code.
- (3) *Preventing contamination by employees.* Instruction shall include the training as required in section 20-21.2(c) of this Code, regarding the training requirements for contact with ready to eat food with their bare hands.
- (4) *Cross contamination.* Instruction on cross contamination shall include procedures on the prevention of cross-contamination of foods, sanitization methods and corrective actions as required in sections 20-21.2, 20-21.3, 20-21.4, 20-21.5, and 20-21.6 of this Code and sections 20-21.11, 20-21.12, 20-21.13, 20-21.14 of this Code relating to equipment, utensils, and linens
- (5) *Time and temperature.* Instruction shall include time and temperature control of foods to limit pathogen growth or toxin production as required in sections 20-21.2, 20-21.3, 20-21.4, 20-21.5, and 20-21.6 of this Code.

(c) A program under this section may be delivered through the Internet.

(d) Except in a temporary food establishment and except for the food service manager, all food handlers shall successfully complete a food handler training course.

(e) The requirement to complete a food handler training course shall be effective September 1, 2016."

Section 72. That the catchline of Section 20-53 of the Code is hereby amended to read as follows:

"Sec. 20-53. Food service manager and food handler requirements."

Section 73. That Section 20-53(d) of the Code is hereby amended to read as follows:

"(d) A food service manager's certification or a food handler's certificate is not transferable from one person to another."

Section 74. That Section 20-53 of the Code is hereby amended by adding new

Subsections (f) through (h) to read as follows:

"(f) Except for the certified food service managers, all food employees, shall successfully complete a food handler training course, within 60 days of employment as specified by TFER 228.33 (c).

(g) The food establishment shall maintain on premises a certificate of completion of the food handler course for each food employee. The requirement to complete a food handler training course shall be effective September 1, 2016.

(h) Subsections (f) and (g) of this section pertaining to trained food handlers do not apply to certain types of food establishments deemed by the regulatory authority to pose minimal risk of causing, or contributing to, foodborne illnesses based on the nature of the operation and extent of food preparation."

Section 75. That Section 20-54(a) of the Code is hereby amended to read as follows:

"(a) Any person desiring a food service manager's certification or a food handler's certification shall make written application for certification on forms provided by the health officer. The application shall include, but not be limited to:

- (1) The applicant's full name, mailing address, and telephone number;
- (2) The gender of the applicant;
- (3) The applicant's Texas driver's license or state identification card or other valid form of photographic identification.
- (4) The name, address, and telephone number of the establishment where the applicant is currently employed, if employed; and
- (5) The signature of the applicant; and
- (6) Date of birth of the applicant."

Section 76. That Subsections (c) through (e) of Section 20-54 of the Code are hereby amended to read as follows:

"(c) A completed application for food handler's training shall serve as a request to obtain a food handler certificate by classroom or online training.

(d) All applications for food service manager's certification or food handler training must be accompanied by the appropriate fees as set forth in this division.

(e) The health officer may deny an application for a food service manager's certification or food handler's certificate if the applicant knowingly makes any false, fraudulent, or unlawful statement on the application."

Section 77. That Section 20-55 of the Code is hereby amended to read as follows:

"Sec. 20-55. Duration of certification course and food handler course; passing grade.

(a) The special course of training for food service manager's certification shall be conducted at an appropriate length of time to cover course material.

(b) A food handler training course length may not exceed two hours.

(c) Courses will be scheduled periodically to allow all qualified individuals the opportunity for training.

(d) All persons completing the applicable course of training for food service manager's certification shall be required to demonstrate by means of an examination that they possess a minimum essential knowledge of safe food handling practices, including an acceptable knowledge of this article. A passing score for this examination shall be at least 70 points out of a possible 100.

(e) If an applicant for food service manager's certification fails to pass the required examination, he may take the certification course before taking another examination. In order to take the training course an applicant must submit another completed application accompanied by payment of the full applicable fee for an initial application.

(f) An applicant for a food handler's certificate may be required to pass an examination to successfully complete the course.

(g) All persons successfully completing the course of training for food handlers shall receive a food handler's certificate."

Section 78. That Section 20-57 of the Code is hereby amended to read as follows:

"Sec. 20-57. Fees.

Fees for food service manager's certification:

- (1) *Food service manager's certification.* Except where another fee amount is established in this division, the application fees stated for this provision in the city fee schedule shall be required to be paid to the health officer at the time of filing of an application for certification. In addition to the food service manager's certification application fee there shall be a technology and administrative fee added to each food service manager's application in the amount stated for this provision in the city fee schedule. This technology and administrative fee shall be payable at the time the food service manager's application is paid. The application and technology and administrative fees are nonrefundable.
- (2) *Replacement of certification card.* An individual who has lost a valid, current food service manager's certification card may obtain a replacement wall certificate and corresponding certification card from the health officer for the fee stated for this provision in the city fee schedule."

