

Ordinance 6002

AN ORDINANCE REGARDING THE REGULATION OF FOOD ESTABLISHMENTS INCLUDING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, TEMPORARY FOOD ESTABLISHMENTS, CHILD CARE FACILITIES, MOBILE FOOD UNITS, AND ROADSIDE FOOD VENDORS.

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

Article I. Adoption of Texas Food Establishment Rules:

Section 1.01 The City of Cottonwood Shores, Texas adopts by reference the provisions of the current Rules or Rules as amended by the Executive Commissioner of the Health and Human Services Commission found in 25 Texas Administrative Code, Chapter 229 Sections 161 through 171 and 173 through 175 regarding the regulation of food establishments in this Jurisdiction.

Section 1.02 Definitions:

- (a) The words "Authorized Agent or employee" mean the employees of the Regulatory Authority.
- (b) The words "food establishment" means a food service establishment, child care facility, a retail food store, a temporary food establishment, a mobile food unit, and / or a roadside food vendor.
- (c) The words "Municipality of Cottonwood Shores" in this Ordinance shall be understood to refer to the City of Cottonwood Shores.
- (d) The words "State Rules" mean the State Rules found at 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and Sections 173 through 175. These Rules are also known as the Texas Food Establishment Rules.
- (e) The words "Regulatory Authority" means the City of Cottonwood Shores Health Inspector.

Article II. City Health Inspector—Appointment: The City Manager shall appoint a qualified person for the office of City Health Inspector. The City Health Inspector, after appointment, shall take and subscribe to the Official Oath and shall file a copy of such Oath and a copy of such appointment with the State Board of Health (T.D.S.H.S. or its successor(s)) and shall not be deemed to be legally qualified until said copies shall have been so filed.

Section 2.01 Inspection frequency -- An inspection of a food service establishment shall be performed at least twice a year. Additional inspections of the food service establishment may be performed as often as are necessary for the enforcement of these Rules.

Section 2.02 Access -- Agents of the Regulatory Authority, after proper identification, shall be permitted to enter any food service establishment at any reasonable time, for the purposes of making inspections to determine

compliance with these Rules. The agents shall be permitted to examine the records of the establishments to obtain information pertaining to food and supplies purchased, received or used, or to persons employed.

Article III. Report of inspections:

Section 3.01 Whenever an inspection of a food service establishment or commissary is made, the findings shall be recorded on an inspection report form.

Section 3.02 The inspection report form shall summarize the requirements of these Rules and shall set forth a weighted point value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to Law.

Section 3.03 Correction of the violations: The inspection report form shall specify a reasonable period of time for the correction of the violations found and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

- (a) If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the Regulatory Authority.
- (b) All violations of four (4) or five (5) point-weighted items shall be corrected as soon as possible, but in any event, within ten (10) days following inspection. Within fifteen (15) days after the inspection, the holder of the permit, license or certificate shall submit a written report to the Regulatory Authority stating that the violations have been corrected. A follow up inspection shall be conducted to confirm correction.
- (c) All one (1) or two (2) point-weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.
- (d) When the rating score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within forty-eight (48) hours. One or more re-inspections will be conducted at reasonable time intervals to assure correction.
- (e) In the case of temporary food service establishments, all violations shall be corrected within twenty-four (24) hours. If violations are not corrected within twenty-four (24) hours, the establishment shall immediately cease food service operations until authorized to resume by the Regulatory Authority.

Section 3.04 The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food service operations. An opportunity for appeal from the inspection findings and time limitations will be provided if a written request for a hearing is filed with the Regulatory Authority within ten (10) days following cessation of operations. If a request for a hearing is received, a hearing shall be held within twenty (20) days of receipt of that request.

- (a) Whenever a food service establishment is required under the provisions of this Rule to cease operations, it shall not resume operations until such time as a re-inspection determines that conditions responsible for the requirement to cease operations no longer exist. Opportunity for re-inspection shall be offered within a reasonable time.

Section 3.05 Inspection report form: An inspection report form based on the requirements of these Rules shall be available at all times.

Article IV. Examination and condemnation of food:

Section 4.01 Food may be examined or sampled by the Regulatory Authority as often as necessary for the enforcement of these Rules. The Regulatory Authority may, upon written notice to the owner or person in charge specifying with particularity the reason therefor, place a hold order on any food which it believes to be in violation of Subsection (a) of Rule .003 or any other provision of said Rules. The Regulatory Authority shall permit the storage of food under conditions specified in the hold order, unless storage is not possible without risk to public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within ten (10) days and that if no hearing is requested, the food shall be destroyed. A hearing shall be held so requested and on the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of the Rules.

