

ORDINANCE NO. 4868
Zoning Text Amendment No. 2021- 02

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE, AS PREVIOUSLY AMENDED, ZONING TEXT AMENDMENT NO. 2021-02, BY MAKING CERTAIN ADDITIONS AND DELETIONS TO SECTIONS CONTAINED IN PARTS 3 AND 6 PERTAINING TO THE CREATION OF MOBILE FOOD UNIT PARKS AS A REGULATED PERMITTED LAND USE IN CERTAIN DISTRICTS; AND AMENDING CHAPTER 8 OF THE MESQUITE CITY CODE, AS PREVIOUSLY AMENDED, BY MAKING CERTAIN DELETIONS AND ADDITIONS, INCLUDING REPEALING AND REPLACING ARTICLE VIII TO BE TITLED “FOOD AND FOOD ESTABLISHMENTS,” PROVIDING FOR GENERAL UPDATES AND ADOPTING THE TEXAS FOOD ESTABLISHMENT RULES (“TFER”) 2015 EDITION AND LOCAL AMENDMENTS THERETO, AND PROVIDING ADDITIONAL UPDATES TO THE OPERATION AND HEALTH PERMITTING OF VARIOUS TYPES OF MOBILE FOOD UNITS (MFU), INCLUDING FOOD TRUCKS AND FOOD TRAILERS, AND INCORPORATING AN MFU-OPERATION SITE APPROVAL PROCESS INCLUDING AN MFU-OPERATION SITE PERMIT; AMENDING ARTICLE I, DIVISION 2, RELATED TO APPEAL OF THE CITY MANAGER’S DECISION TO THE CITY COUNCIL; AMENDING ARTICLE III, DIVISIONS 4 AND 5 RELATED TO MOBILE VENDORS AND MOBILE FOOD UNITS; AND AMENDING APPENDIX D – COMPREHENSIVE FEE SCHEDULE, REVISIONS TO RELATED FEES IN ARTICLES I AND XII; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Mesquite City Code text amendments to Chapter 8, Article VIII “Food and Food Establishments” provides for general updates to the Article and adopts the latest Texas Food Establishment Rules (“TFER”) 2015 Edition and provides local amendments thereto; and

WHEREAS, within the newly revised Article VIII, the City provides updated and business-friendly regulations for Mobile Food Units (MFUs) such as Food Trucks and Trailers to operate in the City; and

WHEREAS, the Mesquite Zoning Ordinance text amendments provide regulations for the creation of Mobile Food Unit Parks as a regulated permitted land use in certain non-residential districts; and

WHEREAS, it is the intent of the City Council of the City of Mesquite, Texas (“**City Council**”), to protect the public health, safety, and welfare; and

WHEREAS, the City of Mesquite, Texas (“**City**”), is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, [Section 5](#) of the Texas Constitution and [Chapter 9](#) of the Texas Local Government Code; and

WHEREAS, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, [Section 51.072\(a\)](#); and

WHEREAS, the City shall have the power to enact and enforce ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove all nuisances, and to preserve and enforce good government and order and security of the City and its inhabitants, pursuant to Article III, [Section 2](#) of the Mesquite City Charter; and

WHEREAS, a home-rule municipality may enforce ordinances necessary to protect health, life and property, and to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, [Section 54.004](#), as amended; and

WHEREAS, the City may regulate the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes pursuant to Texas Local Government Code, Title 7, Subtitle A, Chapter 211, [Section 211.003](#); and

WHEREAS, pursuant to Mesquite City Charter, Article III, [Section 11](#), the City shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon and improve streets, alleys, sidewalks, squares, parks, public places and bridges and regulate the use thereof; and

WHEREAS, on **March 8, 2021**, the City of Mesquite Planning and Zoning Commission considered text amendments to the Mesquite Zoning Ordinance and after having given proper public notice and holding a public hearing, the Planning and Zoning Commission recommended the City Council adopt the text amendment to the Mesquite Zoning Ordinance; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of the City to amend the Mesquite City Code and Mesquite Zoning Ordinance as herein provided.

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

SECTION 1. **Recitals Incorporated.** The City Council hereby finds and determines the recitals made in the preamble of this ordinance are true and correct, and hereby incorporates such recitals here in the body of this ordinance as if copied in their entirety.

SECTION 2. MESQUITE ZONING ORDINANCE TEXT AMENDMENT: Revising Parts 3 and 6 of the Mesquite Zoning Ordinance.

The Mesquite Zoning Ordinance, as previously amended, is hereby amended by making certain additions and deletions as identified in **EXHIBIT A**, thereby making certain additions and deletions to sections contained in Part 3 and Part 6 pertaining to the creation of Mobile Food Unit Parks as a regulated permitted land use in certain non-residential districts. Said exhibit is attached hereto and made a part hereof, and in all other respects said Zoning Ordinance, Parts, and Sections shall remain in full force and effect.

SECTION 3. MESQUITE CITY CODE AMENDMENT: Repealing and replacing Chapter 8, Article VIII of the Mesquite City Code.

Chapter 8 of the Mesquite City Code, as amended, is hereby amended as follows and as identified in **EXHIBIT B**, thereby repealing and replacing Article VIII to be titled “Food and Food Establishments” and said exhibit is attached hereto and made a part hereof, and in all other respects, said Code and Chapter shall remain in full force and effect.

SECTION 4. MESQUITE CITY CODE AMENDMENT: Revising Chapter 8, Article I, Division 2 of the Mesquite City Code.

Chapter 8 of the Mesquite City Code, as amended, is hereby amended as follows and as identified in **EXHIBIT C**, thereby revising Article I, Division 2 (Appeal of the City Manager’s Decision to the City Council) and said exhibit is attached hereto and made a part hereof, and in all other respects, said Code and Chapter shall remain in full force and effect.

SECTION 5. MESQUITE CITY CODE AMENDMENT: Revising Chapter 8, Article III, Division 4 and 5 of the Mesquite City Code.

Chapter 8 of the Mesquite City Code, as amended, is hereby amended as follows and as identified in **EXHIBIT D**, thereby revising certain sections in Article III, Division 4 (Solicitations On Publicly Owned Property) and Division 5 (Outdoor Solicitations On Private Property) and said exhibit is attached hereto and made a part hereof, and in all other respects, said Code and Chapter shall remain in full force and effect.

SECTION 6. MESQUITE CITY CODE AMENDMENT: Revising Appendix D – Comprehensive Fee Schedule of the Mesquite City Code.

Appendix D – Comprehensive Fee Schedule of the Mesquite City Code, as amended, is hereby amended as follows and as identified in **EXHIBIT E**, thereby revising certain sections in Article I (Administration) and Article XII (Planning and Development Services) and said exhibit is attached hereto and made a part hereof, and in all other respects, said Code shall remain in full force and effect.

SECTION 7. Severability Clause. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, the Mesquite City Code, as hereby or previously amended, or the Mesquite Zoning Ordinance, as hereby or previously amended, which shall remain in full force and effect.

SECTION 8. Penalty Clause. Generally. Nothing in this ordinance prohibits the City from pursuing civil and criminal enforcement remedies and penalties concurrently or availing itself of any other remedy allowed by law. **Criminal.** Any violation of the provisions or terms of this ordinance by any “person,” (as defined in Mesquite City Code, Chapter 1, [Section 1-2](#)) shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine not to exceed TWO THOUSAND DOLLARS (\$2,000.00) for each offense, as provided in Mesquite City Code, Chapter 1, [Section 1-6](#), as amended. **Civil.** The City may also file a civil action for enforcement of this ordinance. **Maximum penalties.** If the maximum penalties provided for by this ordinance for an offense or civil action is greater than the maximum penalty provided for the same offense or civil action under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense or civil action shall be the maximum penalty provided by the laws of the State of Texas.

SECTION 9. Publication. This ordinance shall be published in the City’s official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#).

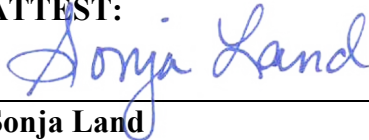
SECTION 10. Effective Date. This ordinance after its passage and publication shall take effect on, and be in force from and after, five (5) days after publication thereof, in accordance with Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on this the **7th day of JUNE 2021**.



Bruce Archer
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. 4868

ZTA 2021 – 02
Mesquite Zoning Ordinance

Mesquite Zoning Ordinance

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PART 3. – NONRESIDENTIAL DISTRICTS

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3-200 - USE REGULATIONS

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[Editor’s NOTE: Revise Section 3-203 by adding the following text identified in green font and underlined.]

3-203 Schedule of Permitted Uses													
* * *													
G. RETAIL TRADE													
SIC Code	Use Description	O	GR	LC	THN K20 NGTC	CV	MU	CB	SS	C	I	PKNG STND	Special Conditions
***	***												***
58	EATING, DRINKING PLACES												
5812	Eating Places (except):		P	P			P	P	P	P	P	17	
	a. Drive-in Restaurants									P	P	17	
	b. Restaurant holding a Food & Beverage Certificate with Private Club (Ord. 3922/12-17-07)			C				C		C	C	18	Permits private club operated by fraternal or veterans' organizations certified under Alcoholic Beverage Code without a Conditional Use Permit in districts designated; See SIC 864.
	c. <u>Mobile Food Unit Park ("MFU-Park")</u>		<u>P</u>	<u>P</u>			<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>		<u>Requires compliance with 3-512.</u>
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PART 3. – NONRESIDENTIAL DISTRICTS

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3-500 SUPPLEMENTARY USE REGULATIONS

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[Editor’s NOTE: Add NEW Section 3-512 titled “Mobile Food Unit Park” and as shown below.]

3-512 – Mobile Food Unit Park (“MFU-Park”).

A mobile food unit park (“MFU-Park”), as defined in [Section 6-102](#), is a fixed commercial location and permanent development designed to accommodate three (3) or more mobile food units (“MFUs”) offering food and/or beverages for sale to the public as the primary use of land.

A. GENERAL PROVISIONS.

1. *Abbreviations and definitions.* The following terms are defined in this Zoning Ordinance, see [Section 6-102](#).
 - a. Base of Operation.
 - b. Central Preparation Facility (Commissary).
 - c. MFU. Mobile Food Unit
 - d. MFU–Park. Mobile Food Unit Park
 - e. MFU–Stall. Mobile Food Unit Stall
2. *Site plan.* A site plan for any mobile food unit park (“MFU–Park”) shall be approved by the City of Mesquite showing compliance with this section, the City’s development standards ([Section 3-300](#)), the City’s Engineering Design Manual (City Code, [Sec. 15-111](#)), and any other applicable standards or requirements.
3. *Drive-through facilities.* MFU–Parks shall not install permanent drive-through facilities or other drive-through designations. MFU–Parks may allow for temporary drive-through events as may be authorized by a Special Event Permit (City Code, Chapter 8, [Article XV](#)), or other lawful authorization.
4. *Central preparation facility (Commissary).* The MFU–Park may be designated and permitted as an approved central preparation facility (commissary) in accordance with Mesquite City Code, Chapter 8, [Article VIII](#) (Food and Food Establishments).

B. LOCATION.

1. A mobile food unit park is permitted to be located within any authorized zoning district as is identified in [Section 3-203](#) Schedule of Permitted Uses.
2. A MFU–Park shall be located at a minimum of 200 feet from any inhabited or inhabitable residential dwelling.

Cross reference – Authorized zoning districts, [Section 3-203](#) Chart – See, (G) Retail Trade, 5812 Eating Places (except), (c) Mobile Food Unit Park.

C. HOURS OF OPERATION.

1. MFU–Parks may be open to the public starting at 6:00 AM until 11:00 PM, unless otherwise authorized by a Special Event permit (City Code, Chapter 8, [Article XV](#)), or other lawful authorization.
2. MFU–Parks shall be closed to the public between the hours of 11:00 PM and 6:00 AM, unless otherwise provided.
3. Work related to cleaning and maintenance of the MFU–Park may occur at any time.

D. SEATING AND AMENITIES.

1. The MFU–Park shall provide a minimum of four (4) indoor and/or outdoor seats, at an eating surface such as a table, per MFU–Stall.
2. The required seating may be located in one or more common areas within the MFU–Park.
3. A minimum of two (2) permanent restroom facilities, one facility each for males and females to both include flushable toilet(s) and hand sink(s), shall be located on the site and shall comply with all applicable building and construction codes (City Code, [Chapter 5](#)), and the Fire Code (City Code, Chapter 6, [Article II](#)).
4. All amenities, buildings, and structures shall be shown on the site plan.

E. PARKING.

1. *Mobile food unit stall parking requirements.*
 - a. Mobile Food Unit stalls (“MFU–Stalls”) shall be marked or otherwise designated on a concrete or asphalt surface.
 - b. Individual MFU–Stalls shall be separated from buildings, structures, and other MFU–Stalls as may be required by law and shall meet the requirements of the Mesquite Fire Code (City Code, Chapter 6, [Article II](#)).
 - c. Buildings, structures, and MFU–Stalls shall be shown on the site plan.
2. *Vehicle parking requirements.*
 - a. An MFU–Park shall be required to provide a minimum of three (3) vehicle parking spaces for each marked or otherwise designated MFU–Stall.
 - b. Additional vehicle parking spaces may be required by the Director of Planning and Development Services depending on the details of the site plan submitted.
 - c. The vehicle parking spaces may be located in one or more common areas within the MFU–Park.
 - d. Vehicle parking spaces shall be shown on the site plan.

F. SIGNS AND ADVERTISING.

1. The MFU-Park may have one (1) freestanding sign per public street frontage in compliance with the Mesquite Sign Ordinance (City Code, [Chapter 13](#)).
2. A sign shall be posted in a prominent location, on-site for customers, clearly identifying the name, phone number, and e-mail address of at least one site manager. The dimensions of the sign shall be no more than two feet by two feet (2 ft x 2 ft).
3. Signs associated with individual mobile food units are permissible in accordance with subsection (K)(6) "Signs and advertising – Individual Mobile Food Units."
4. No other signs for the MFU-Park are permitted unless authorized by the Mesquite Sign Ordinance (City Code, [Chapter 13](#)).

G. UTILITY SERVICES.

1. MFU-Parks shall provide accessibility to a permanent potable water supply line for use by the Mobile Food Unit operators.
2. Each MFU-Stall located within the MFU-Park shall be provided hookups for electricity.
3. Use of generators at the MFU-Park is generally prohibited unless emergency circumstances necessitate the need for the use of generators on a temporary basis.

H. WASTE RECEPTACLES.

1. *Site dumpster.*
 - a. The MFU-Park is required to provide a minimum of one (1) garbage dumpster sufficient in size to accommodate the waste generated on the site and the garbage dumpster shall be accessible to all mobile food unit employees and/or workers.
 - b. The Director of Planning and Development Services may require additional garbage dumpsters depending on the details of the site plan submitted.
2. *Trash receptacles for customer use.*
 - a. The MFU-Park is required to provide one (1) individual trash receptacle, for use by customers, for every three (3) MFU-Stalls.
 - b. The Director of Planning and Development Services may require additional trash receptacles depending on the details of the site plan submitted.
 - c. The individual trash receptacles may be located in one or more common areas within the MFU-Park.
3. *Liquid waste.*
 - a. The MFU-Park may, but is not required, to install grease interceptors or traps in accordance with the Mesquite City Code, Chapter 8, [Article VIII](#) (Food and Food Establishments) and [Chapter 16](#) (Water and Liquid Waste).
 - b. MFU operators shall dispose of liquid waste at an authorized liquid waste disposal site such as a base of operation.

I. PROPERTY OWNER – DUTIES AND RESPONSIBILITIES.

1. *In general.* The property owner of the MFU-Park, or his/her authorized agent, shall have the following duties and responsibilities as herein described.
2. *Certificate of occupancy.* Each MFU-Park shall be required to receive a Certificate of Occupancy (“CO”) from the Building Official prior to operations.
3. *Designation of site manager(s).*
 - a. The property owner, or his/her authorized agent, shall be required to designate at a minimum, one (1) local site manager for the MFU-Park. The property owner, or his/her authorized agent, may be designated as the site manager.
 - b. The property owner, or his/her authorized agent, shall notify the Building Official of the name(s), date of birth, driver’s license number or other State identification number and the originating State for the identification, phone number, home (physical address) or business office (physical address), business mailing address, and e-mail address of the site manager(s) to be placed on-file with the City.
 - c. The property owner, or his/her authorized agent, shall notify the Building Official within thirty (30) days of any changes to the required site manager information being kept on-file.
 - d. A site-manager no longer employed at the MFU-Park, but whose information remains on-file with the City, may provide the details of their departure to the Building Official in an affidavit so as to be promptly removed as the designated site-manager on-file with the City.
 - e. In accordance with sub-section (F) “Signs and Advertising,” the property owner or his/her authorized agent, shall post a sign identifying at least one site manager and his/her contact information. If the information required to be provided to the public on the sign changes, the sign shall be updated within thirty (30) days of any change.

J. SITE MANAGER – DUTIES AND RESPONSIBILITIES.

1. *In general.* The site manager(s) of the MFU-Park shall have the following duties and responsibilities as herein described.
2. *Local site manager(s).* The site manager(s), or one or more designated employees/workers, shall be located locally, such that they should be able to be physically at the MFU-Park daily and/or weekly, and be able to respond with same-day-service in the event of a complaint regarding the requirements of the MFU-Park.
3. *Operations.* The site manager is responsible for the overall orderly operation of the MFU-Park. The site manager, or his/her designee(s), shall be responsible for keeping the MFU-Park site clean, neat, sanitary, and orderly at all times.
4. *Waste Collection.*
 - a. The site manager, or his/her designee, shall provide plastic bags or wet-strength paper bags to line the trash receptacles on-site.
 - b. The site manager, or his/her designee, shall be responsible for the daily placement of filled garbage and refuse bags into the site dumpster(s). The garbage and refuse bags shall be securely tied or closed and shall be in an unbroken condition prior to placement in the site dumpster(s).

K. MOBILE FOOD UNIT OPERATOR(S) – REGULATIONS FOR OPERATION WITHIN A MOBILE FOOD UNIT PARK.

1. *Mobile food unit compliance with Mesquite City Code required.*
 - a. *In general.* All mobile food units (“MFUs”) shall comply in general with the Mesquite City Code, and specifically with Chapter 8, [Article VIII](#) “Food and Food Establishments,” except as may be modified herein.
 - b. *Persons required to comply.* Persons, persons in control, and persons in-charge, including, owners, operators, employees, and workers of the mobile food unit are all required by Mesquite City Code to be in compliance with City Code, Chapter 8, [Article VIII](#) “Food and Food Establishments,” except as may be modified herein.
 - c. *Health permit.* All mobile food unit operators shall obtain a Health Permit from the City Health Official to operate within the City, in accordance with Mesquite City Code, Chapter 8, Article VIII, Division 3 (Health Permits).
 - d. *Base of operation.* Mobile food units shall have access to an authorized central preparation facility (commissary) or a fixed commercial location food establishment (collectively referred to as a “base of operation”) as may be required by the City Health Official.
2. *Hours of operation.*
 - a. Individual mobile food units may remain parked on-site within the MFU–Park at any time but may only be open to customers during the hours the MFU–Park is open to the public as herein authorized, or as may be authorized by a Special Event permit (City Code, Chapter 8, [Article XV](#)), or other lawful authorization.
 - b. Work related to cleaning, maintenance, food preparation, and any other business operation preparation of the individual mobile food units may occur at any time.
3. *Parking of mobile food units.*
 - a. Mobile food units shall be parked in a marked or otherwise designated MFU–Stall on a concrete or asphalt surface.
 - b. Mobile food units may remain parked on-site within the MFU–Park at any time.
4. *Use of generators limited to emergencies.* The use of generators at the MFU–Park is generally prohibited unless emergency circumstances necessitate the need for the use of generators on a temporary basis.
5. *Drive-through business prohibited.* Unless otherwise provided, mobile food units shall not conduct business where customers drive-through the MFU–Park in their vehicles and are served from an individual mobile food unit from a drive-through-type window.
6. *Signs and advertising – Individual Mobile Food Units.*
 - a. Signs may be attached to the interior of a mobile food unit. For example, menus may be posted inside the mobile food unit.
 - b. Signs may be attached to the exterior of a mobile food unit and shall be mounted flat against the mobile food unit.