Section 79. That Section 20-58 of the Code is hereby amended to read as follows:

"Sec. 20-58. Expiration of food service manager's certification and food handler certificate.

(a) A food service manager's certification shall be valid for a period of five years from the date of its issuance except as specified in Section 20-63. An individual may obtain a new food service manager's certificate by completing the course, or completing the examination, or by reciprocity in accordance with sections 20-54 (b) and 20-63 of this Code.

(b) A food handler's certificate shall be valid for a period of two years from the date of issuance. The department shall accept as sufficient for food handler training, as specified in section 20-55 (b) of this Code, written proof that such person has successfully completed a food handler training program accredited by the State of Texas pursuant to subchapter D of chapter 438 of the Health and Safety Code or similar food safety courses approved by the Conference for Food Protection (CFP) within the immediately preceding period of two years."

Section 80. That Section 20-63(a) of the Code is hereby amended to read as

follows:

"(a) A person who provides written proof by means of a current and valid food service manager's certificate that such person has successfully completed a training program accredited by the State of Texas pursuant to subchapter D of chapter 438 of the Health and Safety Code, or similar food safety courses approved by the Conference for Food Protection (CFP) within the immediately preceding period of five year and makes application as otherwise provided in section 20-54(a) of this Code shall be issued a certification without further examination by the city under this division. The commencement date of such certification shall be the same date the application is submitted to the department and shall expire on the same date the state or nationally accredited program certificate expires. The application fee for a food service manager certification issued under this subsection is stated for this provision in the city fee schedule. In addition to the food service manager's certification application fee for reciprocity, there shall be a technology and administrative fee added to each food service manager's application in the amount stated for this provision in the city fee schedule. This technology and administrative fee shall be payable at the time the food service manager's application fee is paid."

Section 81. That Division 3 of Article II of Chapter 20 of the Code is hereby amended by adding a new Section 20-65 to read as follows:

"Sec. 20-65. Group residences.

A group residence shall comply with the requirements of this article, except as otherwise provided in this section. The health officer may impose additional requirements to protect against health hazards related to the conduct of the group residence and may prohibit the sale or distribution of some or all time/temperature controlled for safety (TCS) foods where the action is reasonably necessary to protect the public from foodborne illness. A group residence operator may submit a written request for a variance from any requirements of this article and the health officer may grant a variance by modifying or waiving any of the requirements of this article if in the opinion of the health officer a health hazard or nuisance will not result from the variance as specified in section 20-19(e) of this Code. The group residence permit holder shall ensure that the group residence is in full compliance with this article at all times as well as with the conditions of any variance granted under section 20-19(e)(2) of this Code."

Section 82. That Section 20-161 of the Code is hereby amended by adding, in the appropriate alphabetical order position, the following new definition:

"Time/temperature controlled for safety (TCS) food shall have the meaning set forth in article II of this chapter."

Section 83. That Section 20-161 of the Code is hereby further amended by amending the definition of the term *farm produce* to read as follows:

"Farm produce means herbs and spices in their natural or dried state, and vegetables, fruits, nuts, berries, grains, honey, watermelons and other melons, cantaloupes and other edible plant materials in their natural state."

Section 84. That Section 20-161 of the Code is hereby further amended by deleting the definition of the term *potentially hazardous food*.

Section 85. That Section 20-162 of the Code is hereby amended by designating the existing text as Subsection (a) and adding a new Subsection (b) to read as follows:

"(b) Wild mushrooms, if offered for sale, must conform to requirements of Section 20-21.1(b)(14) of this Code."

Section 86. That Section 20-177 of the Code is hereby amended to read as follows:

"Sec. 20-177. Issuance or denial generally; term.

Upon receiving the application for a license under this division, the health officer shall make an inspection of any vehicles to be used by the applicant or of the establishment for which a license is desired, and if such establishment or vehicles comply with the provisions and requirements of this article, as well as other ordinances of the city which pertain to the operation of such establishment or vehicles, then the health officer shall approve the application upon the payment of the license fee, and a license shall be issued to such applicant which shall be effective for one year from the date of issuance. In the event the health officer shall determine that such establishment of the applicant or any vehicle used by the applicant does not comply with the provisions of this article and other ordinances of the city which pertain to the operation of such establishments or vehicles, then the director of public health shall disapprove such application."

Section 87. That Section 20-189(9) of the Code is hereby amended to read as

follows:

"(9) *Live animals.* No live animals, birds, or fowl shall be kept or allowed within 20 feet of any area where food is stored, displayed or held, excluding patrol dogs or service animals when used in the manner specified in section 20-21.28(f) of this Code."