Section 4.02 Revocation: The City Health Department reserves the right to revoke any food handler's permit and / or manager's certification.

Article V. Permits and Exemptions: A person may not operate a food establishment without a permit issued by the Regulatory Authority. Permits are not transferrable from one person to another or from one location to another location, except as otherwise permitted by this Ordinance. A valid permit must be posted in or on every food establishment regulated by this Ordinance.

Article VI. Application for Permit and Fees:

Section 6.01 Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the City of Cottonwood Shores. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.

Article VII. Review of Plans:

Section 7.01 Prior to the approval of an initial permit or the renewal of an existing permit, the Health Inspector shall inspect the proposed food establishment to determine compliance with State Laws and Rules. A food establishment that does not comply with State Laws and Rules will be denied a permit or the renewal of a permit.

- (a) The following fee schedule applies to permits issued under this Ordinance:

Permit Type	Fee Amount	Permit Duration
Restaurant	\$30.00	1 Year
Convenience Store	\$30.00	1 Year
Daycare	\$30.00	1 Year
Grocery	\$30.00	1 Year
Mobile Food Vendor	\$30.00	1 Year
Temporary	\$20.00	Event / 14 day maximum
Concession	\$20.00	1 Year

Section 7.02 Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the Regulatory Authority for review before work is begun. Extensive remodeling means that 20% or greater of the area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, as well as the type and model of proposed fixed equipment and facilities. The plans and specifications will be approved by the Regulatory Authority if they meet the requirements of the Rules adopted by this Ordinance. The approved plans and specifications must be followed in construction, remodeling or conversion.

Section 7.03 Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

Article VIII. Restrictions, not proper facilities: Food service establishments that do not have facilities for the proper cleaning and sanitizing of utensils and food equipment shall not be allowed to prepare, package or dispense any type of unpackaged food or potentially hazardous food, (other than raw and uncut fruits and vegetables) or potentially hazardous food or beverages.

Article IX. Food transportation: All food transported or delivered from a food establishment to another place shall be protected from contamination by the use of packaging or covered containers with lids except for raw, uncut fruits and vegetables. All food and food equipment being transported shall meet the applicable requirements of the food establishment Rules relating to food protection, food storage and food temperatures. Food and food equipment may not be transported exposed or open to the elements. The compartment or area inside the vehicle that the food and food equipment is being transported in shall be kept clean, free of accumulation of dust, dirt, food particles and any other debris. All surfaces of the compartment are to be smooth, durable, nonporous and easily cleanable. Articles not associated with the food and food equipment being transported shall not be stored in the same compartment containing the food and food equipment.

Article X. Facilities:

Section 10.01 Customer restroom facilities: Accessible restroom facilities shall be provided at all child care facilities and applicable food establishments and must meet all of the provisions of the food establishment Rules for restroom, toilet and hand wash facilities. Customers may not enter food preparation, food storage, ware washing and security sensitive areas of the food establishment to gain access to restroom facilities.

Section 10.02 Physical Facilities:

- (a) **Indoor areas, surface characteristics:** materials for indoor floor, wall and ceiling surfaces under conditions of normal use shall be (3) nonabsorbent for food preparation areas, areas used for the storage or transportation of open containers of food, walk-in refrigerators, ware washing areas, toilet rooms, mobile food establishment servicing areas, areas subject to flushing or spray cleaning methods, and any areas subject to moisture.
- (b) **Outdoor areas, surface characteristics:** The outdoor walking and driving areas shall be surfaced with concrete or other material approved by the Regulatory Authority.
- (c) **Floors, walls, and ceilings:**
 - (i) **Wall and ceiling coverings and coatings:**
 - 1) Wall and ceiling covering materials shall be attached so that they are easily cleanable. Walls in areas where food is not prepackaged at all times, shall be nonabsorbent, easily cleanable and covering must be approved by the Regulatory Authority. Wall coatings, including epoxy paint, are not approved as wall coverings in areas where uncovered food is located, stored, transferred, processed, passed, cooked, prepared or sold. Wall coatings, including epoxy paint, may be used in areas where food is prepackaged at all times or in non-food storage areas with approval by the Regulatory Authority. Ceilings in areas where food is not prepackaged at all times shall be nonabsorbent, easily cleanable and covering must be approved by the Regulatory Authority. Ceiling coatings, including epoxy paint, are not approved as ceiling coverings in areas where uncovered food is located, stored, transferred, processed, passed, cooked, prepared or sold, except in areas such as: bars, temporary buffet lines and other areas, if approved by the Regulatory Authority.
 - (ii) Concrete, concrete blocks or bricks, when used in areas of a food establishment not open to the general public, shall be used only where non-food activities occur such as can washing or outdoor janitorial use or storage areas. Concession stands may use concrete, concrete blocks, or bricks for indoor wall construction; if finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface and re-sealed for maintenance, in a timely manner, or when mandated by the Regulatory Authority.
 - (iii) Wall surfaces in toilet rooms provided for employee or worker use shall be durable, nonabsorbent and easily cleanable to a minimum height of four (4) feet. Wall coatings including epoxy paint, may only be used above forty-eight (48) inches.
 - (d) **Floor Construction:**
 - (i) Floors and floor coverings of all food preparation and utensil-washing areas, walk-in refrigeration units, dressing rooms, locker rooms, toilet rooms and toilet room vestibules provided for employee use, shall be

constructed of smooth durable material such as terrazzo, ceramic, quarry tile, or equivalent, with a six (6) inch coved tile base installed integral and flush with finished floor and shall be maintained in good repair. Top-set, square or thin-lip installations of coved base tiles are prohibited. Sealed concrete, sheet vinyl, vinyl products or V.C.T., may not be used in these areas. Epoxy resin and other poured monolithic floors and other durable seamless flooring systems may be used in these areas installed to a finished product thickness of a minimum of one-quarter (¼, 0.25) inch when approved by the Regulatory Authority prior to installation. Poured monolithic floors and seamless flooring systems shall be constructed to a finished product thickness of a minimum of one-quarter (¼, 0.25) inch with coved base monolithic, integral, and flush with floor. The Regulatory Authority may impose additional requirements; such as, but not limited to, the addition of non-skid additives and may approve alternative minimum thicknesses of floors and base if it is proven in writing that a finished product of different thickness and/or additives render the same or increased standards. Written documentation of compliance with these requirements shall be submitted to the Regulatory Authority at time of installation and no later than the date of issuance of the Certificate of Occupancy. Durable grades of sheet vinyl or other approved vinyl products may be used in dry storage areas if approved by the Regulatory Authority and shall be maintained in good repair. In dedicated janitorial, laundry, or mechanical areas; sealed concrete may be used in lieu of the above listed materials if approved by the Regulatory Authority. Food areas within food establishments that are temporarily set up for use during specified hours during each day or one day such as buffet lines or bar service areas may be exempt from this Rule. At least one (1) floor drain must be provided, with total number of required drains to be approved by the Regulatory Authority. Properly installed, trapped floor drains shall be provided in floors that are water flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Properly trapped floor drains shall be provided in all toilet rooms and in food preparation areas in compliance with any and all applicable Laws. Floors must be graded to drain properly.

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

(c) **Hand washing lavatories:**

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

(ii) **Hand washing facilities, conveniently located:** Hand washing facilities shall be conveniently located.

(iii) Hand wash signs shall be posted and maintained to be easily readable at all hand wash sinks and restroom facilities used by employees of a food establishment. When hand wash facilities are not available at a bulk food display and self service area, customers, upon request, are permitted access to hand washing facilities located in employee restrooms, provided that access to employee rest rooms do not allow customers into unauthorized areas such as food preparation, ware washing, and security sensitive areas.

Article XI. **Grease Interceptors:**

Section 11.01 **The following establishments shall be exempt:**

- (a) one that operates for a maximum duration of four (4) days in connection with an annual event, such as a fair, carnival, circus, public exhibition or other public gathering;
- (b) one that sells or serves prepackaged or precooked foods that would require warming only or are served without additional processing or cooking in a manner in which washing is not required, so as not to introduce grease or grit into the wastewater;
- (c) one that serves only snow cones, drinks or ice cream products;
- (d) produce markets without food grinders;
- (e) grocery or convenience stores without food preparation, meat cutting or packaging, delicatessens, bakeries; or
- (f) day care centers which primarily serve microwave dishes, using single service items, served in a manner in which washing is not required, so as not to introduce grease or grit into the wastewater.