EXHIBIT A TO ORDINANCE NO. 4868; ZTA NO. 2021-02.
Mesquite Zoning Ordinance

P&Z Meeting Date: March 8, 2021 | City Council Meeting Date: June 7, 2021

- c. An A-Frame sign not to exceed four (4) feet in height and located within six (6) feet of the mobile food unit for which it is advertising is permitted during business hours.
 - d. Signs associated with the MFU-Park are permissible in accordance with subsection (F) "Signs and Advertising."
 - e. No other signs for the individual mobile food units shall be permitted unless authorized by the Mesquite Sign Ordinance (City Code, [Chapter 13](#)).
7. *Sales of non-food items.* In general, the retail sale of non-food items shall be prohibited, unless said non-food items are incidental to the mobile food unit's operations. For example: T-shirts, hats, can Koozies, souvenir cups, or other promotional items related to the mobile food unit and/or its affiliates.
8. *Mobile food units shall be attended.* Each mobile food unit shall be attended by an employee or worker at all times when the mobile food unit is open to the public.

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PART 6. – DEFINITIONS

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6-102 Definitions

[Editor's NOTE: Add NEW definitions as shown below in alphabetical order within Section 6-102.]

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Base of Operation: Mobile Food Units (MFUs) are required to have access, on any MFU operation day, to an authorized Central Preparation Facility (Commissary) or other authorized Fixed Commercial Location Food Establishment (collectively referred to as a “base of operation”). Mobile food unit, Fixed Commercial Location, and Food Establishment are all defined terms in Mesquite City Code, Chapter 8, Article VIII, [Division 2](#), Sec. 8-563.

* * *

Central Preparation Facility (Commissary): A facility that is an approved and permitted retail food establishment at which food is prepared, stored, and wrapped; and the Mobile Food Unit is supplied with fresh water and ice; and emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food-contact surfaces or items not capable of being immersed in the Mobile Food Unit utensil-washing sink. Use of a private residence as a central preparation facility is prohibited.

Texas Administrative Code Reference –

Texas Administrative Code, Title 25, Part 1, Chapter 228, Subchapter A, Rule §228.2 Definitions.

* * *

Mobile Food Unit (“MFU”): Mobile food unit is defined in the City Code, Chapter 8, Article VIII, [Division 2](#), Sec. 8-563.

Mobile Food Unit Park (“MFU-Park”): A mobile food unit park is a fixed commercial location and permanent development designed to accommodate three (3) or more mobile food units (“MFUs”) offering food and/or beverages for sale to the public as the primary use of land.

Mobile Food Unit Stall (“MFU-Stall”): A mobile food unit stall is a marked or otherwise designated space for mobile food unit parking.

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EXHIBIT B

To Ordinance No. 4868

Mesquite City Code, Chapter 8, Article VIII Food and Food Establishments

MESQUITE CITY CODE

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CHAPTER 8 – LICENSES, PERMITS, AND BUSINESS REGULATIONS

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ARTICLE VIII. – FOOD AND FOOD ESTABLISHMENTS.

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MESQUITE CITY CODE

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CHAPTER 8 – LICENSES, PERMITS, AND BUSINESS REGULATIONS

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Sec. 8-520 – 8-540. – Reserved.

ARTICLE VIII. – FOOD AND FOOD ESTABLISHMENTS

DIVISION 1. - GENERALLY

~~Sec. 8-511.~~ – Purpose.

The purpose of this article is to safeguard public health and provide uniform requirements for FOOD and FOOD ESTABLISHMENTS and related operations.

Similar provisions – Texas Administrative Code, Title 25, Part 1, Chapter 228, Subchapter A, Rule §228.1 Purpose.

~~Sec. 8-512.~~ – Health Official; interpretations of rules and codes; policies and procedures.

The Health Official shall have the authority to render interpretations of the adopted rules and codes in this article and to adopt, including but not limited to, policies, procedures, forms, guidelines, handbooks, and other materials in order to clarify the application of any provisions of this article. Such interpretations and materials shall be in compliance with the intent and purpose of the adopted Rules and the Mesquite City Code. Unless otherwise provided, such policies, procedures, forms, and other materials shall not have the effect of waiving requirements specifically provided for in the adopted Rules or City Code, as may be amended.

Cross reference – Food Establishment Rules (the “Rules”), Mesquite City Code, Chapter 8, Article VIII, Division 2.

~~Sec. 8-513.~~ – Permit required.

Any PERSON who sells or conveys FOOD or operates a FOOD ESTABLISHMENT shall obtain a HEALTH PERMIT from the Health Official and shall comply with the requirements of this article. This article shall be liberally construed and applied to promote its underlying purpose of protecting public health.

Cross reference – Sec. 8-563 Local Amendments to the Texas Food Establishment Rules, 2015 Edition.

~~Sec. 8-514.~~ – Fees.

- (a) *Adoption.* Fees for this article have been reviewed, set, and adopted by the City Council.
- (b) *Comprehensive Fee Schedule.* The fees associated with this article are located in this Mesquite City Code, [Appendix D – Comprehensive Fee Schedule](#).
- (c) *Authority.* The Health Official or his/her designees shall have the authority to reduce, refund, or waive fees under this article.

- (d) *Permit fees and appeal fees shall be paid.* When a fee is required for a permit or an appeal, the fee shall accompany the application for said permit or appeal, or the fee shall be paid in accordance with any City-issued invoice if applicable. If the fee is not paid, upon the filing of an application or in accordance with the terms of any City-issued invoice, the permit shall not be issued, or the appeal shall not proceed for decision.

Cross references –

Mesquite City Code, Appendix D – Comprehensive Fee Schedule, Article I, [Sec. 1-105](#) (Appeals).

Mesquite City Code, Appendix D – Comprehensive Fee Schedule, Article XII, [Sec. 12-113](#) (Health Division: Food & Food Establishments); and [Sec. 12-114](#) (Health Division: Other Food Related Permits).

Mesquite City Code, Appendix D – Comprehensive Fee Schedule, Article XV, [Sec. 15-100](#) (Grease and Grit Trap).

~~Sec. 8-545~~ **– Enforcement and issuance of citations.**

- (a) **Enforcement.** The Health Official or his/her designees are hereby authorized and directed to enforce the provisions of the Mesquite City Code including this article, the Mesquite Zoning Ordinance (MZO), and any other federal, State, or other local laws as may be permitted.
- (b) **Issuance of citations.** The Health Official or his/her designees have the authority to issue citations to PERSONS violating the provisions of this article. “PERSON” is as defined in Division 2, Sec. 8-563 of this article, and in City Code Chapter 1, [Sec. 1-2](#).

State Law reference — Local Public Health Reorganization Act, V.T.C.A. Health and Safety Code, § 121.001 et seq.

Cross reference — Division 2, Sec. 8-563 Local Amendments to the Texas Food Establishment Rules, 2015 Edition.

~~Sec. 8-546~~ **– Violations and offenses.**

- (a) In general, this Code creates an offense as identified in City Code, Chapter 1, [Sec. 1-6](#).
- (b) It shall be an unlawful and an offense for any “PERSON,” as defined in Division 2, Sec. 8-563 of this article, and in City Code Chapter 1, [Sec. 1-2](#), to violate any provision of this article.
- (c) It shall be unlawful and an offense for any PERSON who owns, operates, or is a PERSON IN CHARGE of a FOOD ESTABLISHMENT to allow any PERSON employed at the FOOD ESTABLISHMENT to violate any provision of this article.
- (d) It shall be unlawful and an offense for any PERSON to hinder, physically prevent, interfere with, or otherwise obstruct the Health Official, or his/her designees, in the performance of his/her duties as prescribed by State, local law, and the Rules.
- (e) It shall be unlawful and an offense for any PERSON to hinder, physically prevent, interfere with, or otherwise obstruct the lawful inspection of a FOOD ESTABLISHMENT by the Health Official or his/her designee.
- (f) It shall be unlawful and an offense for any PERSON to hinder, physically prevent, interfere with, or otherwise obstruct the lawful inspection of a food establishment by the Health Official; such actions may also constitute reason for suspension of the Health Permit or any other permit(s).
- (g) It shall be unlawful and an offense if any PERSON willfully provides false information to the Health Official or his/her designees, the City Health Division, or the REGULATORY AUTHORITY, as it relates to enforcement of the provisions of this article, other local law, State law, and the Rules.
- (h) It shall be unlawful and an offense for liquid waste to be discharged to a storm drain or other unauthorized location.
- (i) It shall be unlawful and an offense for any PERSON to remove or alter a HOLD ORDER, notice, or tag placed on food by the REGULATORY AUTHORITY, and neither food nor the containers shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without the permission of the REGULATORY AUTHORITY.
- (j) It shall be unlawful and an offense to operate any mobile food unit on any private property or public property without authorization from the property owner or authorized agent of the property owner.

- (k) Subject to any exceptions and exclusions, it shall be unlawful and an offense for any property owner, or authorized agent of any property owner, to allow any mobile food unit to operate from its property unless MFU–Operation Site Approval is granted through an MFU–Operation Site Permit or some other authorization, exception, or exclusion.
- (l) Subject to any exceptions and exclusions, it shall be unlawful and an offense for any MFU operator, or authorized agent, to operate from City-owned or other public property unless MFU–Operation Site Approval is granted through an MFU–Operation Site Permit or some other authorization, exception, or exclusion.
- (m) It shall be unlawful for an owner, PERMIT HOLDER, PERSON IN CHARGE, employee, or representative of any CENTRAL PREPARATION FACILITY or BASE OF OPERATION to issue a servicing record without first verifying that the MOBILE FOOD UNIT has complied with all servicing requirements.
- (n) It shall be unlawful for any owner, PERMIT HOLDER, PERSON IN CHARGE, employee, or representative of any CENTRAL PREPARATION FACILITY or BASE OF OPERATION to knowingly present or issue any false, fraudulent, or untruthful servicing record for the purpose of demonstrating compliance with the requirements of this article.
- (o) It shall be unlawful and an offense for an operator of a MOBILE FOOD UNIT to be in operation in the CITY without a valid servicing record in his/her possession for a period of two (2) years.
- (p) It shall be unlawful and an offense for any PERSON IN CHARGE of a BASE OF OPERATION for MOBILE FOOD UNIT(S) to be in operation in the CITY without valid servicing records for a period of two (2) years for each MOBILE FOOD UNIT receiving servicing at the BASE OF OPERATION.

Mesquite City Code references –

Rules of construction, [Sec. 1-2](#).

General penalties; applicability; continuing violations, [Sec. 1-6](#).

Cross reference – Food Establishment Rules (the “Rules”), Mesquite City Code, Chapter 8, Article VIII, Division 2.

~~Sec. 8-547~~ – Penalties.

1. *Criminal penalty.* Any violation of the provisions or terms of this article by any PERSON as may defined in this article or defined in Mesquite City Code, [Section 1-2](#), shall be deemed a Class C Misdemeanor criminal offense and upon conviction thereof shall be subject to a penalty of fine as provided in Mesquite City Code, [Section 1-6](#), as amended. Each day a violation continues shall constitute a separate offense.
2. *Civil penalty.* In accordance with Mesquite City Code, [Section 1-6](#), the City may file any other civil actions for enforcement of this article as authorized by law.

State law reference – General Enforcement Authority of Municipalities; Penalty, V.T.C.A. Local Government Code, [§ 54.001](#).

Charter reference – Enforcement of ordinances, [Art. III, § 28](#).

Mesquite City Code references –

General penalties; applicability; continuing violations, [Sec. 1-6](#).

Rules of construction, [Sec. 1-2](#).

~~Sec. 8-548~~ – Defined terms.

Terms appearing in ALL CAPITAL LETTERS are defined terms in the Texas Food Establishment Rules (TFER), 2015 Edition, and pursuant to this article, Sec. 8-563.

Sec. 8-549–8-560. – Reserved.

DIVISION 2. - FOOD ESTABLISHMENT RULES.

~~Sec. 8-501.~~ – **Short title.**

This division shall be known as the Food Establishment Rules of the City of Mesquite, Texas, and may be cited as the “Mesquite Food Establishment Rules” and may also hereinafter be referred to as “these Rules” or “the Rules”, or “this Code.”

~~Sec. 8-502.~~ – **Adopted.**

The [Texas Food Establishment Rules \(TFER\), 2015 Edition](#), a publication of the Texas Department of State Health Services (TDSHS), codified in Texas Administrative Code, Title 25, Part 1, [Chapter 228 \(Retail Food\)](#) is hereby adopted by reference and incorporated herein to the same extent as if such rules were copied verbatim in this section, subject to the deletions, additions, and amendments (“the local amendments”) prescribed in this article. A copy of the [Texas Food Establishment Rules \(TFER\), 2015 Edition](#), and the local amendments thereto shall be maintained in the Office of the City Secretary.

~~Sec. 8-503~~ – Local Amendments to the Texas Food Establishment Rules, 2015 Edition.

1. *Specific rule provisions.* Amendments included in this section are intended to be specific rule provisions. If there is a conflict between a provision in the published Texas Food Establishment Rules (TFER), 2015 Edition, and this section, the specific provisions of this section shall control.
2. *Table of the local amendments.*
 - a. The following table contains the local amendments to the Texas Food Establishment Rules (TFER), 2015 Edition.
 - b. Table Legend.
 - (1) Column 1: Item Reference Number (also “Line Number” or “Local Amendment Number”).
 - (2) Column 2: Related TFER Section Number and Title.
 - (3) Column 3: Local Amendment to TFER.
 - (4) (. . .): Dots (. . .) (i.e. an ellipsis) indicate the omission of intact and unchanged text which has not been reproduced for efficiency purposes. It is intended that the text in the TFER, not set forth in this section and instead denoted by dots (. . .), shall remain intact and unchanged from the language existing prior to adoption of this section.
 - (5) (* * *): Asterisks (* * *) indicate the omission of intact and unchanged text which has not been reproduced for efficiency purposes. It is intended that the text in the TFER, not set forth in this section and instead denoted by asterisks (* * *), shall remain intact and unchanged from the language existing prior to adoption of this section.
3. *Texas Administrative Code (TAC) Format:*

TEXAS ADMINISTRATIVE CODE FORMAT

Subchapter A – Subchapter

228.1 – Section

(a) Subsection

(1) Paragraph

(A) Subparagraph

(i) Clause

(I) Subclause

-a- Item

-1- Subitem

TABLE OF LOCAL AMENDMENTS TO THE 2015 TEXAS FOOD ESTABLISHMENT RULES		
No.	TFER Code Section No. Title	Local Amendment to TEXAS FOOD ESTABLISHMENT RULES (TFER)
SUBCHAPTER A. GENERAL PROVISIONS.		
01	TFER § 228.1.001. TITLE.	<p><i>Amend by adding a new section to read as follows:</i></p> <p>§ 228.1.001. Title. These Texas Food Establishment Rules (TFER), codified in Texas Administrative Code, Title 25, Part 1, Chapter 228 (Retail Food), shall be known as the Food Establishment Rules of the City of Mesquite, Texas, and may be cited as the “Mesquite Food Establishment Rules” and may also hereinafter be referred to as “these Rules” or “the Rules,” or “this Code.”</p>
02	TFER § 228.1.002. PURPOSE.	<p><i>Amend section by renumbering the section and amending to read as follows:</i></p> <p>§ 228.1.002. Purpose. The purpose of these rules is to safeguard public health and provide to CONSUMERS FOOD that is safe, unadulterated, and honestly presented.</p> <p>The Rules are based in part upon Code of Federal Regulations, Title 21, Food and Drugs, Volumes 1 – 8, Chapter I, Parts 1 – 1299.</p> <p>These Rules implement Texas Health and Safety Code, Chapter 437, Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Vendors.</p>

03	TFER § 228.1.003. ABBREVIATIONS AND ACRONYMS.	<p><i>Amend by adding a new section to read as follows:</i></p> <p>§ 228.1.003. Abbreviations and acronyms.</p> <p>The following abbreviations and acronyms may be used within this chapter or other City resource materials and are associated with the TFER:</p> <ol style="list-style-type: none"> 1. a_w: Water Activity Denoted in these rules with the symbol (a_w). 2. CFR: Code of Federal Regulations 3. CIP: Cleaned In Place 4. CUP: Conditional Use Permit 5. DT: Downtown 6. <i>E. coli</i>: Escherichia coli 7. EHEC: Enterohemorrhagic <i>E. coli</i>. 8. EIN: Employer Identification Number 9. EPA: U.S. Environmental Protection Agency 10. FDA: U.S. Food and Drug Administration 11. FM: Farmers Market 12. FOG: Fats, Oils, and Grease 13. FRP: Fiberglass Reinforced Panels 14. HACCP: Hazard Analysis Critical Control Point 15. HOA: Home Owners' Association (includes Neighborhood Associations) 16. HUS: Hemolytic Uremic Syndrome 17. ID: Identification 18. IRS: Internal Revenue Service 19. MFU: Mobile Food Unit 20. MFU-C: MFU-Catering Trucks & Trailers 21. MFU-F: MFU-Food Preparation Trucks & Trailers 22. MFU-IC: MFU-Ice Cream Trucks & Trailers 23. MFU-PC: MFU-Pushcarts 24. MFU-Park: Mobile Food Unit Park 25. Mg/L: Milligrams Per Liter 26. NSF: National Sanitation Foundation 27. Non-TCS or (NTCS): Non-Time/Temperature Controlled for Safety 28. P or P^o: Priority Item. Denoted in these rules with a superscript P (P^o). 29. PA: Product Assessment 30. Pf or P^f: Priority Foundation Item. Denoted in these rules with a superscript Pf (P^f). 31. PIC: Person In Charge 32. ppm: Parts Per Million 33. ROP: Reduced Oxygen Packaging 34. RTE: Ready-To-Eat 35. STEC: Shiga toxin-producing Escherichia coli 36. TAC: Texas Administrative Code 37. TCS: Time/Temperature Controlled for Safety 38. TDSHS: Texas Department of State Health Services 39. TFER: Texas Food Establishment Rules 40. U.S.: United States 41. USDA: United States Department of Agriculture 42. VCT: Vinyl Composite Tile 43. VTEC: Verocytotoxigenic <i>E. coli</i>
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04	TFER § 228.2. DEFINITIONS.	<p><i>Amend section to read in part as follows:</i></p> <p>§ 228.2. Definitions. The following definitions apply in the interpretation and application of these Rules.</p> <p>Definitions identified in this article will appear in ALL CAPITAL LETTERS.</p> <p>When the City adds definitions to the TFER, the new definitions will <i>generally</i> not be placed in alphabetical order within the existing TFER definition subsections; instead, most (but not all) the new definitions will usually appear at the end of this section starting at paragraph (153).</p> <p style="text-align: center;">* * *</p>
05	TFER § 228.2. DEFINITIONS. (47.0) Event. (47.1) Public Event. (47.2) Private Event.	<p><i>Renumber paragraph (47) to (47.0) and amend the paragraph in its entirety to include (47.1) and (47.2) to read as follows:</i></p> <p style="text-align: center;">§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(47.0) EVENT-- Unless the context is clearly otherwise provided for, when the TFER references the term “EVENT” it shall mean a PUBLIC EVENT as herein defined.</p> <p>(47.1) PUBLIC EVENT --</p> <p>(A) PUBLIC EVENT means a temporary event at which FOOD and/or BEVERAGE is sold or conveyed to the public; and</p> <p style="padding-left: 20px;">(1) that is advertised to the general public by any means; OR</p> <p style="padding-left: 20px;">(2) any PUBLIC EVENT or PRIVATE EVENT that requires any permission for the operation of the event, whether by permit, license, or other official authorization, such as a Special Event Permit in accordance with Mesquite City Code, Article XV (Special Events and Parades).</p> <p>(B) PUBLIC EVENTS shall include, but not be limited to, festivals, bazaars, carnivals, circus, fund-raisers, public exhibitions, celebrations, outdoor neighborhood block parties, customer appreciation events, sporting events, or other public gatherings which may be civic, educational, political, or public in nature.</p> <p>(47.2) PRIVATE EVENT --</p> <p>(A) PRIVATE EVENT means a temporary event or gathering:</p> <p style="padding-left: 20px;">(1) at which FOOD and/or BEVERAGE is offered to participants; and</p> <p style="padding-left: 20px;">(2) where entry to the event is limited to private invitation (or limited ticket sales and/or pre-ticket sales) from an individual, or an event organization, group, club, association, or institution; and</p> <p style="padding-left: 20px;">(3) an event in which the Health Official does not generally regulate and in which no CITY permit or approval is required.</p> <p>(B) Exception. Any PRIVATE EVENT that requires a Special Event Permit in accordance with Mesquite City Code, Article XV (Special Events and Parades), is classified herein as a PUBLIC EVENT for the purpose of requiring a HEALTH PERMIT in accordance with this article.</p>