Section 88. That Section 20-190(2) of the Code is hereby amended to read as

follows:

"(2) *Temperature maintenance.* time/temperature controlled for safety (TCS) food requiring limited preparation shall be served and maintained at the internal temperature of 41°F (5°C) or below or 135°F (57°C) or above in facilities that meet the requirements of this article except for shell eggs, as described in section 20-21.1(b) (3), which shall be stored at 45°F (7°C) or below according to all applicable laws. If the United States Department of Agriculture and the United States Food and Drug Administration determine by law that a lower temperature must be maintained, the lower temperature shall prevail."

Section 89. That Section 20-190 of the Code is hereby amended by adding new

Items (8) and (9) and redesignating the subsequent Items accordingly, with the new

Items to read as follows:

"(8) *Single-use gloves.* Single-use gloves shall be used when the samples are being cut or prepared. Single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food. They shall be used for no other purpose and discarded when interruptions occur in the operation or when damaged or soiled.

(9) *Hair restraints.* While handling food or utensils, vendors shall wear effective hair restraints and clothing that covers body hair to prevent the contamination of food or food-contact surfaces as specified in section 20-21.8(f) of this Code."

Section 90. That Section 20-193(a) of the Code is hereby amended to read as

follows:

"(a) At the time of application for a certified farmers market license and each renewal thereof, the applicant shall pay to the health officer a nonrefundable annual fee, which shall be based on the number of vendors. The fee is stated for this provision in the city fee schedule."

Section 91. That Section 20-200 of the Code is hereby amended by adding, in the appropriate alphabetical order position, the following new definition:

"*Time/temperature controlled for safety (TCS) food* shall have the meaning ascribed in section 20-18 of this Code."

Section 92. That Section 20-200 of the Code is hereby further amended by amending the definitions of the terms *controlled location vending machine (limited service vending machine)* and *safe temperatures* to read as follows:

"*Controlled location vending machine (limited service vending machine)* means a vending machine that:

- (1) Dispenses only non-time/temperature controlled for safety (non-TCS) packaged food;
- (2) Is designed so that it can be filled and maintained in a sanitary manner by untrained persons at the location; and
- (3) Is intended for and used at locations in which protection is assured against environmental contamination."

"*Safe temperatures*, for time/temperature controlled for safety (TCS) food, means temperatures of 41°F (5°C) or below or 135°F (57°C) or above."

Section 93. That Section 20-200 of the Code is hereby further amended by deleting the definition of the term *potentially hazardous food (PHF)*.

Section 94. That Section 20-203 of the Code is hereby amended to read as follows:

"Sec. 20-203. Temperatures.

The temperature of time/temperature controlled for safety (TCS) food shall be 41°F (5°C) or below or 135°F (57°C) or above at all times, except as otherwise provided in subsection 20-204(g) of this Code."

Section 95. That Section 20-216 of the Code are hereby amended to read as follows:

"Sec. 20-216. Controlled location machines.

All controlled location vending machines and vending machines which dispense exclusively bottled or canned soft drinks, prepackaged ice, water, candy, cookies, crackers, or similar prepackaged, non-time/temperature controlled for safety (TCS) food snacks, or ball gum, nuts, and panned candies are exempt from the requirements of sections 20-214(b) and 20-215 of this Code, but shall meet all other applicable requirements of this article."

Section 96. That Chapter 20 of the Code is hereby amended by replacing the term *potentially hazardous food*, both singular and plural, in every place that it appears with the term *time/temperature controlled for safety (TCS) food*.

Section 97. That the City Council hereby approves the new special investigative (late application submission) fee for temporary food establishment application established in Section 20-38(b)(4) of this Code in the amount of \$55.34. The Director of Finance shall incorporate the new fee in the City Fee Schedule.

Section 98. That the City Council hereby approves the new food handler training course fee established in Section 20-54(d) of this Code in the amount of \$10. The Director of Finance shall incorporate the new fee in the City Fee Schedule.

Section 99. That the City Attorney is hereby authorized to direct the publisher of the Code to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 100. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of

circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 101. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect at 12:01 a.m. on the 60th day next following the date of its passage and approval by the Mayor.

PASSED AND APPROVED this 2nd day of December, 2015.



Mayor of the City of Houston


Prepared by Legal Dept. _____
YC:asw 12/01/2015 Assistant City Attorney
Requested by Stephen L. Williams, Director of Public Health
L.D. File No. 0381200089001

CAPTION PUBLISHED IN DAILY COURT
REVIEW
DATE: DEC 08 2015

AYE	NO	
✓		MAYOR PARKER
....	COUNCIL MEMBERS
✓		STARDIG
✓		DAVIS
✓		COHEN
✓		BOYKINS
✓		MARTIN
✓		NGUYEN
ABSENT		PENNINGTON
✓		GONZALEZ
✓		GALLEGO
✓		LASTER
✓		GREEN
✓		COSTELLO
✓		ROBINSON
ABSENT		KUBOSH
✓		BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	