Section 11.02 Grease generation:

- (a) No grease generator or grit generator may intentionally or unintentionally allow the direct or indirect discharge of any inorganic solid, plastics, paper, petroleum oil, non-biodegradable cutting oil, mineral oil, or any fats, oils, or greases of animal or vegetable origin or any non-biodegradable material into the wastewater system in such amounts as to cause interference with the collection and treatment system, or as to cause pollutants to pass through the treatment works into the environment.
- (b) No grease generator or grit generator shall divert wastewater around a collection point into the sanitary sewer or into a storm drainage system.
- (c) The technical standards set out in this Ordinance shall be automatically adjusted to conform to any amendment to State or Federal Law which changes such standards. The technical standards applicable to generators in the City of Cottonwood Shores shall always be the same as the standards for such generators as established by State or Federal Law.

Section 11.03 General Criteria:

- (a) **Installation Requirements for New Food Service Facilities** – All proposed or newly remodeled food service facilities inside the City of Cottonwood Shores Wastewater Service area shall be required to install an approved properly operated and maintained grease interceptor. All interceptor units shall be installed outdoors of the Food Service Facility building unless the user can demonstrate to City of a hardship and that an outdoor interceptor would not be feasible. All interceptor units shall be of the type and capacity approved by the City of Cottonwood Shores.
- (b) **Requirements for Existing Food Service Facilities** - All existing food service facilities inside the City of Cottonwood Shores Wastewater Service area are expected to conduct their operations in such a manner that grease is captured on the user's premises and then properly disposed. Existing food service facilities will be expected to install an approved grease interceptor within 180 days after receiving notice.

- (c) **Prohibited Discharges** – Domestic Wastewater shall not be discharged to the grease interceptor unless specifically approved, in writing, by the City of Cottonwood Shores.
- (d) **Location** - Each grease interceptor shall be installed and connected so that it is easily accessible for inspection, cleaning and removal of the intercepted grease at any time. Grease interceptors required under this Ordinance shall be installed outdoors of the food service facility. The best location is in an area outside of an exterior wall, but upstream from the domestic wastewater drain line(s). A grease interceptor may not be installed inside any part of a building unless approved by the City Building Official.

Section 11.04 Design Criteria:

- (a) **Construction of Interceptors** - Grease interceptors shall be constructed in accordance with the City plumbing standards and outdoor units shall have a minimum of two compartments with fittings designed for grease retention.
- (b) **Access** – Outdoor grease interceptors shall be provided with two (2) manholes terminating one (1) inch above finished grade with cast iron frame and cover. All grease interceptors shall be designed and installed to allow for complete access for inspection and maintenance of inner chamber(s) as well as viewing and sampling of wastewater discharged to the sanitary sewer.
- (c) **Load-Bearing Capacity** - In areas where additional weight loads may exist, the grease interceptor shall be designed to have adequate load bearing capacity (example: vehicular traffic in parking or driving areas).
- (d) **Inlet and Outlet Piping** - Wastewater discharging to the grease interceptor shall enter only through the inlet pipe of the interceptor. The inlet pipe bottom tee branch shall extend one (1) foot below liquid level. The outlet pipe bottom tee branch shall be submerged to two-thirds (2/3) of the liquid depth. Each grease interceptor shall have only one inlet and one outlet pipe.
- (e) **Interceptor Sizing:**
 - (i) Outdoor grease interceptors shall not have a capacity of less than 750 gallons nor exceed a capacity of 3,000 gallons. No matter what the calculated capacity the minimum interceptor size shall be 750 gallons. If the calculated capacity exceeds 3,000 gallons, then multiple units in series shall be installed.
 - (ii) Grease interceptor designs represent minimum standards for normal usage. Installations with heavier usage require more stringent measures for which the user is responsible and shall pay the costs to provide additional measures if required by City of Cottonwood Shores. The City of Cottonwood Shores reserves the right to evaluate interceptor sizing on an individual basis for facilities with special conditions, such as highly variable flows, high levels of grease discharge, or other unusual situations.

Section 11.05 Grease Interceptor Maintenance:

- (a) **Pumping** - All grease interceptors shall be maintained by the user at the user's expense. Maintenance shall include the complete removal of all contents, including floating materials, wastewater and bottom sludge and solids. Decanting or discharging of removed waste back into the interceptor from which the waste was removed or any other grease interceptor, for the purpose of reducing the volume to be disposed, is strictly prohibited.