07	<p>TFER § 228.2. DEFINITIONS.</p> <p>(76) License.</p>	<p><i>Amend paragraph (76) in its entirety to read as follows:</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(76) LICENSE -- The document APPROVED by the Health Official or his/her designee and issued by the CITY HEALTH DIVISION that authorizes a PERSON to operate a FOOD ESTABLISHMENT. May also be referred to in these RULES as a HEALTH PERMIT or PERMIT, and in the case of Mobile Food Units, may be referred to as an MFU–ANNUAL HEALTH PERMIT.</p>
08	<p>TFER § 228.2. DEFINITIONS.</p> <p>(85.0) Mobile Food Unit (MFU).</p>	<p><i>Renumber paragraph (85) to (85.0) and amend the paragraph in its entirety to read as follows:</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(85.0) MOBILE FOOD UNIT (MFU) –</p> <p>(A) Is a vehicle mounted, self, or otherwise propelled, self-contained FOOD ESTABLISHMENT, designed to be readily movable and used to store, prepare, display, convey, serve, or sell FOOD.</p> <p>(B) MOBILE FOOD UNITS (MFUs) include, but are not limited to, the following types:</p> <ul style="list-style-type: none"> (i.) MFU–C. CATERING TRUCKS & TRAILERS (See § 228.232); (ii.) MFU–F. FOOD PREPARATION TRUCKS & TRAILERS (See § 228.233); (iii.) MFU–IC. ICE CREAM TRUCKS & TRAILERS (See § 228.234); (iv.) MFU–PC. PUSHCARTS (See § 228.235). <p>(C) Mobile Food Units may also have classifications such as MFUs with:</p> <ul style="list-style-type: none"> (i.) NO FOOD PREPARATION; (ii.) LIGHT FOOD PREPARATION; and (iii.) HEAVY FOOD PREPARATION. <p>(D) MOBILE FOOD UNITS (MFUs) do <u>NOT</u> include the following:</p> <ul style="list-style-type: none"> (i.) Booths; (ii.) Stands; (iii.) CHILD’S LEMONADE STANDS; and (iv.) ROADSIDE FOOD VENDORS (See § 228.237). <p>Mesquite Zoning Ordinance reference – Mobile Food Unit Park, Part 3, 3-200, Section 3-203 – Schedule of Permitted Uses. Mobile Food Unit Park, Part 3, 3-500, Section 3-512 – Mobile Food Unit Park (MFU-Park). Part 6, 6-100, Section 6-102 – Definitions.</p> <p>State law references – Texas Local Government Code, Title 7, Subtitle C, Chapter 250, § 250.009 (Certain Sales of Beverages By Children).</p>

09	<p>TFER § 228.2. DEFINITIONS.</p> <p>(85.01) MFU–General Provisions.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(85.01) MFU–GENERAL PROVISIONS -- Provisions applicable to all MFUs unless otherwise specified. See § 228.231.</p>
10	<p>TFER § 228.2. DEFINITIONS.</p> <p>(85.02) MFU–Catering Trucks & Trailers.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(85.02) MFU–CATERING TRUCKS & TRAILERS (“MFU–C”) -- MFU–CATERING TRUCKS & TRAILERS are a type of MOBILE FOOD UNIT. MFU–Cs may sell or convey FOOD requiring either NO FOOD PREPARATION where operators sell or convey FOOD in such a manner that no direct FOOD contact results, or as MFU–C with LIGHT FOOD PREPARATION where FOODS require a limited amount of preparation, as authorized by the Health Official. MFU–Cs work primarily to service construction and industrial sites. MFU–Cs do not include CATERING VEHICLES used to transport FOOD from a FOOD ESTABLISHMENT to a separate location where it is meant to be served and consumed. MFU–C classifications are as follows:</p> <p style="text-align: center;">MFU–C with NO FOOD PREPARATION MFU–C with LIGHT FOOD PREPARATION</p> <p>See § 228.232. See also and distinguish from CATERING VEHICLE.</p>
11	<p>TFER § 228.2. DEFINITIONS.</p> <p>(85.03) MFU–Food Preparation Trucks & Trailers.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(85.03) MFU–FOOD PREPARATION TRUCKS & TRAILERS (MFU–F) -- MFU–FOOD PREPARATION TRUCKS & TRAILERS are a type of MOBILE FOOD UNIT. MFU–FOOD PREPARATION TRUCKS & TRAILERS include what’s commonly referred to as “Food Trucks & Trailers.” MFU–FOOD PREPARATION TRUCKS & TRAILERS (“MFU–F”) may serve a full menu as APPROVED by the HEALTH DIVISION including HEAVY FOOD PREPARATION and cooking from raw product, and LIGHT FOOD PREPARATION which includes “Snow Cone Trucks & Trailers.” MFU–F classifications are as follows:</p> <p style="text-align: center;">MFU–F with HEAVY FOOD PREPARATION MFU–F with LIGHT FOOD PREPARATION</p> <p>See § 228.233.</p>

12	TFER § 228.2. Definitions. (85.04) MFU–Ice Cream Trucks & Trailers.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. <p style="text-align: center;">* * *</p> (85.04) MFU–ICE CREAM TRUCKS & TRAILERS (“MFU–IC”) -- MFU–ICE CREAM TRUCKS & TRAILERS are a type of MOBILE FOOD UNIT. MFU–ICE CREAM TRUCKS & TRAILERS (“MFU–IC”) are usually classified as NO FOOD PREPARATION MFUs whereby operators serve only pre-PACKAGED FOOD products which are sold or conveyed in such a manner that no direct FOOD contact results. See § 228.234.
13	TFER § 228.2. DEFINITIONS. (85.05) MFU–Pushcart.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. <p style="text-align: center;">* * *</p> (85.05) MFU–PUSHCART (“MFU–PC”) -- MFU–PUSHCARTS are a Type of MOBILE FOOD UNIT. An MFU–PUSHCART (“MFU–PC”) is a non-self-propelled MOBILE FOOD UNIT readily movable by one or two PERSONS. MFU–PUSHCARTS serve FOODS requiring either NO FOOD PREPARATION where operators sell or convey FOOD in such a manner that no direct FOOD contact results, or as MFU–PC with LIGHT FOOD PREPARATION where FOODS require a limited amount of preparation, as authorized by the Health Official. MFU–PC classifications are as follows: <p style="text-align: center;">MFU–PC with NO FOOD PREPARATION MFU–PC with LIGHT FOOD PREPARATION</p> See § 228.235.
14	TFER § 228.2. DEFINITIONS. (85.06) MFU–Annual Health Permit.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. <p style="text-align: center;">* * *</p> (85.06) MFU–ANNUAL HEALTH PERMIT -- The document APPROVED by the Health Official or his/her designee and issued by the CITY HEALTH DIVISION that authorizes a PERSON to operate a FOOD ESTABLISHMENT. May also be referred to in these RULES as a HEALTH PERMIT, PERMIT, or LICENSE. See also and distinguish from MFU–OPERATION SITE PERMIT.
15	TFER § 228.2. DEFINITIONS. (85.07) MFU–Operation Site.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. <p style="text-align: center;">* * *</p> (85.07) MFU–OPERATION SITE -- means the geographic area, within which the MOBILE FOOD UNIT (MFU) will conduct operations such as parking, preparing, conveying, and selling FOOD (including BEVERAGES). The term MFU–OPERATION SITE shall also include, if applicable, any area where the MFU’s customers go on-site to consume FOOD sold or conveyed from the MFU.

16	<p>TFER § 228.2. DEFINITIONS.</p> <p>(85.08) MFU–Operation Site Approval.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(85.08) MFU–OPERATION SITE APPROVAL -- subject to certain exemptions and exclusions, an MFU–OPERATION SITE APPROVAL by the City Manager or his/her designee shall be required prior to issuance of an MFU–OPERATION SITE PERMIT.</p>
17	<p>TFER § 228.2. DEFINITIONS.</p> <p>(85.09) MFU–Operation Site Permit.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(85.09) MFU–OPERATION SITE PERMIT – subject to certain exemptions and exclusions, an MFU–OPERATION SITE PERMIT is issued to the owner of property, or the authorized representative of the owner of the property, where certain MFU–OPERATION SITES are located after MFU–OPERATION SITE APPROVAL is made by the City Manager or his/her designee.</p> <p>See also and distinguish from MFU–ANNUAL HEALTH PERMIT.</p>
18	<p>TFER § 228.2. DEFINITIONS.</p> <p>(85.10) Mobile Food Unit Park (MFU-Park).</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(85.10) MOBILE FOOD UNIT PARK (“MFU–PARK”) -- A MOBILE FOOD UNIT PARK (MFU–Park) is defined as a FIXED COMMERCIAL LOCATION and permanent development designed to accommodate three (3) or more MOBILE FOOD UNITS offering FOOD and/or BEVERAGES for sale to the public as the primary use of land.</p> <p>Mesquite Zoning Ordinance reference – Mobile Food Unit Park, Part 3, 3-200, Section 3-203 – Schedule of Permitted Uses. Mobile Food Unit Park, Part 3, 3-500, Section 3-512 – Mobile Food Unit Park (MFU-Park). Part 6, 6-100, Section 6-102 – Definitions.</p>
19	<p>TFER § 228.2. DEFINITIONS.</p> <p>(85.11) Mobile Food Unit Stall (MFU-Stall).</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(85.11) MOBILE FOOD UNIT STALL (“MFU–STALL”) -- A MOBILE FOOD UNIT STALL (MFU–Stall) is defined as a marked or otherwise designated space for MOBILE FOOD UNIT (MFU) parking.</p>
20	<p>TFER § 228.2. DEFINITIONS.</p> <p>(92) Permit.</p>	<p><i>Amend paragraph (92) in its entirety to read as follows:</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(92) PERMIT -- The document APPROVED by the Health Official or his/her designee and issued by the CITY HEALTH DIVISION that authorizes a PERSON to operate a FOOD ESTABLISHMENT. May also be referred to in these RULES as a HEALTH PERMIT or LICENSE, and in the case of Mobile Food Units, may be referred to as an MFU–ANNUAL HEALTH PERMIT.</p>

21	TFER § 228.2. DEFINITIONS. (94) Person.	Amend paragraph (94) in its entirety to read as follows: § 228.2. Definitions. <p style="text-align: center;">* * *</p> (94) PERSON -- Means an individual, association, corporation, partnership, or other business entity with ownership, care, custody, or control over a FOOD ESTABLISHMENT or over conveyance of FOOD or BEVERAGE, including, but not limited to the HEALTH PERMIT HOLDER or LICENSE HOLDER, EMPLOYEE, FOOD EMPLOYEE, person in control, or PERSON-IN-CHARGE. PERSON shall also include and incorporate herein by reference the definition of “person” in Mesquite City Code, Chapter 1, Sec. 1-2 .
22	TFER § 228.2. DEFINITIONS. (111) Pushcart.	Amend paragraph (111) in its entirety to read as follows: § 228.2. Definitions. <p style="text-align: center;">* * *</p> (111) PUSHCART – SEE paragraph (85.05) MFU–PUSHCART.
23	TFER § 228.2. DEFINITIONS. (116) Regulatory Authority.	Amend paragraph (116) in its entirety to read as follows: § 228.2. Definitions. <p style="text-align: center;">* * *</p> (116) REGULATORY AUTHORITY. The local, State, or federal enforcement body or authorized representative having jurisdiction over the FOOD ESTABLISHMENT. The Health Official, and his or designees, serves as the REGULATORY AUTHORITY for these Rules, the City Code, the Mesquite Zoning Ordinance, and any other Federal, State, or local LAW as applicable. See also HEALTH OFFICIAL.
24	TFER § 228.2. DEFINITIONS. (123.1) Roadside Food Operations.	Add paragraph (123.1) to read as follows: § 228.2. Definitions. <p style="text-align: center;">* * *</p> (123.1) ROADSIDE FOOD OPERATIONS -- ROADSIDE FOOD OPERATIONS are lawful operations conducted by MOBILE FOOD UNITS, such as MFU-C, MFU-F, MFU-IC, and MFU-PC, that may operate from a temporary location adjacent to a public road or highway in accordance with the MFU–OPERATION SITE APPROVAL process, or in accordance with any exceptions or exclusions thereto. Cross reference – Chapter 8, Article VIII, Division 6 (Operation Site Approval For Mobile Food Units).

EXHIBIT B TO ORDINANCE NO. 4868
MESQUITE CITY CODE, CHAPTER 8, ARTICLE VIII. – FOOD AND FOOD ESTABLISHMENTS

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		<p>(160) Catering Vehicle</p> <p>(161) Certificate of Registration</p> <p>(162) Certified Food Protection Manager</p> <p>(163) Certified & Registered Food Protection Manager</p> <p>(164) Certified Food Handler</p> <p>(165) Child's Lemonade Stand</p> <p>(166) City</p> <p>(167) Concession Facility</p> <p>(168) Condiments</p> <p>(169) Conditional Food Establishment</p> <p>(170) Construction and Equipment Standards for Food Establishments</p> <p>(171) Corrosion-Resistant Materials</p> <p>(172) Cottage Food</p> <p>(173) Cottage Food Production Operation</p> <p>(174) Downtown Mesquite Main Street Program Boundary Area</p> <p>(175) Farmers Market</p> <p>(176) Farmers Market Vendor</p> <p>(177) Farmers Market Vendor Products</p> <p>(178) Fixed Commercial Location</p> <p>(179) Food Handler</p> <p>(180) Food Handler Certificate of Completion</p> <p>(181) Food Protection Manager Certificate of Completion</p> <p>(182) Foraged Food</p> <p>(183) Gleaned Food</p> <p>(184) Health Authority</p> <p>(185) Health Division</p> <p>(186) Health Official</p> <p>(187) Health Permit</p> <p>(188) Hearing Officer</p> <p>(189) Heavy Food Preparation</p> <p>(190) Holder</p> <p>(191) Hold Order</p> <p>(192) Hygienic Practices</p> <p>(193) Incidental Sales</p> <p>(194) Itinerant Vendor</p> <p>(195) Lemonade Stand</p> <p>(196) Light Food Preparation</p> <p>(197) Misbranded</p> <p>(198) No Food Preparation</p> <p>(199) Non-Food Contact Surface</p> <p>(200) Perishable Food</p> <p>(201) Personal Hygiene</p> <p>(202) Potable</p> <p>(203) Private Event</p> <p>(204) Produce</p> <p>(205) Public Event</p> <p>(206) Reconstituted</p> <p>(207) Registered Food Protection Manager</p> <p>(208) Rules</p> <p>(209) Safe Temperatures</p> <p>(210) Sealed</p> <p>(211) Seasonal or Pop-Up Food Establishment</p> <p>(212) Summer Nutrition Program (or) Summer Food Service Program</p> <p>(213) Wholesome</p>
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27	TFER § 228.2. DEFINITIONS. (153) Agricultural Product.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (153) AGRICULTURAL PRODUCT – AGRICULTURAL PRODUCT is of or related to the science, art, or practice of cultivating the soil, producing crops, and raising LIVESTOCK and in varying degrees the preparation and marketing of the resulting products such as, including but not limited to PRODUCE, MEATS, and dairy products including milk, EGGS, and cheese.
28	TFER § 228.2. DEFINITIONS. (154) Agricultural Product(s).	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (154) AGRICULTURAL PRODUCT(S) -- Shall mean AGRICULTURAL PRODUCT, APICULTURAL PRODUCT, horticultural, silvicultural, viticultural, or vegetable product for human consumption, in either its natural or processed state, that has been produced or processed or otherwise has had value added to the product in this state. AGRICULTURAL PRODUCT(S) include the definition of “Food” as defined in connection to the regulation of FARMERS MARKETS in the Texas Administrative Code, Part 1, Chapter 229, Subchapter FF, Rule §229.702 .
29	TFER § 228.2. DEFINITIONS. (155) Apicultural Product(s).	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (155) APICULTURAL PRODUCTS -- Are products of or related to the keeping of bee. APICULTURAL PRODUCTS include pure honey, the comb, and any other lawful APICULTURAL PRODUCTS in accordance with State law. Mesquite City Code reference – Chapter 4, Article XIV, Division 4, Sec. 4-861 . – Bees. State law reference – Bees and Honey, V.T.C.A. Agriculture Code, Title 6, Subtitle A., Chapter 131, § 131.001 et seq. Small Honey Production Operation defined, V.T.C.A. Health & Safety Code, § 437.001 .
30	TFER § 228.2. DEFINITIONS. (156) Approved source.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (156) APPROVED SOURCE -- A FOOD PROCESSING PLANT or a FOOD ESTABLISHMENT where the conditions and methods of preparation and/or packaging are subject to official regulation or inspection by federal, state, and or local regulatory authorities and where all federal, state, and local regulations are complied with.
31	TFER § 228.2. DEFINITIONS. (157) Base of Operation.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (157) BASE OF OPERATION – MOBILE FOOD UNITS (MFUs) are required to have access, on any MFU operation day, to an authorized CENTRAL PREPARATION FACILITY (Commissary) or other authorized FIXED COMMERCIAL LOCATION FOOD ESTABLISHMENT (collectively referred to as a BASE OF OPERATION).

32	TFER § 228.2. DEFINITIONS. (158) Catering Establishment.	<i>Amend section to add the following new paragraph and definition to read as follows.</i> § 228.2. Definitions. *** (158) CATERING ESTABLISHMENT -- A CATERING ESTABLISHMENT is a FOOD ESTABLISHMENT where FOOD is completely or partially prepared for delivery using a CATERING VEHICLE to a separate location where it is meant to be served and consumed.
33	TFER § 228.2. DEFINITIONS. (159) Catering Operation.	<i>Amend section to add the following new paragraph and definition to read as follows.</i> § 228.2. Definitions. *** (159) CATERING OPERATION – A CATERING OPERATION operates in a FOOD ESTABLISHMENT or some other facility or area in which the caterers prepare FOOD and/or serve FOOD on the PREMISES in control of another. For example, reception facilities may allow a CATERING OPERATION to prepare and/or serve FOOD at the reception facility for PRIVATE EVENTS.
34	TFER § 228.2. DEFINITIONS. (160) Catering Vehicle.	<i>Amend section to add the following new paragraph and definition to read as follows.</i> § 228.2. Definitions. *** (160) CATERING VEHICLE – A motor vehicle or trailer used to transport FOOD from a FOOD ESTABLISHMENT to a separate location where it is meant to be served and consumed. A CATERING VEHICLE is not considered a MOBILE FOOD UNIT (MFU) for purposes of these RULES. See also and distinguish from MFU–CATERING TRUCKS & TRAILERS.
35	TFER § 228.2. DEFINITIONS. (161) Certificate of Registration.	<i>Amend section to add the following new paragraph and definition to read as follows.</i> § 228.2. Definitions. *** (161) CERTIFICATE OF REGISTRATION -- A CERTIFICATE OF REGISTRATION is issued to a PERSON that is a CERTIFIED FOOD PROTECTION MANAGER who has registered with the HEALTH DIVISION to be a REGISTERED FOOD PROTECTION MANAGER.
36	TFER § 228.2. DEFINITIONS. (162) Certified Food Protection Manager.	<i>Amend section to add the following new paragraph and definition to read as follows.</i> § 228.2. Definitions. *** (162) CERTIFIED FOOD PROTECTION MANAGER -- A PERSON IN CHARGE of a FOOD ESTABLISHMENT shall be a CERTIFIED FOOD PROTECTION MANAGER who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM. A CERTIFIED FOOD PROTECTION MANAGER shall have a FOOD PROTECTION MANAGER CERTIFICATION.

37	TFER § 228.2. DEFINITIONS. (163) Certified & Registered Food Protection Manager.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (163) CERTIFIED & REGISTERED FOOD PROTECTION MANAGER -- A CERTIFIED & REGISTERED FOOD PROTECTION MANAGER is a CERTIFIED FOOD PROTECTION MANAGER who has registered with the CITY HEALTH DIVISION and has received a CERTIFICATE OF REGISTRATION from the HEALTH DIVISION.
38	TFER § 228.2. DEFINITIONS. (164) Certified Food Handler.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (164) CERTIFIED FOOD HANDLER -- A CERTIFIED FOOD HANDLER has received a certificate of completion issued by the State when the PERSON completes an accredited FOOD HANDLER training course.
39	TFER § 228.2. DEFINITIONS. (165) Child's Lemonade Stand.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (165) CHILD'S LEMONADE STAND -- The occasional sale of lemonade or other nonalcoholic BEVERAGES from a stand on private property or in a public park operated by an individual younger than eighteen (18) years of age. Pursuant to § 250.009 of the Texas Local Government Code, and notwithstanding any other LAW, a municipality, county, or other local public health authority may not adopt or enforce an ordinance, order, or rule that prohibits or regulates a CHILD'S LEMONADE STAND, including by requiring a LICENSE, PERMIT, or fee. State law reference – Texas Local Government Code, Title 7, Subtitle C, Chapter 250, § 250.009 (Certain Sales of Beverages By Children).
40	TFER § 228.2. DEFINITIONS. (166) City.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (166) CITY – CITY shall mean the City of Mesquite, Texas.
41	TFER § 228.2. Definitions. (167) Concession Facility.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (167) CONCESSION FACILITY -- Means a type of FOOD ESTABLISHMENT, which is operated in association with sports and athletic or similar recreational activities on a seasonal basis. CONCESSION FACILITIES operate on a seasonal basis and often operate more days per year than TEMPORARY FOOD ESTABLISHMENTS but significantly less days per year than FIXED COMMERCIAL LOCATION FOOD ESTABLISHMENTS. CONCESSION FACILITIES are separately regulated and are not considered SEASONAL OR POP-UP FOOD ESTABLISHMENTS for purposes of these Rules. (See § 228.229).

42	TFER § 228.2. Definitions. (168) Condiments.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions</p> <p style="text-align: center;">* * *</p> <p>(168) CONDIMENTS -- Means spices, salt, pepper, sugar, catsup, mustard, mayonnaise, sauces, non-dairy creamers and other items added by the CONSUMER to FOOD.</p>
43	TFER § 228.2. Definitions. (169) Conditional Food Establishment.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(169) CONDITIONAL FOOD ESTABLISHMENT -- A FOOD ESTABLISHMENT that is permitted to operate up to one hundred twenty (120) days while completing plan review procedures as specified in the CITY HEALTH DIVISION <i>Construction and Equipment Standards for Food Establishments</i>.</p>
44	TFER § 228.2. Definitions. (170) <i>Construction and Equipment Standards for Food Establishments.</i>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(170) Construction and Equipment Standards for Food Establishments - - A publication of the CITY HEALTH DIVISION outlining the requirements and standards for construction and EQUIPMENT for FOOD ESTABLISHMENTS.</p>
45	TFER § 228.2. Definitions. (171) Corrosion-Resistant Materials.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(171) CORROSION-RESISTANT MATERIALS -- Materials that maintain their original surface characteristics under prolonged influence of the FOOD to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of use.</p>
46	TFER § 228.2. Definitions. (172) Cottage Food.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(172) COTTAGE FOOD -- Any FOOD listed as being a permissible FOOD produced utilizing lawful COTTAGE FOOD PRODUCTION OPERATIONS.</p> <p>Similar State law provision – Definition of Cottage Food Production Operation; Texas Health & Safety Code, Title 6, Subtitle A, Chapter 437, Section 437.001.</p>

47	<p>TFER § 228.2. Definitions.</p> <p>(173) Cottage Food Production Operation.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(173) COTTAGE FOOD PRODUCTION OPERATION -- means an individual operating out of the individual's residence, who:</p> <p>(A) has an annual gross income of fifty thousand dollars (\$50,000) or less from the sale of FOOD described in section (F) below;</p> <p>(B) sells FOOD produced directly to CONSUMERS at the individual's home, a FARMERS' MARKET, a municipal, county, or nonprofit fair, festival, or EVENT;</p> <p>(C) delivers products to the CONSUMER at the point of sale or another location designated by the CONSUMER;</p> <p>(D) packages FOOD in a manner that prevents contamination, except for FOOD too large or bulky for conventional packaging;</p> <p>(E) complies with the labeling requirements as defined by the executive commissioner of the Texas Department of State Health Services (TDSHS); and</p> <p>(F) produces one or more of the following:</p> <ol style="list-style-type: none"> (1) a baked good that is a NON-TIME/TEMPERATURE CONTROLLED FOR SAFETY ("Non-TCS"), (2) candy, (3) coated or uncoated nuts, (4) unroasted nut butters, (5) fruit butters, (6) a canned jam or jelly, (7) a fruit pie, (8) dehydrated fruit or vegetables, (9) dried beans, (10) popcorn and popcorn snacks, (11) cereal, (12) granola, (13) dry mix, (14) vinegar, (15) pickles, (16) mustard, (17) roasted coffee or dry tea, or (18) a dried herb or herb mix. <p>State law reference – Definition of Cottage Food Production Operation; Texas Health & Safety Code, Title 6, Subtitle A, Chapter 437, Section 437.001.</p>
48	<p>TFER § 228.2. Definitions.</p> <p>(174) Downtown Mesquite Main Street Program Boundary Area.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(174) Downtown Mesquite Main Street Program Boundary Area – is the area in downtown Mesquite, Texas, designated as a Texas Main Street Program under the Community Heritage Development division of the Texas Historical Commission. The DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA may be viewed on the City's GIS map by clicking on the Layer List.</p>

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49	TFER § 228.2. Definitions. (175) Farmers Market.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(175) FARMERS MARKET -- A common area and/or facility, classified as a FOOD ESTABLISHMENT, at which two (2) or more FARMERS MARKET VENDORS offer PRODUCE, AGRICULTURAL PRODUCTS, or COTTAGE FOOD for retail sale, sample, or consumption directly to CONSUMERS on a regular or recurring basis. A FARMERS MARKET may be operated by, including but not limited to, a PERSON, FARMERS MARKET VENDORS, a governmental entity or agency and/or its authorized designees, a business entity, or non-profit entity.</p> <p>Texas Administrative Code reference – TAC, Part 1, Chapter 229, Subchapter FF Farmers' Markets.</p> <p>Mesquite Zoning Ordinance reference – Farmers Markets are considered outdoor display lots for purposes of the MZO; Mesquite Zoning Ordinance (MZO), Part 3, 3-600, Section 3-602 Outdoor Display Lot.</p>
50	TFER § 228.2. Definitions. (176) Farmers Market Vendor.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(176) FARMERS MARKET VENDOR -- Any PERSON who offers or sells PRODUCE, AGRICULTURAL PRODUCT(S), or COTTAGE FOOD for retail sale, sample, or consumption at a FARMERS MARKET.</p> <p>Mesquite Zoning Ordinance reference – Farmers Markets are considered outdoor display lots for purposes of the MZO; Mesquite Zoning Ordinance (MZO), Part 3, 3-600, Section 3-602 Outdoor Display Lot.</p>
51	TFER § 228.2. Definitions. (177) Farmers Market Vendor Products.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(177) FARMERS MARKET VENDOR PRODUCTS -- include PRODUCE, AGRICULTURAL PRODUCT(S), or COTTAGE FOOD for retail sale, sample, or consumption. For any other FOODS not identified herein, only FOOD from an APPROVED SOURCE as defined in these Rules may be offered at a FARMERS MARKET, unless otherwise authorized by the Health Official.</p>
52	TFER § 228.2. Definitions. (178) Fixed Commercial Location.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(178) FIXED COMMERCIAL LOCATION -- a building, facility, site, or other structure that can obtain a certificate of occupancy (“CO”); not mobile in nature.</p>

53	TFER § 228.2. Definitions. (179) Food Handler.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(179) FOOD HANDLER -- A FOOD HANDLER is an EMPLOYEE, or a PERSON otherwise associated with, a FOOD ESTABLISHMENT whose work brings them into contact with the handling of FOOD, UTENSILS, or FOOD service EQUIPMENT. See also CERTIFIED FOOD HANDLER.</p>
54	TFER § 228.2. Definitions. (180) Food Handler Certificate of Completion.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(180) FOOD HANDLER CERTIFICATE OF COMPLETION -- A FOOD HANDLER CERTIFICATE OF COMPLETION is issued once a PERSON has completed an accredited FOOD HANDLER training course.</p> <p>See also CERTIFIED FOOD HANDLER.</p>
55	TFER § 228.2. Definitions. (181) Food Protection Manager Certificate of Completion.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(181) FOOD PROTECTION MANAGER CERTIFICATE OF COMPLETION - - A FOOD PROTECTION MANAGER CERTIFICATE OF COMPLETION is issued once a PERSON has completed an ACCREDITED PROGRAM associated with becoming a FOOD PROTECTION MANAGER.</p>
56	TFER § 228.2. Definitions. (182) Foraged Food.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(182) FORAGED FOOD – FORAGED FOOD is FOOD acquired by hunting, fishing, or gathering of plant matter on land not primarily used for agricultural purposes.</p>
57	TFER § 228.2. Definitions. (183) Gleaned Foods.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(183) GLEANED FOOD – means</p> <p>(A) gathered from agricultural land after a primary harvest has been completed, or</p> <p>(B) other salvaged or unutilized FOOD.</p>
58	TFER § 228.2. Definitions. (184) Health Authority.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(184) HEALTH AUTHORITY -- The Health Official of the City of Mesquite, Texas or his/her designee(s). See also HEALTH OFFICIAL.</p>

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59	<p>TFER § 228.2. Definitions.</p> <p>(185) Health Division.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(185) HEALTH DIVISION -- The CITY HEALTH DIVISION, a division of the Planning and Development Services department of the City of Mesquite, Texas. The CITY HEALTH DIVISION is included in the definition of REGULATORY AUTHORITY.</p>
60	<p>TFER § 228.2. Definitions.</p> <p>(186) Health Official.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(186) HEALTH OFFICIAL -- The PERSON appointed by the City Manager having enforcement responsibility for all City ordinances, including the Mesquite Zoning Ordinance, relating to FOOD, FOOD ESTABLISHMENTS, swimming pools, mosquito control, and liquid wastes. The CITY HEALTH OFFICIAL shall have such other duties and responsibilities as set forth by the City Manager, and the Mesquite City Charter and ordinances, and federal, State, and local laws. The CITY HEALTH OFFICIAL, and his or designees, serve as the REGULATORY AUTHORITY for these Rules and other applicable LAWS. See also HEALTH AUTHORITY and HEALTH DIVISION.</p> <p>Charter reference – Mesquite City Charter, Article III, Section 23 – Health generally. Mesquite City Code reference – Chapter 16 Water & Liquid Waste.</p>
61	<p>TFER § 228.2. Definitions.</p> <p>(187) Health Permit.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(187) HEALTH PERMIT -- The document APPROVED by the Health Official or his/her designee and issued by the CITY HEALTH DIVISION that authorizes a PERSON to operate a FOOD ESTABLISHMENT. May also be referred to in these RULES as a PERMIT or LICENSE, and in the case of Mobile Food Units, may be referred to as an MFU–ANNUAL HEALTH PERMIT.</p>
62	<p>TFER § 228.2. Definitions.</p> <p>(188) Hearing Officer.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(188) HEARING OFFICER -- For purposes of an appeal pursuant to these Rules and this article, the City Manager, or his/her designee, shall serve as the HEARING OFFICER.</p> <p>Mesquite City Code reference – Chapter 8, Article VIII, Division 5 – Appeals of the Regulatory Authority’s Decisions.</p>
63	<p>TFER § 228.2. Definitions.</p> <p>(189) Heavy Food Preparation.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(189) HEAVY FOOD PREPARATION -- A designation of any area or facility in which FOODS are prepared utilizing a grill, griddle, deep-fat fryer, commercial-type oven and any similar FOOD preparation EQUIPMENT or any area subject to flooding or wet cleaning procedures due to the cutting or processing of MEAT, POULTRY, FISH or pork. A HEAVY FOOD PREPARATION designation includes, but is not limited to, cafeterias, fast FOOD restaurants, full-service restaurants, pizza preparation, donut preparation, MEAT, and FISH markets.</p>

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64	<p>TFER § 228.2. Definitions.</p> <p>(190) Hold Order.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(190) HOLD ORDER – is an order issued by the Health Official or his/her designee, whereby FOOD is condemned, denatured or destroyed, or placed under detention when there is probable cause to believe the FOOD is unapproved, ADULTERATED FOOD, or MISBRANDED. A HOLD ORDER shall be placed in accordance with the provisions of these RULES (§ 228.255 Examination and Detention of Food) and the Texas Health and Safety Code.</p> <p>State law references – Texas Health & Safety Code, Chapter 431 - Texas Food, Drug, and Cosmetic Act, Health and Safety Code. Texas Health & Safety Code, Chapter 437 – Regulation of Food Service Establishments, Retail Food Stores, mobile Food units, and Roadside Food Vendors.</p>
65	<p>TFER § 228.2. Definitions.</p> <p>(191) Holder.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(191) HOLDER –</p> <p>(A) A HOLDER is the PERSON or entity that is issued a valid PERMIT, HEALTH PERMIT, or LICENSE and is considered the PERSON or entity that is legally responsible for the operation of the FOOD ESTABLISHMENT. Examples include a:</p> <ul style="list-style-type: none"> (i.) HEALTH PERMIT HOLDER, (ii.) LICENSE HOLDER, or (iii.) MFU–ANNUAL HEALTH PERMIT HOLDER, or (iv.) PERMIT HOLDER; or <p>(B) A HOLDER can also be the PERSON or entity that is issued a valid MFU–OPERATION SITE PERMIT and is the owner of the property, or the authorized agent of the owner of the property, (i.e. MFU–OPERATION SITE PERMIT HOLDER where an APPROVED MFU–OPERATION SITE is located (excluding MFU–Parks classified as FIXED COMMERCIAL LOCATIONS)).</p>
66	<p>TFER § 228.2. Definitions.</p> <p>(192) Hygienic Practices.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(192) HYGIENIC PRACTICES -- The exhibition by FOOD service EMPLOYEES of personal practices and methods that reduce the likelihood of contaminating FOOD, BEVERAGE, and FOOD-CONTACT SURFACES of EQUIPMENT, UTENSILS or SINGLE-SERVICE ARTICLES, and that promote sanitary FOOD preparation and service.</p>
67	<p>TFER § 228.2. Definitions.</p> <p>(193) Incidental Sales.</p>	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(193) INCIDENTAL SALES -- When Non-TCS FOODS and pre-PACKAGED FOODS constitute twenty percent (20%) or less of the total retail space at retail facilities.</p>

68	TFER § 228.2. Definitions. (194) Itinerant Vendor.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. <p style="text-align: center;">* * *</p> (194) ITINERANT VENDOR -- Means (A) any PERSON who sells or conveys FOOD from house to house or place to place; or (B) any PERSON or entity who sets up and operates an occasional business (e.g. a SEASONAL OR POP-UP FOOD ESTABLISHMENT) on privately owned property, whether improved or unimproved, in the CITY, soliciting, selling, or taking orders for, or offering to sell or take orders for any goods or services.
69	TFER § 228.2. Definitions. (195) Lemonade Stand.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. <p style="text-align: center;">* * *</p> (195) LEMONADE STAND – See CHILD’S LEMONADE STAND.
70	TFER § 228.2. Definitions. (196) Light Food Preparation.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. <p style="text-align: center;">* * *</p> (196) LIGHT FOOD PREPARATION -- A designation of any area or facility in which FOODS are prepared without the use of fryers, grills, or other similar EQUIPMENT. A LIGHT FOOD PREPARATION designation is usually limited to the preparation of sandwiches, salads, or other similar exposed FOODS and fountain-type cold BEVERAGES.
71	TFER § 228.2. Definitions. (197) Misbranded.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. <p style="text-align: center;">* * *</p> (197) MISBRANDED -- The presence of any written, printed, or graphic matter upon or accompanying FOOD, or containers of FOOD, which is false or misleading, or which violates any applicable labeling LAW.
72	TFER § 228.2. Definitions. (198) No Food Preparation.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. <p style="text-align: center;">* * *</p> (198) NO FOOD PREPARATION -- A designation of any area or facility in which FOODS are provided pre-wrapped, from an APPROVED SOURCE, with microwave or convection-type ovens or self-contained frying devices. A NO FOOD PREPARATION designation is usually limited to areas or facilities where pre-PACKAGED sandwiches or similar FOOD, candies, and containerized cold BEVERAGES are served.