- (b) **Pumping Frequency** – Outdoor grease interceptors must be pumped out completely a minimum of once every three months. Under-sink or in-line grease interceptors must be pumped / cleaned out completely, a minimum of once every month. Grease interceptors may need to be pumped more frequently as needed to prevent carryover of grease into the sanitary sewer collection system. Pumping frequency may be extended past the minimum period if it can be demonstrated by the user and approved by City of Cottonwood Shores.
- (c) **Pump Out Order** – When the oil and grease concentrations exceed City of Cottonwood Shores maximum discharge limits and / or the combined depth of bottom and top solids exceeds thirty-three percent (33%) of the total depth of the trap, the City of Cottonwood Shores will issue a Pump Out Order to the user. The user shall have seven (7) days from receipt of the order to comply. Where an emergency exists, a written or verbal warning shall be given to the user and the user will have 24 hours to comply.
- (d) **Disposal of Interceptor Pumped Material** – All waste removed from each grease interceptor shall be recorded on a proper manifest form. All waste removed from each grease interceptor must be disposed at a facility that accepts this waste in accordance with the provisions of this program. In no way shall the pumped material be returned to any private or public portion of the sanitary sewer collection system.
- (e) **Additives** – It is not recommended to add additives, but any additive(s) which are placed into the grease interceptor or building discharge line system on a constant, regular, or scheduled basis shall be reported to the City of Cottonwood Shores. Such additives shall include, but are not be limited to commercially available bacteria or other additives designed to absorb, consume, or treat fats, oils, and grease. The use of additives shall in no way be considered as an alternative technology or a substitution for maintenance procedures required herein.
- (f) **Chemical Treatment** - Chemical treatments such as drain cleaners, enzymes, acids, and other chemicals designed to dissolve, purge, or remove grease shall not be allowed to enter the grease interceptor.

Section 11.06 Administrative Requirements:

- (a) **Administrative Fees** - No fee will be charged for an annual inspection by City of Cottonwood Shores; however, if the user's grease interceptor is not in compliance with this section, a \$200.00 re-inspection fee will be charged for each inspection thereafter until compliance is achieved.
- (b) **Inspection and Entry** - Authorized personnel of City of Cottonwood Shores, bearing proper credentials and identification, shall have the right to enter upon all properties subject to this program, at any time and without prior notification, for the purpose of inspection, observation, measurement, sampling, testing or record review, as part of this program.
- (c) **Record Retention and Reporting** – All users must keep a record of any cleaning or maintenance of their grease interceptor. The following records must be kept on-site at the food service facility for a period of two (2) years:
 - (i) Manifests are required for all grease interceptors and shall contain the following information:

- 1) Food Service Facility (generator) information, including name, address, volume pumped, date and time of pumping and generator signature verifying the information;
 - 2) Transporter information, including company name, address, license plate number, permit number, driver name, and driver signature verifying transporter information; and
 - 3) Receiving information, including facility name, address, date and time of receiving, EPD permit number and signature verifying receipt of the waste.
- (ii) Maintenance Logs are required for all under-sink and in-line interceptors. This log shall include the date, time, amount pumped or cleaned, hauler, disposal site and signature. Log shall be kept in a conspicuous location for inspection. This log shall be made immediately available to Health Officer or City of Cottonwood Shores' representative upon request.

Article XII. Mobile food establishments and roadside vendors: In addition to the requirements set forth in the Texas Food Establishment Rules, vehicles used for and as a mobile food establishment or roadside vendor shall comply with the following:

Section 12.01 Identification: Each vehicle permitted as a mobile food establishment or roadside vendor shall have printed on each side of the vehicle the name of the owner or assumed name under which the owner operates, together with the owner's telephone number. That lettering shall be not less than two (2) inches in height and not less than five-sixteenths (5/16) stroke in width. The lettering must be maintained and legible at all times. The lettering shall be made in a permanent and durable material or manner. If faded or chipped, the lettering shall be replaced or repaired.

Section 12.02 Food establishment permit; availability and visibility: A valid food establishment permit is required on each vehicle or mobile unit. The permit must be and visible to customers and inspectors at all times. If a mobile food establishment operates its own central preparation facility, the central preparation facility must be permitted separately.