73	TFER § 228.2. Definitions. (199) Non-Food Contact Surface.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(199) NON-FOOD CONTACT SURFACE -- A surface (including but not limited to a shelf, counter, fan or an exterior part of EQUIPMENT) that does not normally come into contact with FOOD in the operation of a FOOD ESTABLISHMENT.</p>
74	TFER § 228.2. Definitions. (200) Perishable Food.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(200) PERISHABLE FOOD -- Any FOOD of such type or in such condition as may spoil.</p>
75	TFER § 228.2. Definitions. (201) Personal Hygiene.	<p><i>Amend section to add the following new paragraph and definition.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(201) PERSONAL HYGIENE -- The application of HYGIENIC PRACTICES by FOOD service and FOOD ESTABLISHMENT EMPLOYEES to FOOD preparation, service, and dishwashing activities.</p>
76	TFER § 228.2. Definitions. (202) Potable.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(202) POTABLE -- Water suitable or safe for human consumption.</p>
77	TFER § 228.2. Definitions. (203) Private Event.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(203) PRIVATE EVENT. See Paragraph (47.0) EVENT and Paragraph (47.2) PRIVATE EVENT.</p>
78	TFER § 228.2. Definitions. (204) Produce.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(204) PRODUCE -- PRODUCE means farm-produced crops intended for human consumption, including, but not limited to, whole vegetables, plants, nuts in the shell, and fruit.</p>
79	TFER § 228.2. Definitions. (205) Public Event.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(205) PUBLIC EVENT. See Paragraph (47.0) EVENT and Paragraph (47.1) PUBLIC EVENT.</p>

80	TFER § 228.2. Definitions. (206) Reconstituted.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (206) RECONSTITUTED -- Recombining dehydrated FOOD products with water or other liquids.
81	TFER § 228.2. Definitions. (207) Registered Food Protection Manager.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (207) REGISTERED FOOD PROTECTION MANAGER -- A REGISTERED FOOD PROTECTION MANAGER is a CERTIFIED FOOD PROTECTION MANAGER who has registered with the HEALTH DIVISION and has received a CERTIFICATE OF REGISTRATION from the HEALTH DIVISION. See also CERTIFIED FOOD PROTECTION MANAGER.
82	TFER § 228.2. Definitions. (208) Rules.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (208) RULES – The RULES are the Texas Food Establishment Rules (“TFER”) latest edition, and include these local amendments thereto, also referred to collectively as the “Mesquite Food Establishment Rules.”
83	TFER § 228.2. Definitions. (209) Safe Temperatures.	Amend section to add the following new paragraph and definition to read as follows. § 228.2. Definitions. * * * (209) SAFE TEMPERATURES -- As applied to TCS FOOD (TIME/TEMPERATURE CONTROLLED FOR SAFETY FOOD) SAFE TEMPERATURES shall mean: COLD Temperatures of: 41° F or below (Forty-one (41) degrees Fahrenheit or below). 5° C or below (Five (5) degrees Celsius or below). FROZEN Temperatures of: 0° F or below (Zero (0) degrees Fahrenheit or below). -17.78° C or below (Negative 17.78 degrees Celsius or below). HOT Temperatures of: 135° F (One hundred thirty-five (135) degrees Fahrenheit or above). 58° C (Fifty Eight (58) degrees Celsius or above).

84	TFER § 228.2. Definitions. (210) Sealed.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(210) SEALED -- SEALED is the manner in which the junction between surfaces is closed and is accomplished in such a way that prevents the entry of moisture.</p>
85	TFER § 228.2. Definitions. (211) Seasonal or Pop-Up Food Establishment.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(211) SEASONAL OR POP-UP FOOD ESTABLISHMENT -- A SEASONAL OR POP-UP FOOD ESTABLISHMENT is a FOOD ESTABLISHMENT that operates at a temporary fixed-location for a seasonal or other time-period. (See § 228.228.)</p> <p>SEASONAL OR POP-UP FOOD ESTABLISHMENTS are separately regulated and are not considered CONCESSION FACILITIES for purposes of these Rules.</p>
86	TFER § 228.2. Definitions. (212) Summer Food Service Program.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(212) SUMMER FOOD SERVICE PROGRAM or SUMMER NUTRITION PROGRAM -- is a federal program administered by the Texas Department of Agriculture. Individuals or entities offer at no cost prepared meals to individuals under age 19 throughout the summer months when these children are not attending school. SUMMER NUTRITION PROGRAM also means the SUMMER FOOD SERVICE PROGRAM under 42 U.S.C. Section 1761; the term includes the seamless summer option under 42 U.S.C. Section 1761(a)(8).</p> <p>State law reference – V.T.C.A., Agriculture Code § 12.0029 Summer Nutrition Programs.</p>
87	TFER § 228.2. Definitions. (213) Wholesome.	<p><i>Amend section to add the following new paragraph and definition to read as follows.</i></p> <p>§ 228.2. Definitions.</p> <p style="text-align: center;">* * *</p> <p>(213) WHOLESOME -- shall mean in sound condition, clean, free from adulteration, and otherwise suitable for use as human FOOD.</p>

SUBCHAPTER B. MANAGEMENT AND PERSONNEL.		
88	TFER § 228.33. Food Protection Managers and Food Handlers.	<p><i>Amend subchapter “B” by deleting section § 228.33 in its entirety and adding a new section to read as follows:</i></p> <p>§ 228.33 FOOD PROTECTION MANAGERS AND FOOD HANDLERS.</p>
89	TFER § 228.33. Food Protection Managers and Food Handlers.	<p>.33.001 Certified Food Protection Manager.</p> <p>(1) Requirement. At least one EMPLOYEE that has supervisory and management responsibility at a FOOD ESTABLISHMENT and the authority to direct and control FOOD preparation and service shall be a CERTIFIED FOOD PROTECTION MANAGER who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM.</p> <p>(2) Exemptions. Subject to the exemptions in § 228.33.004, at least one CERTIFIED FOOD PROTECTION MANAGER must be employed by each FOOD ESTABLISHMENT.</p> <p>(3) Display of certificate. The original or a copy of the FOOD PROTECTION MANAGER CERTIFICATE may be posted in a location in the FOOD ESTABLISHMENT that is conspicuous to CONSUMERS.</p>
90	TFER § 228.33. Food Protection Managers and Food Handlers.	<p>.33.002 Registered Food Protection Manager.</p> <p>(1) Requirement.</p> <p style="padding-left: 20px;">a. A FOOD ESTABLISHMENT shall operate with a CERTIFIED FOOD PROTECTION MANAGER who has a valid and current CITY CERTIFICATE OF REGISTRATION issued by the HEALTH DIVISION.</p> <p style="padding-left: 20px;">b. The FOOD ESTABLISHMENT shall have at least one (1) REGISTERED FOOD PROTECTION MANAGER on duty at all hours of operation.</p> <p>(2) Exemptions. Subject to the exemptions in § 228.33.004, at least one REGISTERED FOOD PROTECTION MANAGER must be employed by each FOOD ESTABLISHMENT.</p> <p>(3) Display of Certificate of Registration. The original or a copy of the FOOD PROTECTION MANAGER CERTIFICATE shall be posted in a location in the FOOD ESTABLISHMENT that is conspicuous to CONSUMERS.</p> <p>(4) Certificate of Registration. The HEALTH OFFICIAL shall issue a CERTIFICATE OF REGISTRATION to any PERSON who submits the required application, pays the required fee, and provides evidence of being a CERTIFIED FOOD PROTECTION MANAGER who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM.</p>

		<p>(5) Term and Non-Transferability of Registration.</p> <p>a. Unless otherwise revoked by the HEALTH OFFICIAL, a CERTIFICATE OF REGISTRATION expires on the same expiration date listed on the APPROVED FOOD PROTECTION MANAGER CERTIFICATE.</p> <p>b. A CERTIFICATE OF REGISTRATION is not transferable.</p> <p>(6) Resignation, Termination, or Transfer. The FOOD ESTABLISHMENT shall, within ten (10) days of the effective date of resignation, termination, or permanent transfer of any previously REGISTERED FOOD PROTECTION MANAGER, employ another CERTIFIED & REGISTERED FOOD PROTECTION MANAGER. The Health Official has discretion to grant an extension of time to obtain a new CERTIFIED & REGISTERED FOOD PROTECTION MANAGER upon a written, printed, or electronic request.</p> <p>(7) Expiration. A CERTIFICATE OF REGISTRATION expires on the same date as the expiration on the FOOD PROTECTION MANAGER CERTIFICATE OF COMPLETION.</p>
91	TFER § 228.33. Food Protection Managers and Food Handlers.	<p>.33.003. Certified Food Handler.</p> <p>(1) Except in a TEMPORARY FOOD ESTABLISHMENT and excluding the CERTIFIED FOOD PROTECTION MANAGER, all FOOD HANDLER EMPLOYEES shall successfully complete an accredited FOOD HANDLER training course, within 30 days of employment. ^{Pf}</p> <p>(2) The FOOD ESTABLISHMENT shall maintain on PREMISES a FOOD HANDLER CERTIFICATE OF COMPLETION of the FOOD HANDLER training course for each FOOD HANDLER EMPLOYEE.</p>
92	TFER § 228.33. Food Protection Managers and Food Handlers.	<p>.33.004. Exemptions.</p> <p>(1) The requirement to be a CERTIFIED FOOD PROTECTION MANAGER, a REGISTERED FOOD PROTECTION MANAGER, or a CERTIFIED FOOD HANDLER does <u>not</u> apply to certain types of FOOD ESTABLISHMENTS deemed by the HEALTH OFFICIAL to pose minimal RISK of causing, or contributing to, foodborne illnesses based on the nature of the operation and extent of FOOD preparation. The following are exempt, unless otherwise provided, from the requirements of this subsection:</p> <p>a. Some TEMPORARY FOOD ESTABLISHMENTS or other temporary EVENT FOOD vendors;</p> <p>b. FOOD ESTABLISHMENTS selling only uncut PRODUCE or commercially PACKAGED PRODUCE; hermetically SEALED FOODS;</p> <p>c. A FOOD enterprise that provides only BEVERAGES or pre-PACKAGED FOOD that is a NON-TIME/TEMPERATURE CONTROLLED FOR SAFETY FOOD (Non-TCS FOOD);</p> <p>d. A FOOD PROCESSING PLANT that is inspected at least once each week by a state or federal FOOD sanitation inspector or that only stores pre-PACKAGED FOOD that is Non-TCS FOOD;</p> <p>e. Concession stands that are run by volunteers;</p> <p>f. A nonprofit organization that serves FOOD only to members of the organization; or</p>

		<p>g. A MOBILE FOOD UNIT (MFU) that offers only pre-PACKAGED FOOD.</p> <p>(2) NOTE: Compliance may be required of FOOD ESTABLISHMENTS having one of the above exemptions if they have repeated or critical FOOD code violations, or if determined by the HEALTH OFFICIAL to be capable of causing FOOD borne illness.</p>
93	TFER § 228.36. Conditions of Exclusions and Restrictions.	<p><i>Amend by adding a subsection letter to the existing provisions and adding a new subsection to read as follows:</i></p> <p>§ 228.36. Conditions of Exclusions and Restrictions.</p> <p>(a) Duty of the Person In Charge. The PERSON IN CHARGE shall EXCLUDE or restrict a FOOD EMPLOYEE from a FOOD ESTABLISHMENT in accordance with the following:</p> <p>(1)</p> <p style="text-align: center;">* * *</p> <p>(10)</p> <p>(b) Duty of Health Official. The Health Official or his/her designee may cause a PERSON working or applying for work in a FOOD ESTABLISHMENT to be examined to determine if the PERSON is in violation of this section. If the Health Official has reasonable cause to suspect that a PERSON working at a FOOD ESTABLISHMENT is in violation of this section, the Health Official may take reasonably necessary action to prevent further infection of or transmission to others including, but not limited to:</p> <p>(1) Securing a morbidity report of the PERSON;</p> <p>(2) Excluding the PERSON from the FOOD ESTABLISHMENT; or</p> <p>(3) If the Health Official determines there is an IMMEDIATE HEALTH HAZARD and serious threat to the public health or safety, the Health Official or his/her designee may issue an Emergency Suspension of the HEALTH PERMIT, temporarily closing the FOOD ESTABLISHMENT facility in which the PERSON works until the Health Official determines that the RISK of infection or transmission to others has been abated.</p>

SUBCHAPTER C. FOOD.		
94	<p>TFER § 228.63. Specifications for Receiving.</p>	<p><i>Amend by adding a subsection letter to the existing provisions and adding a new subsection to read as follows:</i></p> <p>§ 228.63. Specifications for Receiving.</p> <p>(f) Ice.</p> <p>(1) Ice for use as a FOOD or a cooling medium shall be made from DRINKING WATER. ^P</p> <p>(2) Ice for CONSUMER use shall be dispensed only by EMPLOYEES with scoops, tongs or other ice dispensing UTENSILS or through automatic service, ice-dispensing EQUIPMENT. Ice dispensing UTENSILS shall be stored on a clean surface out of contact with the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.</p>
95	<p>TFER § 228.75. Temperature and Time Control.</p>	<p><i>Amend subsection in its entirety to read as follows:</i></p> <p>§ 228.75. Temperature and Time Control.</p> <p>(a) Frozen food. Stored frozen FOODS shall be maintained frozen, except as specified in TFER § 228.72.</p> <p style="text-align: center;">* * *</p>

SUBCHAPTER D. EQUIPMENT, UTENSILS, AND LINENS.		
96	TFER § 228.107. Equipment, Numbers and Capacities.	<p><i>Amend the subsection title and add new paragraph to read as follows:</i></p> <p>§ 228.107. Equipment, Numbers and Capacities.</p> <p style="text-align: center;">* * *</p> <p>(10) Manual Warewashing; sink compartment requirements; and Mechanical Dishwashing Machines.</p> <p style="text-align: center;">* * *</p> <p>(6) Mechanical dishwashing machines shall be used if reusable TABLEWARE is provided for customers. Chemicals added for SANITIZATION purposes shall be automatically dispensed.</p> <p style="text-align: center;">* * *</p>

SUBCHAPTER E. WATER, PLUMBING, AND WASTE.											
97	TFER § 228.146. Plumbing Design, Construction, and Installation.	<p><i>Amend section by adding new subsections (f) and (g) to read as follows:</i></p> <p>§ 228.146. Plumbing Design, Construction, and Installation.</p> <p style="text-align: center;">* * *</p> <p>(f) Water Heaters.</p> <ul style="list-style-type: none"> (1) Water heaters shall be installed and maintained in accordance with the Mesquite Plumbing Code. (2) Water heaters must be listed as a commercial unit by an ANSI accredited testing and certification organization and APPROVED by the REGULATORY AUTHORITY. (3) Residential water heaters are prohibited in retail FOOD ESTABLISHMENTS, except for those facilities providing only commercially pre-PACKAGED FOOD. <p>(g) Grease traps.</p> <ul style="list-style-type: none"> (1) Unless a facility sells only pre-PACKAGED FOOD, grease traps, interceptors or separators are required at <i>new</i> FOOD ESTABLISHMENTS, <i>existing</i> FOOD ESTABLISHMENTS, and FOOD ESTABLISHMENTS that change ownership in accordance with § 228.150 (d)(1). (2) Grease traps shall be: <ul style="list-style-type: none"> (A) Adequately sized by a professional engineer, master plumber, architect, or the Health Official; (B) Installed and maintained in accordance with the Mesquite Plumbing Code; (C) Grease interceptors or traps shall be located outside the establishment to be easily accessible for cleaning; (D) Easily accessible for cleaning. (3) The capacity of any required grease interceptor/trap shall be determined by the number of PLUMBING FIXTURES as follows: <table border="1" style="margin-left: 40px; margin-top: 10px; border-collapse: collapse; width: 60%;"> <tbody> <tr> <td style="padding: 2px 5px;">1 – 5</td> <td style="padding: 2px 5px;">=</td> <td style="padding: 2px 5px;">500 Gallons</td> </tr> <tr> <td style="padding: 2px 5px;">6 – 10</td> <td style="padding: 2px 5px;">=</td> <td style="padding: 2px 5px;">750 Gallons</td> </tr> <tr> <td style="padding: 2px 5px;">More than 10</td> <td style="padding: 2px 5px;">=</td> <td style="padding: 2px 5px;">1,000 Gallons</td> </tr> </tbody> </table> <p>Mesquite City Code reference – Chapter 5, Article VI – Mesquite Plumbing Code. Chapter 16 – Water and Liquid Waste.</p>	1 – 5	=	500 Gallons	6 – 10	=	750 Gallons	More than 10	=	1,000 Gallons
1 – 5	=	500 Gallons									
6 – 10	=	750 Gallons									
More than 10	=	1,000 Gallons									

98	TFER §228.148. Plumbing, Location and Placement.	<p><i>Amend subsection (a) to read as follows:</i></p> <p>§ 228.148. Plumbing, Location, and Placement.</p> <p>(a) Handwashing facilities. A handwashing facility shall be provided in accordance with § 228.147 (a) (1)-(3) and as herein described:</p> <ul style="list-style-type: none"> (1) Freestanding HANDWASHING SINK shall be required and conveniently located every 25 unimpeded feet in the FOOD preparation, FOOD dispensing, service, and utensil washing areas^{Pf}; and (2) A free-standing, stainless steel, three-compartment sink with basins large enough to allow immersion of the largest UTENSIL shall be installed in the dishwashing area if all kitchen UTENSILS cannot be sanitized in the commercial dishwasher; and (3) HANDWASHING SINK located adjacent to FOOD preparation areas shall be protected with splash guards that are at least as high as the top of the faucet supplying water to the hand sink; and (4) A free-standing, stainless steel, four-compartment sink shall be required in bar areas if all glassware is not sanitized in a commercial dishwasher; and (5) In, or immediately adjacent to, toilet rooms.^{Pf} <p style="text-align: center;">* * *</p>
99	TFER § 228.150. Sewage Retention, Drainage, and Delivery.	<p><i>Amend section by deleting subsection (d) in its entirety and adding a new subsection (d) to read as follows:</i></p> <p>§ 228.150. Sewage Retention, Drainage, and Delivery.</p> <p style="text-align: center;">* * *</p> <p>(d) Grease traps or grease interceptors.</p> <ul style="list-style-type: none"> (1) Grease traps or grease interceptors shall be required when any FOODs are prepared using a grill, griddle, deep fat fryer, commercial-type ovens and any similar FOOD preparation EQUIPMENT. (2) Grease traps and grease inceptors shall be permitted and inspected at a minimum of one (1) time per year in accordance with Mesquite City Code, Chapter 16 (Water and Liquid Waste). <p style="text-align: center;">* * *</p> <p>Mesquite City Code references – Chapter 16 – Water and Liquid Waste. Appendix D – Comprehensive Fee Schedule, Sec. 15-100 Water Service Charges, see “Grease and Grit Trap”.</p>

100	<p>TFER § 228.152. Refuse, Recyclables, and Returnables, Facilities on the Premises.</p>	<p><i>Amend subsection by deleting the following paragraphs in their entirety and adding new paragraphs to read as follows:</i></p> <p>§ 228.152. Refuse, Recyclables, and Returnables, Facilities on the Premises.</p> <p style="text-align: center;">* * *</p> <p>(d) Receptacles.</p> <p style="text-align: center;">* * *</p> <p>(2) Plastic bags and wet-strength paper bags shall be used to line receptacles for storage inside the FOOD ESTABLISHMENT or within closed outside receptacles. Plastic and wet-strength paper bags shall be securely tied or closed before disposal. Garbage and REFUSE bags shall be placed in dumpsters or commercial containers in an unbroken condition.</p> <p style="text-align: center;">* * *</p> <p>(f) Outside receptacles.</p> <p style="text-align: center;">* * *</p> <p>(2) Equipment for REFUSE and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the EQUIPMENT is not installed flush with the base pad, under the unit. When a FOOD ESTABLISHMENT shares a dumpster or commercial container with one (1) or more other businesses, the PERSON IN CHARGE of the FOOD ESTABLISHMENT shall be responsible for correcting any violations.</p> <p style="text-align: center;">* * *</p>
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SUBCHAPTER F. PHYSICAL FACILITIES.		
101	<p>TFER § 228.171. Physical Facilities; Indoor Areas, and Surface Characteristics.</p>	<p><i>Amend section by adding a new subsection and adding a subsection letter to the existing remaining provisions to read as follows:</i></p> <p>§ 228.171. Physical Facilities; Indoor Areas, and Surface Characteristics.</p> <p>(a) Physical Facilities. Any PERSON desiring to operate a FOOD ESTABLISHMENT shall submit plans in accordance with this section. All FOOD ESTABLISHMENTS shall be constructed of materials which facilitate cleaning, minimize deterioration and prevent vermin harborage. FOOD ESTABLISHMENTS shall be maintained in accordance with this section. When a FOOD ESTABLISHMENT is hereafter constructed, extensively remodeled, changes ownership, significantly changes the menu as determined by the Health Official or when an existing structure is converted for use as a FOOD ESTABLISHMENT, properly prepared plans and specifications for such construction, remodeling or alteration showing layout, arrangement and construction materials of work areas and the location, size and types of fixed EQUIPMENT and facilities shall be submitted to the HEALTH OFFICIAL for approval before such work is begun.</p> <p>(b) Except as specified in §228.222(j) and (k)(1) of this title, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:</p> <p style="margin-left: 40px;">(1)</p> <p style="margin-left: 100px;">* * *</p> <p style="margin-left: 40px;">(3)</p>
102	<p>TFER § 228.173. Floors, Walls, and Ceilings.</p>	<p><i>Amend section by deleting subsection (a) in its entirety and adding a new subsection to read as follows:</i></p> <p>§ 228.173. Floors, Walls, and Ceilings.</p> <p>(a) Cleanability. Floor coverings, walls, wall coverings and ceilings shall be designed, constructed, and installed so they are SMOOTH, non-absorbent, and EASILY CLEANABLE, except that anti-slip floor coverings or applications may be used for safety reasons. Floors shall be free of cracks, chips, holes and deterioration. The Health Official shall require repair or replacement of any floor which fails to meet the requirements of this section. The Health Official shall establish APPROVED floor surfaces in FOOD preparation areas based upon the degree of preparation expected. FOOD ESTABLISHMENTS involved in HEAVY PREPARATION shall incorporate quarry tile, cement-based terrazzo tile, or an equivalent floor covering as APPROVED by the Health Official. FOOD ESTABLISHMENTS involved in LIGHT FOOD PREPARATION shall incorporate a commercial grade sheet vinyl or equivalent floor covering as APPROVED by the HEALTH OFFICIAL. Establishments involved in NO FOOD PREPARATION shall incorporate SEALED concrete, vinyl asbestos tile or an equivalent floor covering as APPROVED by the Health Official. An APPROVED sealer shall be required at the floor/wall interface.</p>

		<p>(1) Toilets. Toilet floors must meet the conditions set forth above. Childcare facilities shall install Vinyl Composite Tile (VCT) or an equivalent material as APPROVED by the Health Official. Floor drains shall be required in toilets of FOOD ESTABLISHMENTS involved in HEAVY FOOD PREPARATION and LIGHT FOOD PREPARATION. Floor drains shall be required in childcare facilities. A handwash lavatory is required to be located in or immediately adjacent to each toilet facility.</p> <p>(2) Walk-in coolers. FOOD ESTABLISHMENTS storing TIME/TEMPERATURE CONTROLLED FOR SAFETY (TCS) FOODS in walk-in coolers shall install in the cooler quarry tile flooring or an equivalent material as APPROVED by the Health Official. FOOD ESTABLISHMENTS storing Non-TCS FOODs in walk-in coolers shall install in the cooler-SEALED concrete or an equivalent material as APPROVED by the Health Official.</p> <p>(3) Dry storage areas. All FOOD ESTABLISHMENTS with DRY STORAGE AREAS not exposed to excessive moisture shall install SEALED concrete, vinyl tile or an equivalent material as APPROVED by the Health Official. A more moisture resistant flooring may be required if the DRY STORAGE AREA is subject to moisture.</p> <p>(4) Food preparation areas. Floor drains shall be required in FOOD preparation, dishwashing, bar, and service areas of FOOD ESTABLISHMENTS involved in HEAVY FOOD PREPARATION; however, floor drains may be waived in existing FOOD ESTABLISHMENTS that change ownership. Floor sinks may substitute for floor drains when APPROVED by the Health Official.</p> <p style="text-align: center;">* * *</p>
103	TFER § 228.173. Floors, Walls, and Ceilings.	<p><i>Amend section by deleting subsection (f) in its entirety and adding a new subsection (f) to read as follows:</i></p> <p>§ 228.173. Floors, Walls, and Ceilings.</p> <p style="text-align: center;">* * *</p> <p>(f) Wall and ceiling coverings and coatings; FOOD-CONTACT SURFACES; EQUIPMENT specifications and requirements.</p> <p>(1) Wall and ceiling covering materials shall be attached so that they are EASILY CLEANABLE.</p> <p>(A) Food preparation areas. The Health Official shall establish APPROVED wall surfaces in FOOD preparation areas based upon the degree of preparation expected. FOOD ESTABLISHMENTS involved in HEAVY FOOD PREPARATION and LIGHT FOOD PREPARATION shall install wall surfaces of Fiberglass Reinforced Panels (FRP), ceramic tile, certain types of bricks SEALED with light-colored epoxy paint or equivalent materials as APPROVED by the Health Official in all FOOD preparation, TABLEWARE and UTENSIL washing, and service areas. Wall surfaces must extend eight (8) feet in height or to the ceiling if the ceiling</p>

		<p>height is less than eight (8) feet. The Health Official shall require durable and EASILY CLEANABLE wall surfaces in areas exposed to excessive splash in establishments not involved in FOOD preparation. Walls shall be SMOOTH, durable and non-absorbent and shall be maintained in a condition that facilitates thorough and rapid cleaning and shall be free of cracks, chips, holes and deterioration. The Health Official shall require repair or replacement of any wall which fails to meet the requirements of this section.</p> <p>(B) Toilets. FOOD ESTABLISHMENTS involved in HEAVY FOOD PREPARATION and LIGHT FOOD PREPARATION, including childcare facilities, shall install FRP, ceramic tile, certain types of brick SEALED with light-colored, enamel or epoxy paint, or equivalent materials as APPROVED by the Health Official. Wall surfaces must extend at least four (4) feet in height with the remainder consisting of any light-colored, SMOOTH, washable material. Wall surfaces in toilet facilities of establishments that are not involved in FOOD preparation shall be of any SMOOTH, light-colored, washable material as APPROVED by the Health Official. Self-closing devices shall be required on restroom doors in all FOOD ESTABLISHMENTS.</p> <p>(C) Walk-in coolers. Wall surfaces shall be SMOOTH, EASILY CLEANABLE and capable of withstanding effects of low temperature and moisture. Shelving racks shall be stainless steel, epoxy-coated, non-corrosive metal, or equivalent as APPROVED by the Health Official.</p> <p>(D) Dry storage areas. Shelving shall be light-colored, epoxy, or enamel painted wood if the storage area is not subject to moisture. Alternate shelving may be required if the storage area becomes subject to moisture.</p> <p>(E) Ceilings shall be light-colored, smooth, relatively non-absorbent durable and easily cleanable. Ceiling materials may be washable drop-in panels, vinyl-coated gypsum panels, taped and bedded sheetrock with light-colored epoxy or enamel paint, or an equivalent material as APPROVED by the Health Official. The Health Official shall require repair or replacement of any ceiling which fails to meet the requirements of this section.</p> <p>(F) Food preparation, bar, and service areas. FOOD-CONTACT SURFACES shall be stainless steel with the exception of certain APPROVED polymer cutting boards. Customer service counters, FOOD packaging areas, take-out windows and similar areas shall be surfaced with a material that is SMOOTH, non-absorbent, durable, and EASILY CLEANABLE as APPROVED by the Health Official. Soft drink syrup canisters or containers shall be situated on six-inch high non-corrosive racks or within non-corrosive pans with one-inch curbs. Cabinets, tables, or other similar EQUIPMENT made of wood, particle board or Formica shall not be allowed in areas subject to moisture; provided childcare facilities shall be authorized to install cabinets with Formica covered or</p>
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		<p>SEALED wood exterior surfaces and light-colored, enamel or epoxy-painted wood interiors.</p> <p>(G) Equipment shall be maintained in a condition that facilitates thorough and rapid cleaning and in working order. The Health Official may require certain EQUIPMENT to be APPROVED by the National Sanitation Foundation (NSF) for its intended use and shall require repair or replacement of any EQUIPMENT which fails to meet the requirements of this section.</p> <p>(2) Walls including non-supporting partitions, wall covering and ceilings of the walk-in refrigeration units, FOOD preparation areas, EQUIPMENT washing and UTENSIL washing areas, toilet rooms and vestibules shall be light-colored.</p> <p style="text-align: center;">* * *</p>
104	TFER § 228.174. Functionality.	<p><i>Amend section by deleting subsection (d) in its entirety and adding a new subsection (d) to read as follows:</i></p> <p>§ 228.174. Functionality.</p> <p style="text-align: center;">* * *</p> <p>(d) Toilet rooms, enclosed. Except where a toilet room is located outside a FOOD ESTABLISHMENT and does not open directly into the FOOD ESTABLISHMENT such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the PREMISES shall be completely enclosed and provided with a tight-fitting and self-closing door. Toilet rooms shall have exhaust fans and floor drains. Unless the FOOD ESTABLISHMENT is located in a shopping mall or multi-tenant facility, restrooms shall not open directly outdoors.</p> <p style="text-align: center;">* * *</p>
105	TFER § 228.175. Handwashing Sinks.	<p><i>Amend section by deleting subsections (a) and (b) in their entirety and adding new subsections (a) and (b) to read as follows:</i></p> <p>§ 228.175. Handwashing Sinks.</p> <p style="text-align: center;">* * *</p> <p>(a) Minimum number. HANDWASHING SINKS shall be provided as specified under §228.147(a) (1)-(3) and § 228.148 (a) (1)-(5) of these Rules.</p> <p>(b) Handwashing supplies, availability. Each HANDWASHING SINK or group of two (2) adjacent lavatories shall be provided a supply of hand cleaning liquid, powder or bar soap, hand sanitizer and/or single-use gloves, and a covered waste receptacle.</p> <p style="text-align: center;">* * *</p>

106	<p>TFER § 228.186. Premises, Buildings, Systems, Rooms, Fixtures, Equipment, Devices, and Materials.</p>	<p><i>Amend subsection (o) by adding a new paragraph (4) to read as follows:</i></p> <p>§ 228.186. Premises, Buildings, Systems, Rooms, Fixtures, Equipment, Devices, and Materials.</p> <p style="text-align: center;">* * *</p> <p>(o) Prohibiting animals.</p> <p style="text-align: center;">* * *</p> <p>(4) <i>Dogs on outdoor patios.</i> Dogs on an outdoor patio of a FOOD ESTABLISHMENT shall be permitted when the FOOD ESTABLISHMENT and customer follows the requirements set forth in the Texas Health and Safety Code, as amended, Title 6, Subtitle A, Chapter 437, Section 437.025 (Requirements For Dogs In Outdoor Dining Areas; Municipal Preemption).</p>
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SUBCHAPTER G. POISONOUS OR TOXIC MATERIALS.

NOTE: No Local Amendments to Subchapter G.

SUBCHAPTER H. REQUIREMENTS APPLICABLE TO CERTAIN ESTABLISHMENTS.	
107	<p>TFER Sub-Chapter H. Table of Contents.</p> <p><i>Amend sub-chapter H by revising the organization of the sections listed in the Table of Contents to read as follows: (Note: Subsections and page numbers of the TFER remain intact).</i></p> <p>§ 228.221. RESERVED.</p> <p>§ 228.222. RESERVED.</p> <p>§ 228.223. Bed & Breakfast.</p> <p>§ 228.224. Outfitter Operations.</p> <p>§ 228.225. Self-Service Food Market.</p> <p>§ 228.226. Summer Food Service Program.</p> <p>§ 228.227. Temporary Food Establishment (15 days or less).</p> <p>§ 228.228. Seasonal or Pop-Up Food Establishment.</p> <p>§ 228.229. Concession Facilities.</p> <p>§ 228.230. Farmers Markets.</p> <p>§ 228.231. MFU–GENERAL PROVISIONS.</p> <p>§ 228.232. MFU–Catering Trucks & Trailers (“MFU–C”).</p> <p>§ 228.233. MFU–Food Preparation Trucks & Trailers (“MFU–F”).</p> <p>§ 228.234. MFU–Ice Cream Trucks & Trailers (“MFU–IC”).</p> <p>§ 228.235. MFU–Pushcarts (“MFU–PC”).</p> <p>§ 228.236. Itinerant Vendors & Delivery of Food.</p> <p>§ 228.237. Roadside Food Vendors.</p>

EXHIBIT B TO ORDINANCE NO. 4868
MESQUITE CITY CODE, CHAPTER 8, ARTICLE VIII. – FOOD AND FOOD ESTABLISHMENTS

City Council Meeting: June 7, 2021

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108	TFER § 228.221. RESERVED.	<p><i>Amend by deleting the contents of § 228.221 in its entirety and replacing with the following text to read as follows:</i></p> <p>§ 228.221. RESERVED.</p>
109	TFER § 228.222. RESERVED.	<p><i>Amend § 228.222 to move the existing contents to new § 228.227; and also duplicate and move contents to new § 228.228; and § 228.222 shall now read as follows:</i></p> <p>§ 228.222. RESERVED.</p> <p>NOTE: The contents of existing § 228.222 are moved to new § 228.227. Temporary Food Establishment (15 days or less).</p> <p>The contents of existing § 228.222 are also duplicated and moved to new § 228.228. Seasonal or Pop-Up Food Establishment.</p>
110	TFER § 228.226. Summer Food Service Programs.	<p><i>Amend subchapter F by adding new § 228.226 to read as follows:</i></p> <p>§ 228.226. Summer Food Service Programs.</p> <p>Any qualified charitable or governmental organization wishing to conduct a SUMMER FOOD SERVICE PROGRAM in the City shall prepare FOOD in a permitted kitchen in a non-residential facility authorized by a FOOD ESTABLISHMENT PERMIT under these Rules. The Health Official may authorize and PERMIT a feeding location that provides, at a minimum, an indoor area, mechanical refrigeration (if needed), hot and cold running water under pressure for hand sinks, and onsite restroom facilities.</p>
111	TFER § 228.227. Temporary Food Establishment (15 days or less).	<p><i>Amend subchapter F by adding new § 228.227, moving the existing TFER contents of § 228.222 to this new § 228.227 to be adopted herein by reference, and titling new § 228.227 to read as follows:</i></p> <p>§ 228.227. Temporary Food Establishment (15 days or less).</p> <p style="text-align: center;">* * *</p>
112	TFER § 228.227. Temporary Food Establishment (15 days or less).	<p><i>Amend subsection (a) by adding paragraph (3) to read as follows:</i></p> <p>§ 228.227. Temporary Food Establishment (15 days or less).</p> <p>(a) General.</p> <p style="text-align: center;">* * *</p> <p>(3) A TEMPORARY FOOD ESTABLISHMENT PERMIT shall be obtained by each Vendor prior to the preparation or sale of any FOOD product. See § 228.247 and DIVISION 3 (Health Permits).</p> <p>(A) Time period for Permit. The PERMIT shall allow conveyance of FOOD from an APPROVED TEMPORARY FOOD ESTABLISHMENT at a single fixed-location for no more than fifteen (15) consecutive days, or less.</p> <p>(B) Event required. A TEMPORARY FOOD ESTABLISHMENT PERMIT shall be issued only if FOOD is to be sold or conveyed in conjunction with a PUBLIC EVENT as defined in these Rules. Each separate PUBLIC EVENT shall require a separate TEMPORARY FOOD ESTABLISHMENT PERMIT.</p> <p style="text-align: center;">* * *</p>

113	TFER § 228.227. Temporary Food Establishment (15 days or less).	<p><i>Amend subsection (f) by deleting the subsection in its entirety and adding new subsection (f) to read as follows:</i></p> <p>§ 228.227. Temporary Food Establishment (15 days or less).</p> <p style="text-align: center;">* * *</p> <p>(f) Water. Water from an APPROVED SOURCE shall be made available in a TEMPORARY FOOD ESTABLISHMENT for FOOD preparation, handwashing and for cleaning and sanitizing UTENSILS and EQUIPMENT. Water need not be under pressure for TEMPORARY FOOD ESTABLISHMENTS serving only Non-TCS with LIGHT FOOD PREPARATION activities, but water shall come from APPROVED SOURCES which include: commercially-BOTTLED DRINKING WATER, closed portable water containers, enclosed vehicular water tanks, on-premise water storage tanks or piping, tubing or hoses connected to an APPROVED SOURCE. Hot and cold running water under pressure with a water heater volume sufficient to handle daily handwashing and UTENSIL sanitizing demands may be required of TEMPORARY FOOD ESTABLISHMENTS serving TCS FOODs or FOODs requiring HEAVY FOOD PREPARATION or extensive preparation.</p> <p style="text-align: center;">* * *</p>
114	TFER § 228.227. Temporary Food Establishment (15 days or less).	<p><i>Amend section by adding new subsections (l), (m), and (n) to read as follows:</i></p> <p>§ 228.227. Temporary Food Establishment (15 days or less).</p> <p style="text-align: center;">* * *</p> <p>(l) Inspections. The Health Official or his/her designees may inspect TEMPORARY FOOD ESTABLISHMENTS at any reasonable time. The Health Official may require certain TEMPORARY FOOD ESTABLISHMENTS to be inspected and to be in compliance with all applicable sections of these Rules prior to the scheduled PUBLIC EVENT.</p> <p>(m) Personnel practices.</p> <ol style="list-style-type: none"> (1) TEMPORARY FOOD ESTABLISHMENT EMPLOYEES shall abide by all applicable sections of these RULES with respect to PERSONAL HYGIENE and sanitary FOOD handling practices. (2) EMPLOYEES may be required to obtain a FOOD HANDLER'S CERTIFICATE prior to the PUBLIC EVENT. (3) TEMPORARY FOOD ESTABLISHMENTS may be required to have a CERTIFIED FOOD PROTECTION MANAGER; however, EMPLOYEES shall be exempt from obtaining a CITY CERTIFICATE OF REGISTRATION. (4) Facilities with fryers, grills, smokers, or similar HEAVY FOOD PREPARATION EQUIPMENT shall be required to have a CERTIFIED FOOD PROTECTION MANAGER; however, TEMPORARY FOOD ESTABLISHMENT EMPLOYEES shall be exempt from obtaining a CITY CERTIFICATE OF REGISTRATION. <p>(n) Prohibited foods. The sale or conveyance of raw FISH or raw shellfish products (except certain pre-PACKAGED frozen products) from TEMPORARY FOOD ESTABLISHMENTS is prohibited.</p>