Section 12.03 Vehicle cleanliness: All vehicles shall be reasonably free of dirt or rubbish and maintained in a clean and sanitary condition. The compartment(s) of the vehicle carrying food and food equipment, as well as the food contact surfaces and non-food contact surfaces of the food equipment used in and with the vehicle, shall be maintained and cleaned in accordance with the Texas Food Establishment Rules.

Section 12.04 Driver, assistant with driver; food safety certification: Drivers and assistants with the drivers are to adhere to the same requirements as a food employee and have in their possession a valid food safety handler certificate. The driver is responsible for maintaining the cleanliness of the vehicle and food equipment as often as is necessary while on duty.

Section 12.05 Food equipment; design and temperature criteria: Food equipment shall meet the same design criteria and temperature criteria as a regular food establishment. The vehicle shall be equipped with a permanent power supply for the food equipment used for heating, cooking, cooling, refrigeration, freezing and holding of hot and cold foods. Plug in adapters to cigarette lighters are not allowed.

Section 12.06 Other requirements regarding mobile food establishments and roadside vendors: Mobile food establishments and roadside vendors including snow cone stands that prepare food on the vehicle or on location must also:

- (a) Comply with all requirements of a food establishment including hand wash and dishwashing sinks, cleaning operations, hot water and pest control.
- (b) Must have a letter of permission from the owner of the property upon which the sales are to take place to operate from that location.
- (c) Must have a letter of permission from the owner of that property or immediately adjacent to the property for use of restroom facilities.
- (d) Comply with employee food education requirements for food handlers and food managers as appropriate.

Article XIII. Exemptions for Temporary food establishments:

Section 13.01 Event coordinators: If an event has a coordinator for temporary food establishments, the coordinator is responsible for submitting the application, fees, names of all the food establishments and other necessary information. The coordinator will be the point of contact who the Regulatory Authority will deal with for permits, specific requirements, correcting problems or violations. The person designated as coordinator is responsible for the conditions relating to the temporary food establishments.

Section 13.02 Exemptions for temporary food establishments: An exemption requires the temporary food establishment to operate provided it is operated in full compliance in accordance with the provisions of this article and the Texas Food Establishment Rules., a temporary food establishment permit is not required for events or celebrations that meet one of the following conditions:

- (a) The event is held exclusively for specific identified participants of a specific group or membership and not open to the general public; or
- (b) The event is operated on the physical property of from a permitted food establishment by the permitted food establishment, with support facilities for food services operations, for use within the permitted food establishment, on the physical property of the establishment; or
- (c) A fund raiser for nonprofit or charitable organizations that is supervised by a certified food manager, or by a minimum of two individuals with food safety handler's certification, who must be in charge and have authority and responsibility to correct problems or violations; or
- (d) The event provides only commercially pre-packaged and no potentially hazardous foods and beverages or dispensed beverages; or
- (e) The meeting, function, event, or celebration is catered from a permitted food establishment and does not require further food preparation on site; or
- (f) A bake sale is conducted for a nonprofit organization consisting of only nonperishable foods, such as cakes and cookies, but not including pies; or
- (g) The event provides only whole, uncut, fresh fruits and vegetables; or

(h) The food and beverages are provided by a mobile vendor permitted by the Regulatory Authority.

Article XIV. Re-inspection fees: If an establishment requires a re-inspection for failure of the establishment to provide immediate correction of multiple critical items or imminent health hazards, or failure to correct violations identified from the previous routine inspection, or when the total cumulative demerit values of an inspection report exceeds more than thirty (30) demerits, a re-inspection fee will be charged in the amount set out in the fee schedule. Failure to pay the fee to the Regulatory Authority office before the re-inspection is due or within five (5) calendar days in the case of imminent health hazards or major critical food violations, is a violation of this Ordinance.