115	TFER § 228.228. Seasonal or Pop-Up Food Establishment.	<p><i>Amend subchapter F by adding new § 228.228, duplicating and moving the existing TFER contents of § 228.222 to this new § 228.228 to be adopted herein by reference, and titling new § 228.228 to read as follows:</i></p> <p>§ 228.228. Seasonal or Pop-Up Food Establishment.</p> <p>For purposes of this section, delete each instance where “Temporary Food Establishment” is mentioned in the TFER and replace with the words “SEASONAL OR POP-UP FOOD ESTABLISHMENT”.</p> <p style="text-align: center;">* * *</p>
116	TFER § 228.228. Seasonal or Pop-Up Food Establishment.	<p><i>Amend subsection (a) by adding paragraph (3) to read as follows:</i></p> <p>§ 228.228. Seasonal or Pop-Up Food Establishment.</p> <p>(a) General.</p> <p style="text-align: center;">* * *</p> <p>(3) A SEASONAL FOOD ESTABLISHMENT PERMIT OR POP-UP FOOD ESTABLISHMENT PERMIT shall be obtained by each Vendor prior to the preparation or sale of any FOOD product. See § 228.247 and DIVISION 3 (Health Permits).</p> <p>(A) Time period for Permit. The PERMIT shall allow conveyance of FOOD from an APPROVED SEASONAL OR POP-UP FOOD ESTABLISHMENT at a single fixed-location for a specified season or other time period.</p> <p>(B) Exclusions. CONCESSION FACILITIES (§ 228.229) and FARMERS’ MARKETS (§ 228.230) are separately regulated and are not considered SEASONAL OR POP-UP FOOD ESTABLISHMENTS for purposes of these RULES.</p> <p style="text-align: center;">* * *</p>
117	TFER § 228.228. Seasonal or Pop-Up Food Establishment.	<p><i>Amend subsection (f) by deleting the subsection in its entirety and adding new subsection (f) to read as follows:</i></p> <p>§ 228.228. Seasonal or Pop-Up Food Establishment.</p> <p style="text-align: center;">* * *</p> <p>(f) Water. Water from an APPROVED SOURCE shall be made available in a SEASONAL OR POP-UP FOOD ESTABLISHMENT for FOOD preparation, handwashing and for cleaning and sanitizing utensils and EQUIPMENT. Water need not be under pressure for SEASONAL OR POP-UP FOOD ESTABLISHMENT serving only Non-TCS with LIGHT FOOD PREPARATION activities, but water shall come from APPROVED SOURCES which include: commercially-BOTTLED DRINKING WATER, closed portable water containers, enclosed vehicular water tanks, on-premise water storage tanks or piping, tubing or hoses connected to an APPROVED SOURCE. Hot and cold running water under pressure with a water heater volume sufficient to handle daily handwashing and UTENSIL sanitizing demands may be required of SEASONAL OR POP-UP FOOD ESTABLISHMENTS serving TCS FOODS or FOODS requiring HEAVY FOOD PREPARATION or extensive preparation.</p> <p style="text-align: center;">* * *</p>

118	TFER § 228.228. Seasonal or Pop-Up Food Establishment.	<p><i>Amend section by adding new subsections (l), (m), and (n) to read as follows:</i></p> <p>§ 228.228. Seasonal or Pop-Up Food Establishment.</p> <p style="text-align: center;">* * *</p> <p>(l) Inspections. The Health Official or his/her designees may inspect SEASONAL OR POP-UP FOOD ESTABLISHMENTS at any reasonable time. The Health Official may require certain SEASONAL OR POP-UP FOOD ESTABLISHMENTS to be inspected and to be in compliance with all applicable sections of these RULES.</p> <p>(m) Personnel practices.</p> <ol style="list-style-type: none"> (1) SEASONAL OR POP-UP FOOD ESTABLISHMENT EMPLOYEES shall abide by all applicable sections of these RULES with respect to PERSONAL HYGIENE and sanitary FOOD handling practices. (2) EMPLOYEES may be required to obtain FOOD HANDLER CERTIFICATES OF COMPLETION as determined by the Health Official. (3) SEASONAL OR POP-UP FOOD ESTABLISHMENTS may be required to have a CERTIFIED FOOD PROTECTION MANAGER and a valid CITY CERTIFICATE OF REGISTRATION as may be determined by the Health Official. (4) Facilities with fryers, grills, smokers, or similar HEAVY FOOD PREPARATION EQUIPMENT shall be required to have a CERTIFIED FOOD PROTECTION MANAGER and may be required to have a valid CITY CERTIFICATE OF REGISTRATION as may be determined by the Health Official. <p>(n) Prohibited foods. The sale or conveyance of raw FISH or raw shellfish products (except crawfish or certain pre-PACKAGED frozen products) from SEASONAL OR POP-UP FOOD ESTABLISHMENTS is prohibited.</p>
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119	TFER § 228.229. Concession Facilities.	<p><i>Amend subchapter F by adding new § 228.229 to read as follows:</i></p> <p>§ 228.229. Concession Facilities.</p> <p>(a) General. The degree of regulation of a CONCESSION FACILITY shall depend upon the type of FOODs conveyed (e.g. TCS FOOD or Non-TCS FOOD), the volume of FOOD conveyed and the number of days of operation per year.</p> <p>(b) Permit. A CONCESSION FACILITY PERMIT shall be obtained from the Health Official prior to operation. The PERSON IN CHARGE of a CONCESSION FACILITY shall ensure that all necessary inspections are arranged prior to opening for the season. See § 228.247 and DIVISION 3 (Health Permits).</p> <p>(c) Exception. CONCESSION FACILITIES shall comply with all requirements of these RULES and HEALTH DIVISION policies provided that the Health Official may waive certain requirements which are deemed unnecessary for the protection of public health.</p>
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120	TFER § 228.230. Farmers Markets.	<p><i>Amend subchapter F by adding new § 228.230 to read as follows:</i></p> <p>§ 228.230. FARMERS MARKETS.</p>
121	TFER § 228.230. Farmers Markets.	<p>.230.001 In General.</p> <p>(1) A PERSON IN CHARGE of a FARMERS MARKET facility shall comply with this section; however, a permit for a PERSON IN CHARGE is not required (unless the PERSON IN CHARGE is also a FARMERS MARKET VENDOR).</p> <p>(2) Each individual FARMERS MARKET VENDOR shall comply with this section.</p>
122	TFER § 228.230. Farmers Markets.	<p>.230.002 Facility; Requirements For Person In Charge.</p> <p>FARMERS MARKET facility requirements for PERSON IN CHARGE:</p> <p>PERSON IN CHARGE. A PERSON IN CHARGE desiring to operate a FARMERS MARKET shall submit the following to the REGULATORY AUTHORITY at least five (5) business days prior to the proposed start date of the FARMERS MARKET:</p> <p>(1) Solid & liquid waste disposal methods. A description of solid and liquid waste disposal methods.</p> <p>(2) Procedures for responding and minimizing contamination. A FARMERS MARKET VENDOR shall have written, printed, or electronic procedures for EMPLOYEES to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces at the FARMERS MARKET VENDOR. 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. This procedure shall be available to the REGULATORY AUTHORITY upon demand. Applicable EQUIPMENT needed shall be available on-site at all times.</p> <p>(3) Floor Plans. A floor plan or diagram of the FARMERS MARKET location and layout, including the area reserved for FARMERS MARKET VENDORS:</p> <p style="margin-left: 20px;">a. Floor construction. Floors and floor coverings of all vending areas shall be located on a concrete or asphalt surface providing adequate drainage. If graded to drain, a floor may be concrete, machine-laid asphalt, dirt, or gravel covered with mats, ply-wood, removable platforms, duckboards if covered with mats, or other suitable materials APPROVED by the REGULATORY AUTHORITY, such as tarps that effectively control dust and mud.</p> <p style="margin-left: 20px;">b. Vending areas. Vending areas shall be covered, relatively free of pests, and capable of providing shelter for vendors and customers.</p>

123	TFER § 228.230. Farmers Markets.	<p>.230.003 Farmers Market Vendor(s).</p> <p>Individual FARMERS MARKET VENDOR requirements are as follows:</p> <p>(1) Permit required. An individual FARMERS MARKET VENDOR PERMIT shall be required. See § 228.247 and DIVISION 3 (Health Permits).</p> <p>a. A copy of the CERTIFIED FOOD PROTECTION MANAGER'S CERTIFICATION when required by the HEALTH DIVISION policies. NOTE: FARMERS MARKET VENDORS that offer, sell, or distribute only pre-PACKAGED Non-TCS FOOD and plants, nuts in the shell, or whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the CONSUMER before consumption, are exempt from the CERTIFIED FOOD PROTECTION MANAGER'S CERTIFICATION and the CERTIFIED FOOD HANDLER requirement.</p> <p>b. A list of FOOD proposed to be offered, conveyed, or sold.</p> <p>c. Proof of FOOD origin by providing a copy of a current manufacturer's license, providing a copy of a storage license, or providing a description of the APPROVED SOURCE at where FOOD will be obtained.</p> <p>d. A copy of APPROVED FOOD label(s), where applicable.</p> <p>e. A description of solid and liquid waste disposal methods.</p>
124	TFER § 228.230. Farmers Markets.	<p>.230.004 Farmers Market Vendor Products.</p> <p>(1) Sampling. Sampling shall meet the requirements of Section 437.020 of the Texas Health and Safety Code, as amended.</p> <p>(2) Preventing contamination – Food display. Except for plants, nuts in the shell, and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the CONSUMER before consumption, FOOD on display shall be protected from contamination by:</p> <p>a. use of packaging;</p> <p>b. a service line counter;</p> <p>c. be in completely enclosed display cases accessible only to FARMERS' MARKET VENDOR staff; or</p> <p>d. by other means APPROVED by the REGULATORY AUTHORITY.</p> <p>(3) Temperature requirements. FOOD temperatures must be in compliance with these Rules. Equipment used to hold FOOD shall maintain required temperatures for the duration of the FARMERS MARKET.</p> <p>(4) Permissible Foods. FARMERS MARKET VENDOR PRODUCTS are permissible at FARMERS MARKETS. FARMERS MARKET VENDOR PRODUCTS include PRODUCE, AGRICULTURAL PRODUCT(S), or COTTAGE FOOD, as defined in § 228.2, for retail sale, sample, or consumption. For any other FOODS not identified or defined herein in these RULES, only FOOD from an APPROVED SOURCE as defined in these Rules may be offered at a FARMERS MARKET, unless otherwise authorized by the Health Official.</p>

		<p>(5) Prohibited Foods. Fish, FORAGED FOOD, GAME ANIMALS, GLEANED FOOD, and non-pasteurized dairy items are prohibited at a FARMERS MARKET.</p> <p>(6) Meats & Poultry. Raw MEATS and POULTRY shall be frozen for the duration of the FARMERS' MARKET, and also while being transported to the FARMERS' MARKET.</p> <p>(7) Eggs & Dairy.</p> <p>a. EGGS shall be maintained with mechanical refrigeration at or below forty-five (45) degrees Fahrenheit for the duration of the FARMERS MARKET. The temperature shall also be maintained during transport to the FARMERS MARKET.</p> <p>b. Dairy items shall be maintained with mechanical refrigeration at or below forty-one (41) degrees Fahrenheit for the duration of the FARMERS MARKET. The temperature shall also be maintained during transport to the FARMERS MARKET.</p>
125	TFER § 228.230. Farmers Markets.	<p>.230.005 Animals – General Prohibition and Exceptions.</p> <p>(1) General prohibition. Except as specified in (2) (Exceptions) below, or as otherwise allowed by LAW, live animals, pets, and comfort animals are not allowed on the PREMISES of a FARMERS MARKET. Animals may not be vended, sold, offered for adoption, or given away at a FARMERS MARKET.</p> <p>(2) Exceptions. Live animals may be allowed if a health or safety HAZARD will not result from the presence of activities of the animals in the following situations:</p> <p>a. Patrol dogs accompanying police or security officers; or,</p> <p>b. SERVICE ANIMALS under physical control of the owner.</p>
126	TFER § 228.230. Farmers Markets.	<p>.230.006. Equipment and Utensils.</p> <p>(1) Functionality of equipment.</p> <p>a. Equipment used to keep FOOD frozen or refrigerated shall comply with these Rules, and shall be able to maintain required temperatures for the duration of operations.</p> <p>b. Tables used within the vending area shall be made of non-porous material and be EASILY CLEANABLE.</p> <p>(2) Equipment, numbers, and capacities.</p> <p>a. Where required, at least one (1) hand washing facility, which shall include a container with a spigot that provides POTABLE, clean, warm water; a wastewater container; soap; disposable towels; and a waste receptacle, shall be located within twenty-five (25) linear feet of each FARMERS MARKET VENDOR APPROVED to conduct sampling operations.</p> <p>b. A hand wash facility is not required for FARMERS' MARKET VENDORS with only pre-PACKAGED products and plants, nuts in the</p>

		<p>shell, and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the CONSUMER before consumption.</p> <p>c. Each FARMERS MARKET VENDOR shall provide a REFUSE receptacle. Receptacles shall be non-porous and insect and rodent resistant. All REFUSE shall be disposed of offsite from the FARMERS MARKET to prevent pests, and shall be no less than once per day.</p> <ol style="list-style-type: none">1. There shall be a sufficient number of receptacles to hold all the REFUSE that accumulates. The REGULATORY AUTHORITY may require more frequent collection, dumpsters, or larger dumpsters to accommodate the REFUSE that accumulates at the FARMERS MARKET VENDOR.2. Liquid waste shall not be discharged into a storm drain. <p>Mesquite Zoning Ordinance reference – Farmers' Markets are considered outdoor display lots for purposes of the MZO; Mesquite Zoning Ordinance (MZO), Part 3, 3-600, Section 3-602 Outdoor Display Lot.</p> <p>Mesquite City Code reference – Chapter 8, Article VIII, Division 1, Sec. 8-546 – Violations and offenses.</p>
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127	TFER § 228.231. Mobile Food Units: MFU–General Provisions.	<i>Amend subchapter F by adding new § 228.231 to read as follows:</i> § 228.231. MOBILE FOOD UNITS: MFU–GENERAL PROVISIONS.
128	TFER § 228.231 MFU–General Provisions.	.231.001 In General. These general provisions are applicable to all MOBILE FOOD UNIT types unless otherwise provided.
129	TFER § 228.231. MFU–General Provisions.	.231.002 Mobile Food Unit Types & Classifications. MFU–C Catering Trucks & Trailers MFU–F Food Preparation Trucks & Trailers <u>MFU–F Classifications:</u> MFU–F with LIGHT FOOD PREPARATION MFU–F with HEAVY FOOD PREPARATION MFU–IC Ice Cream Trucks & Trailers MFU–PC Pushcarts <u>MFU–PC Classifications:</u> MFU–PC with NO FOOD PREPARATION MFU–PC with LIGHT FOOD PREPARATION

<p>130</p>	<p>TFER § 228.231. MFU–General Provisions.</p>	<p>.231.003 Permit(s) Required.</p> <p>The following is an overview of the various permits, or approvals that may be required to lawfully operate a MOBILE FOOD UNIT (MFU) in the City of Mesquite.</p> <p>(1) Health Permit. Operators of MFUs shall obtain and display a valid HEALTH PERMIT (and sticker when applicable) in accordance with DIVISION 3 (Health Permits) of this article to lawfully operate an MFU in the CITY.</p> <p>Cross reference – § 228.247 (Permit Requirement, Prerequisite for Operation). Mesquite City Code references – Chapter 8, Article VIII, DIVISION 3 (Health Permits). Appendix D – Comprehensive Fee Schedule, Article XII, Sec. 12-113 Health Division Permits.</p> <p>(2) Solicitor’s Permit. Operators of MOBILE FOOD UNITS falling under the definition of “Mobile Vendors” in Mesquite City Code, Chapter 8, Article III, Division 1, Sec. 8–196 shall be required to obtain a Solicitor’s Permit.</p> <p>a. <i>MFU–IC.</i> Operators of MFU–ICs shall obtain and display a valid Solicitor’s Permit in accordance with Sec. 8–247 (Mobile Vendors).</p> <p>b. <i>Other MFU types.</i> Any other operator of a MOBILE FOOD UNIT falling under the definition of a “Mobile Vendor” pursuant to Sec. 8–196 shall obtain and display a valid Solicitor’s Permit in accordance with Sec. 8–247 (Mobile Vendors).</p> <p>Mesquite City Code reference – Appendix D – Comprehensive Fee Schedule, Article XIII, Sec. 13-106 Solicitor’s License.</p> <p>(3) MFU–Operation Site Permit and/or MFU–Operation Site Approval. In accordance with DIVISION 6 (Operation Site Approval FOR MOBILE FOOD UNITS) of this article, MFUs operating in the CITY shall be required to:</p> <p>a. Obtain and display a copy of the property owner’s MFU–OPERATION SITE PERMIT (when applicable), or</p> <p>b. obtain a copy of some other MFU–OPERATION SITE APPROVAL (when applicable), or</p> <p>c. be able to identify an exception or exclusion that exists (when applicable).</p> <p>Mesquite City Code references – Chapter 8, Article VIII, DIVISION 6 (Operation Site Approval for Mobile Food Units). Appendix D – Comprehensive Fee Schedule, Article XII, Sec. 12-113 Health Division Permits.</p>
<p>131</p>	<p>TFER § 228.231. MFU–General Provisions.</p>	<p>.231.005 City of Mesquite MFU–Policies & Forms.</p> <p>MFUs shall comply with the requirements, rules, and regulations contained in the:</p> <p style="text-align: center;">City of Mesquite, Texas Health Division Mobile Food Unit Policies & Forms</p> <p>The documents are incorporated herein by reference and may also be referred to and cited as “City of Mesquite MFU-Policies & Forms” or “MFU–Policies & Forms.”</p>

132	TFER § 228.231. MFU–General Provisions.	<p>.231.006 Signage.</p> <p>(1) Identifiable. Each MOBILE FOOD UNIT (MFU) must be readily identifiable by business name.</p> <p>a. The business name shall be printed, permanently affixed, and prominently displayed upon at least two sides of the MFU, in letters and numbers not less than three (3) inches in height, and of a color contrasting with the background color, unless otherwise APPROVED by the Health Official.</p> <p>b. If a symbol is used on the MFU, it shall be at least twelve (12) inches in diameter or of an equivalent size, unless otherwise APPROVED by the Health Official.</p> <p>(2) Signs and advertising – Mobile Food Units.</p> <p>a. Signs may be attached to the interior of an MFU. For example, menus may be posted inside the MOBILE FOOD UNIT.</p> <p>b. Signs may be attached to the exterior of an MFU and shall be mounted flat against the MOBILE FOOD UNIT.</p> <p>c. An A-Frame sign not to exceed four (4) feet in height and located within six (6) feet of the MOBILE FOOD UNIT for which it is advertising is permitted during business hours.</p> <p>d. No other signs for the MOBILE FOOD UNITS shall be permitted unless authorized by the Mesquite Sign Ordinance (City Code, Chapter 13).</p>
133	TFER § 228.231. MFU–General Provisions.	<p>.231.007 Sales of non-food items.</p> <p>In general, the retail sale of non-FOOD items shall be prohibited, unless said non-FOOD items are incidental to the MOBILE FOOD UNIT’S operations. For example: T-shirts, hats, can Koozies, souvenir cups, or other promotional items related to the MOBILE FOOD UNIT and/or its affiliates.</p>
134	TFER § 228.231. MFU–General Provisions.	<p>.231.008 Base of Operation: Central Preparation Facility (Commissary); or Fixed Commercial Location Food Establishment.</p> <p>(1) Base of Operation required. MFUs shall have access to an authorized BASE OF OPERATION which may be either an authorized CENTRAL PREPARATION FACILITY (Commissary) or other authorized FIXED COMMERCIAL LOCATION FOOD ESTABLISHMENT.</p> <p>(2) Physical Facilities and Construction. A BASE OF OPERATION, either a CENTRAL PREPARATION FACILITY (Commissary) or other authorized FIXED COMMERCIAL LOCATION FOOD ESTABLISHMENT, shall be constructed and operated in compliance with all the requirements of these RULES pertaining to PHYSICAL FACILITIES.</p> <p>(3) Report to Base of Operation Each Day MFU Operates. MFUs shall report to such BASE OF OPERATION each day of MFU operation for supplies, cleaning, and servicing operations. Additional reporting to such BASE OF OPERATION may be required by the CITY HEALTH OFFICIAL and in accordance with MFU – Policies & Forms.</p>