Article XV. Employee food education:

Section 15.01 Food establishment employees:

- (a) A food handler certificate must be obtained by any person employed in a food establishment with duties that require the individual:
 - (i) to receive, handle, prepare, cook, display, serve, dispense or store food or drink, regardless if whether the food or drink is packaged or unpackaged, potentially hazardous or non-potentially hazardous; or
 - (ii) to whose duties include handling, storage, or cleaning of food equipment and rooms that contain food used in the food establishment related operations shall possess a food safety certificate.
- (b) Any person required to obtain a food safety handler certificate must do so within thirty (30) calendar days of employment. The permit holder or person in charge of a food establishment is responsible to ensure that an individual has obtained the food safety handler certificate within the required time period.
- (c) Persons not required to obtain a food handler certificate are persons Individuals whose only duty is to:
 - (i) cashier,
 - (ii) assist customers in carry out of food items,
 - (iii) provide direct delivery of a food order;
 - (iv) assist children and infants with their foods or meals at a childcare center;
 - (v) volunteers at a temporary event or temporary fund raiser; or
 - (vi) persons possessing a food manager certification approved accredited by the Texas Department of Health T. D.S.H.S.
- (d) Food establishments selling only prepackaged foods and do not dispense foods and beverages are not required to have employees with food manager or food handler certificates.
- (e) To receive a food handler certificate, an individual person must pay a fee and successfully complete the training class either over the internet or in an instructor conducted class. The primary purpose of the class is to orient the individual to food establishment operations, sanitation, and employee practices. It is not a

substitute for extensive training which is the responsibility of each food establishment's permit holder, manager, or supervisor.

- (f) Any a person holding a food handler certificate who does not demonstrate acceptable personal hygiene, food handling, or food safety practices, to the satisfaction of the Regulatory Authority, may be required to retake the class within seven (7) calendar days.
- (g) Food safety handler certificates must be on display in a conspicuous location at the food establishment or readily available for review by the Health Inspector.
- (h) Food handlers' certificates are valid for two years. Renewal requirements are the same as that for the original certification.

Section 15.02 Childcare food employees:

- (a) Any person employed at a childcare center whose duties include the handling, preparing, or cooking of food or cleaning of food equipment shall possess a food handler certificate.
- (b) Individuals who help serve or assist children and infants with their foods or meals are not required to obtain a childcare food safety handler certificate.

Section 15.03 Food managers:

- (a) All permanent and mobile food establishments including child care facilities that prepare, cook, serve, or hold potentially hazardous foods, packaged or unpackaged, shall have an individual that possesses a valid food manager certification. A certified food manager must be on duty at the food establishment during the hours that the foods are handled, prepared, cooked, or served. The certified food manager shall have authority to oversee and implement procedures, requirements, instructions and other measures to provide for the safe storage, handling, preparation and serving of all food products and food equipment.
- (b) A person employed to serve as a food manager, who does not possess a food manager certificate, must acquire the certificate within thirty (30) calendar days of employment. The food establishment permit holder or person in charge of the food establishment is responsible to ensure that the person has obtained the required certificate within that required time.
- (c) Certification and re-certification shall meet the criteria established by the Texas Health and Safety Code, Chapter 438, Subchapter D, and requirements established by the Texas Department of State Health Services T.D.S.H.S. The training shall include a minimum of 14 hours of instruction excluding time for the final examination required to satisfy successful completion of the training. Recertification shall be required as stated in The Texas Health and Safety Code, Chapter 438, Subchapter D, and requirements established by the Texas Department of State Health Services.
- (d) A person who possesses a valid food manager's certification is not required to obtain a food safety handler certificate or a childcare food manager certificate.
- (e) Food establishments that provide only commercially prepackaged foods (including limited heating, dispensing, and preparing by the consumer) are not required to have a certified food manager.

Section 15.04 Childcare food managers:

- (a) All childcare centers shall have a person or individual that possesses a food manager certificate. The childcare food manager must be on duty during the times that foods, other than snacks, are handled, prepared, cooked, or served.
- (b) To receive a childcare food manager certificate, an individual must successfully complete the training class provided by the County Public Health District. Childcare food manager certificates are valid for three years. Subsequent renewal is by completing the training class again. The certificate must be on display in a conspicuous location at the childcare center.
- (c) A person or individual who obtains a childcare food manager certificate is not required to obtain a food safety handler certificate, food handler certificate, or a food manager certificate while employed at a childcare center.
- (d) A person who possesses a valid food manager certificate is not required to obtain a childcare food manager certificate.

Article XVI. Suspension of Permit:

Section 16.01 The Regulatory Authority may, without warning, notice, or hearing: suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon service of the notice required by **Section 16.02** of this Ordinance. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within twenty (20) days of receipt of a request for a hearing.

Section 16.02 Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Regulatory Authority by the holder of the permit within ten (10) days. If no written request for hearing is filed within ten days, the suspension is sustained. The Regulatory Authority may end the suspension at any time if reasons for suspension no longer exist.

Article XVII. Revocation of Permit:

Section 17.01 The Regulatory Authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these Rules or for interference with the Regulatory Authority in the performance of its duties. Prior to revocation, the Regulatory Authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten days following service of such notice unless a written request for a hearing is filed with the Regulatory Authority by the holder of the permit within such ten day period.

Section 17.02 If no request for hearing is filed within the ten day period, the revocation of the permit becomes final.

Article XVIII. Administrative Process:

Section 18.01 A notice as required in these Rules is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the Regulatory Authority.

Section 18.02 The hearings provided for in these Rules shall be conducted by the Regulatory Authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the Regulatory Authority shall make final findings and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the Regulatory Authority.

Section 18.03 Establishment, number and appointment: There is hereby established a Board to be called the Food Services Board of Appeals (hereinafter called Board) which will consist of five (5) regular members and four (4) alternate members, which Board shall be appointed by the City Council.

- (a) **Terms of office; vacancies:** Each member of the Food Services Board shall be appointed for a term of two (2) years except that the initial board shall have two (2) of its regular members appointed for one year and two (2) of the alternate members appointed for one year. All Boardmembers' terms of office shall be considered to commence as of May 1st and terminate as of April 30th of the year appropriate for their term of office. Vacancies shall be filled for an unexpired term for the particular Boardmember. Each member shall continue to serve until his successor is appointed. The City council may remove any Boardmember at its discretion.
- (b) **Quorum; participation in voting:** Any four (4) members of the Board shall constitute a quorum for the purpose of conducting business. In varying the application of any provision of this Ordinance or in modifying an order of the Health inspector, the concurring votes of the majority present, but not less than three (3) members, shall be required. A Boardmember shall not participate in nor vote in a case in which he or she has a personal interest.
- (c) **Records of proceedings:** The Board shall make a record of all of its proceedings which shall set forth in writing the reasons for their decisions, the votes of each member participating therein, the absence of a member and any failure of a member to vote.
- (d) **Rules of procedure; meetings:** The Board shall establish Rules and Regulations for its own procedure consistent with the provisions of this Code. The Board shall meet to hear appeals within the time requirements for appeals required by this Ordinance. The Board shall also meet when required by the Health Inspector of the City and may meet at such regular intervals that it may choose.
- (e) **Decisions and appeals:** The Food Services Board of Appeals decision shall be final in any matter pertaining to this Ordinance and any appeals from the Board's final decision shall be to a Court of Competent Jurisdiction.

Article XIX. Penalty Provision/Remedies: Any person, firm, corporation, or association managing or conducting any food establishment where food, drink or containers therefore of any kind is manufactured, transferred, prepared, stored, packed, served, sold or otherwise handled who violates, disobeys, omits, neglects, or refuses to comply with, or resists enforcement of any provisions of these Regulations shall be fined not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00) for each offense. Each violation of this article shall be deemed a separate offense and each day that a violation exists shall constitute a separate offense. This

City of Cottonwood Shores

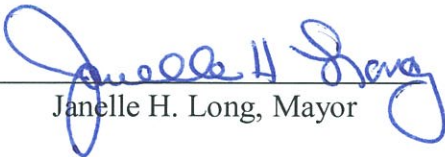
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penalty should not be construed as exclusive, and the City shall be authorized to pursue all other Criminal and Civil Remedies to which it is entitled under the authority of any other Ordinances or by State Law.

Article XX. Severability: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of Competent Jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

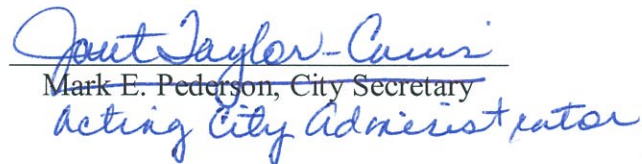
Article XXI. Effective Date: This Ordinance shall become effective from and after its adoption and publication as required by the City Charter and by Law.

PASSED AND APPROVED by the City Council of Cottonwood Shores, Texas, at a meeting on the 3rd day of May, 2012 with 3 votes in favor, 2 votes against and 0 abstentions.



Janelle H. Long, Mayor

Attest:



Mark E. Pederson, City Secretary
Acting City Administrator