		<p>(4) Documentation of each visit to Base of Operation and servicing. Documentation includes the date and times of an MFU visit to the BASE OF OPERATION and the type of service the MFU obtained while at the BASE OF OPERATION. Documentation as described, shall be maintained by both the MFU Operator and the BASE OF OPERATION.</p> <p>a. MFU Operator. The MFU Operator shall document each visit to a BASE OF OPERATION and shall have that documentation made available in its Servicing Records for any inspections by the REGULATORY AUTHORITY.</p> <p>b. Base of Operation. The BASE OF OPERATION shall maintain documentation of each MFU visit and servicing and shall have that documentation made available in its Servicing Records for any inspections by the REGULATORY AUTHORITY.</p> <p>(5) Servicing operations.</p> <p>a. POTABLE water-servicing EQUIPMENT shall be stored and handled in a way that protects the water and EQUIPMENT from contamination.</p> <p>b. Vehicle cleaning and in-place cleaning of NON-FOOD-CONTACT SURFACES of EQUIPMENT not requiring SANITIZATION shall be done with POTABLE water and shall be done in a manner that will not contaminate the MOBILE FOOD UNIT'S FOOD storage or FOOD preparation areas of EQUIPMENT.</p> <p>c. If hoses are used in the cleaning process, they shall be FOOD-grade and kept off the floor or pavement, on racks or by other APPROVED suitable means.</p> <p>d. All cleaning areas shall be paved with a SMOOTH surface of nonabsorbent material such as concrete or machine-laid asphalt, which is sloped to drain toward an APPROVED catch basin or floor drain where the liquid waste can be lawfully disposed.</p> <p>e. The use of liquid waste transport vehicles (otherwise known as vacuum trucks), licensed by the Texas Commission on Environmental Quality (TCEQ) for the removal and disposal of liquid waste resulting from MOBILE UNIT FOOD operations is permitted.</p> <p>f. Servicing operations may be performed by a BASE OF OPERATION operator or by the MOBILE FOOD UNIT operator. It shall be the BASE OF OPERATION'S responsibility to observe or perform servicing on each MOBILE FOOD UNIT and properly complete a servicing record. It is the responsibility of the MOBILE FOOD UNIT - Operator to confirm that the requirements of this section are fulfilled prior to resuming FOOD operations.</p> <p>(6) MFU Servicing Records: Records Retention Period.</p> <p>a. Two Years. The operator of a MOBILE FOOD UNIT and the BASE OF OPERATION shall keep and maintain servicing records on each MFU and visits to the BASE OF OPERATION by the MOBILE FOOD UNIT for a period of two (2) years.</p>
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135	TFER § 228.231. MFU–General Provisions.	<p>.231.009 Locations For Operations and/or Storing.</p> <p>See Mesquite City Code, Chapter 8, Article VIII, DIVISION 6 (Operation Site Approval for Mobile Food Units):</p> <p>(1) Sec. 8-653 (Location Standards for Mobile Food Units).</p> <p>(2) Sec. 8-654 (Permissible Locations of Operations for Mobile Food Units).</p>
136	TFER § 228.231. MFU–General Provisions.	<p>.231.010 Restroom Agreement.</p> <p>(1) Required. Unless otherwise APPROVED by the Health Official, MOBILE FOOD UNITS shall be located within 500 feet of APPROVED restroom facilities.</p> <p>(2) Restroom Agreement. Operators shall have written permission from the restroom owner or PERSON-IN-CHARGE to utilize the restroom facilities in accordance with CITY MFU – Policies & Forms.</p> <p>(3) Not a prerequisite for issuance of Health Permit. Restroom Agreements are not required to obtain issuance of the HEALTH PERMIT; however, Restroom Agreement(s) shall be submitted, to the Health Division in accordance with CITY MFU – Policies & Forms, prior to MFU operations.</p>
137	TFER § 228.231. MFU–General Provisions.	<p>.231.011 Itinerary of MFU Route.</p> <p>(1) Required. Unless otherwise provided, MOBILE FOOD UNITS shall submit an itinerary, including all route information and locations where sales will occur, in accordance with CITY MFU – Policies & Forms.</p> <p>(2) Not a prerequisite for issuance of Health Permit. Submission of itineraries with route information is not required to obtain issuance of the HEALTH PERMIT; however, itineraries with route information shall be submitted, to the Health Division in accordance with CITY MFU – Policies & Forms, prior to MFU operations.</p> <p>(3) Exceptions. MFU–IC operators shall not be required to submit detailed itineraries of projected stops; however, MFU–IC operators shall submit such information as may be required by the CITY MFU – Policies & Forms.</p>
138	TFER § 228.231. MFU–General Provisions.	<p>.231.012 Mobility.</p> <p>(1) MOBILE FOOD UNITS shall retain mobility at all times. However, it is permissible for MFUs that are trailers to be disconnected from the vehicle while in operation or for servicing.</p> <p>(2) A MFU must demonstrate mobility at any reasonable time if requested by any peace officer, Health Officer, or designated CITY EMPLOYEE.</p>

139	TFER § 228.231. MFU–General Provisions.	<p>.231.013 Roadside Food Operations.</p> <p>MOBILE FOOD UNITS may conduct ROADSIDE FOOD OPERATIONS.</p>
140	TFER § 228.231. MFU–General Provisions.	<p>.231.014 Food Storage Areas.</p> <p>All MOBILE FOOD UNIT FOOD storage areas shall be maintained free of rust and corrosion, kept clean, and protected from contamination.</p>
141	TFER § 228.231. MFU–General Provisions.	<p>.231.015 Food Transportation.</p> <p>(1) During transportation, FOOD and FOOD UTENSILS shall be kept in covered containers or completely wrapped or PACKAGED so as to be protected from contamination. FOODS in original packages do not need to be overwrapped or covered if the original package is SEALED.</p> <p>(2) FOOD shall be maintained at required temperatures at all times during transport.</p>
142	TFER § 228.231. MFU–General Provisions.	<p>.231.016 Solid Waste & Liquid Waste.</p> <p>(1) Solid Waste. A minimum of one (1) trash container sufficient in size must be located in a prominent location to collect all waste generated by customers of the MOBILE FOOD UNIT. All trash and debris generated by customers of the MOBILE FOOD UNIT shall be collected by the operator and deposited in their trash container and shall be removed from the MFU–OPERATION SITE daily.</p> <p>(2) Liquid Waste. Fats, Oils, and Grease (“FOG”) and other liquid waste generated by MFUs shall be disposed of at the authorized BASE OF OPERATION or other authorized liquid waste disposal location in accordance with the MFU–Policies & Forms. If FOG and other liquid waste results from the operation of a MOBILE FOOD UNIT it shall comply with the following:</p> <ul style="list-style-type: none"> a. It shall be stored in permanently installed, vented retention tanks that are at least fifteen percent (15%) larger than the water supply tank, but not less than thirty (30) gallons of capacity and shall be drained and thoroughly flushed during servicing operations. b. All FOG and other liquid waste shall be discharged to an APPROVED disposal system. c. FOG and other liquid waste shall not be discharged from the retention tank when the MOBILE FOOD UNIT is at an operational location unless into an APPROVED grease waste disposal site. d. The waste connection shall be located below the water connection to preclude contamination of the POTABLE water system. e. All used fats, oil, or grease shall be discharged to an APPROVED grease interceptor or at the BASE OF OPERATION. Used fats, oils, or grease shall not be discharged to any unauthorized FOOD ESTABLISHMENT grease interceptor. <p>Mesquite City Code reference – Chapter 16 – Water and Liquid Waste.</p>

143	TFER § 228.231. MFU–General Provisions.	<p>.231.017 Cleaning MFU–Operation Site .</p> <p>(1) MFU–Operation Site shall be kept neat and orderly at all times. (2) Prior to leaving an MFU–OPERATION SITE, the operator is required to make sure the location has been cleared of any trash or other such nuisance caused by the MOBILE FOOD UNIT or its EMPLOYEES and customers.</p>
144	TFER § 228.231. MFU–General Provisions.	<p>.231.018 Cleaning the Mobile Food Unit.</p> <p>(1) Interior. All interior washing shall be at an APPROVED BASE OF OPERATION. (2) Exterior. Only exterior washing of the MOBILE FOOD UNIT may be done at a commercially operated carwash.</p>
145	TFER § 228.231. MFU–General Provisions.	<p>.231.019 Safety.</p> <p>MOBILE FOOD UNITS shall be in compliance with the Mesquite Fire Code (Chapter 6, Article II) and operators shall review and be in compliance with any safety checklists and Fire Department requirements as included in the MFU–Policies & Forms.</p>
146	TFER § 228.231. MFU–General Provisions.	<p>.231.020 Vehicle Construction and Equipment.</p> <p>(1) The interior of the MOBILE FOOD UNIT shall be commercially manufactured or be APPROVED by the Health Official. (2) The FOOD preparation area of the MFU shall be completely enclosed. (3) MOBILE FOOD UNIT may be required to provide an onboard power source, such as a battery or generator, to assure maintenance of TCS FOODS at SAFE TEMPERATURES during transit, preparation, and service. (4) The MFU must be equipped with commercial mechanical facilities. (5) All EQUIPMENT on the MFU is to be NSF approved, ANSI approved, or of commercial grade. (6) The cab of a MFU vehicle and seats designated for the driver and any passengers must be physically separated from the FOOD preparation area. (7) Exterior surfaces of MOBILE FOOD UNITS shall be of weather resistant materials and shall comply with all applicable LAWS. (8) Utility connections shall be limited to only electrical service and shall be in full compliance with the Electrical Code. MOBILE FOOD UNITS shall not be connected to any fuel gas service while in the operation of preparing or vending FOOD. (9) All electrical extension cords shall be of industrial grade quality and shall be utilized in a safe manner as not to be a nuisance or a trip HAZARD. (10) Covers for deep fryers must be provided and installed over fryer units while vehicle is in motion.</p>
147	TFER § 228.231. MFU–General Provisions.	<p>.231.021 Damage Report.</p> <p>Any accident involving a MOBILE FOOD UNIT that results in damage to the water system, waste retention tank, FOOD service EQUIPMENT, or any facility that may result in the contamination of the FOOD being transported or any damage that results in a violation of this section, shall be reported to the Health Division within 24 hours or one (1) business day of the time the accident occurred. Reports shall be made by the HOLDER of the MFU–ANNUAL HEALTH PERMIT.</p>

148	TFER § 228.232. MFU–Catering Trucks & Trailers.	<i>Amend subchapter F by adding new § 228.232 to read as follows:</i> § 228.232. MFU–CATERING TRUCKS & TRAILERS (“MFU–C”).
149	TFER § 228.232. MFU–Catering Trucks & Trailers.	.232.001 In General. (1) Defined. MFU –CATERING TRUCKS & TRAILERS are defined in § 228.2 (85.02). (2) General provisions. See § 228.231 MFU–GENERAL PROVISIONS applicable to all MOBILE FOOD UNIT types.
150	TFER § 228.232. MFU–Catering Trucks & Trailers.	.232.002 Authorized Classifications. Classifications and regulations. MFU–Cs may be classified and authorized as: (1) No Food Preparation. MFU–Cs classified and authorized as NO FOOD PREPARATION sell or convey FOOD in such a manner that no direct FOOD contact results. Direct FOOD handling of any type shall be prohibited by operators and by customers during the sale or conveyance of the FOOD when the MFU–C is classified and authorized as only an MFU–C with NO FOOD PREPARATION. (2) Light Food Preparation. MFU–Cs classified and authorized as LIGHT FOOD PREPARATION MFU–Cs sell or convey FOOD in such a manner where FOODS require a limited amount of preparation, as authorized by the Health Official. MFU–Cs with LIGHT FOOD PREPARATION shall: a. be equipped with an integral HANDWASHING SINK which has hot and cold running water, b. be equipped with a three-compartment sink, if UTENSILS are used, which has hot and cold running water, c. have a supply of soap and paper towels on the MFU–C at all times, d. limit the handling of FOOD through the use of tongs, forks, or similar UTENSILS, and e. serve all FOODS on SINGLE-SERVICE ARTICLES.
151	TFER § 228.232. MFU–Catering Trucks & Trailers.	.232.003 Food Handling. (1) In general. FOOD shall be handled in accordance with the RULES. (2) Examples of general types of foods that are allowed. a. Food that was prepared and PACKAGED in individual servings at an APPROVED BASE OF OPERATION and transported and stored under conditions meeting the requirements of these RULES. b. All FOODS sold will need to meet proper labeling requirements. (3) For Pre-packaged Food. If the MFU operator is selling pre-PACKAGED FOOD, the MFU operator shall provide a copy of the Commercial Food Establishment's Texas Food Manufacturing permit (or Meat Safety Assurance Permit - if applicable) from the Texas Department of State Health Services. (4) Ice. It shall be unlawful for operators of MFU–CATERING TRUCKS & TRAILERS to sell, dispense, or convey ice in any manner, except from an APPROVED automatic ice dispenser.

		<p>(5) Soft drinks or iced tea. Soft drinks or iced tea shall be conveyed only in pre-PACKAGED cans, bottles, or cartons.</p> <p>(6) Hot coffee or hot tea. Hot coffee or hot tea may be conveyed from bulk dispensers into single-service cups.</p> <p>(7) Milk, milk products, and cream. Individual servings of milk, milk products, and coffee creams shall be PACKAGED at a pasteurizing plant and kept at SAFE TEMPERATURES.</p> <p>(8) Condiments. All CONDIMENTS shall be served in single-service containers, or APPROVED, commercially filled, dispenser-type containers. Bulk dispensers, bottles, or other containers shall not be permitted for conveyance of any condiment.</p> <p>(9) TCS foods. All TCS FOODS shall be kept at SAFE TEMPERATURES as defined in § 228.2.</p>
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152	TFER § 228.233. MFU–Food Preparation Trucks & Trailers.	<i>Amend subchapter F by adding new § 228.233 to read as follows:</i> § 228.233. MFU–FOOD PREPARATION TRUCKS & TRAILERS (“MFU–F”).
153	TFER § 228.233. MFU–Food Preparation Trucks & Trailers.	.233.001 In General. (1) Defined. MFU–FOOD PREPARATION TRUCKS & TRAILERS are defined in § 228.2 (85.03). (2) General provisions. See § 228.231 MFU–GENERAL PROVISIONS applicable to all MOBILE FOOD UNIT types.
154	TFER § 228.233. MFU–Food Preparation Trucks & Trailers.	.233.002. Authorized Classifications. Classifications and regulations. MFU-Fs may be classified and authorized as: (1) Light Food Preparation. MFU–Fs classified and authorized as LIGHT FOOD PREPARATION sell or convey FOOD in such a manner where FOODS require a limited amount of preparation, as authorized by the Health Official. An example of MFU–F with LIGHT FOOD PREPARATION would be Snow Cone Trucks & Trailers. MFU–Fs with LIGHT FOOD PREPARATION shall: a. be equipped with an integral handwash sink, which has hot and cold running water, b. have a supply of soap and paper towels on the MFU–F at all times, c. limit the handling of FOOD through the use of tongs, forks, or similar UTENSILS, and d. serve all FOODS on SINGLE-SERVICE ITEMS. (2) Heavy Food Preparation. MFU–Fs may be classified and authorized as HEAVY FOOD PREPARATION MFUs and may serve a full menu as APPROVED by the HEALTH DIVISION including cooking from raw product.
155	TFER § 228.233. MFU–Food Preparation Trucks & Trailers.	.233.003. Food Handling. (1) In general. FOOD shall be handled in accordance with the RULES. (2) TCS foods. All TCS FOODS shall be kept at SAFE TEMPERATURES as defined in § 228.2.

EXHIBIT B TO ORDINANCE NO. 4868
MESQUITE CITY CODE, CHAPTER 8, ARTICLE VIII. – FOOD AND FOOD ESTABLISHMENTS

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156	TFER § 228.234. MFU–Ice Cream Trucks & Trailers.	<i>Amend subchapter F by adding new § 228.234 to read as follows:</i> § 228.234. MFU–ICE CREAM TRUCKS & TRAILERS (“MFU–IC”).
157	TFER § 228.234. MFU–Ice Cream Trucks & Trailers.	.234.001 In General. (1) Defined. MFU–ICE CREAM TRUCKS & TRAILERS are defined in § 228.2 (85.04). (2) General provisions. See § 228.231 MFU–GENERAL PROVISIONS applicable to all MOBILE FOOD UNIT types. (3) Mobile Vendors. MFU–IC operators shall comply with “mobile vendor” provisions in Mesquite City Code, Chapter 8, Article III, Sec. 8-196 and Sec. 8-247 .
158	TFER § 228.234. MFU–Ice Cream Trucks & Trailers.	.234.002 Authorized Classifications. Classifications and regulations. MFU–ICs may be classified and authorized as: No Food Preparation. MFU–ICs classified and authorized as NO FOOD PREPARATION sell or convey FOOD in such a manner that no direct FOOD contact results. Direct FOOD handling of any type shall be prohibited by operators and by customers during the sale or conveyance of the FOOD.
159	TFER § 228.234. MFU–Ice Cream Trucks & Trailers.	.234.003 Food Handling. (1) In general. FOOD shall be handled in accordance with the RULES. (2) Pre-packaged & original wrapping required. Ice cream, frozen desserts, and other novelty frozen FOOD items shall be individually wrapped by the manufacturer before being placed in the vehicle from which they are sold and shall be sold in the original wrapping. (3) TCS foods. All TCS FOODS shall be kept at SAFE TEMPERATURES for frozen FOODS as defined in § 228.2. a. The MFU–IC shall be capable of maintaining a constant SAFE TEMPERATURE for frozen FOOD storage. b. The MFU–IC operator shall have a thermometer to allow for verification of temperatures in a conspicuous place within the MFU.
160	TFER § 228.234. MFU–Ice Cream Trucks & Trailers.	.234.004 Authorized Menu items. Pre-PACKAGED ice-cream and other novelties, candy, and BEVERAGES.
161	TFER § 228.234. MFU–Ice Cream Trucks & Trailers.	.234.005 Signage. All MFU–IC units shall have: Signs in the front of the MFU and the rear of the MFU bearing the word "SLOW" in letters not less than six (6) inches high.

162	TFER § 228.235. MFU–Pushcarts.	<p><i>Amend subchapter F by adding new § 228.235 to read as follows:</i></p> <p>§ 228.235. MFU–PUSHCARTS (“MFU–PC”).</p>
163	TFER § 228.235. MFU–Pushcarts.	<p>.235.001 In General.</p> <p>(1) Defined. MFU–PUSHCARTS are defined in § 228.2 (85.05).</p> <p>(2) General provisions. See § 228.231 MFU–GENERAL PROVISIONS applicable to all MOBILE FOOD UNIT types.</p> <p>(3) Restrictions. Operations or other activities utilizing MFU-PUSHCARTS (MFU-PC) are only permissible in the CITY in association with:</p> <ul style="list-style-type: none"> a. Temporary events, b. SEASONAL OR POP-UP FOOD ESTABLISHMENTS, and c. in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA including the Front Street Station area. <p>(4) MFU–Mobility (Stationary vs. Mobile Capacity).</p> <ul style="list-style-type: none"> a. Stationary capacity. In general, and except as otherwise provided, MFU-PCs shall remain in a stationary mode (i.e. similar to a Booth Food Vendor) at all EVENTS or during any other operation unless otherwise authorized by the Health Official; except, MFU–PCs may be mobile in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA including the Front Street Station area. b. Mobile capacity. MFU–PCs may be mobile in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA including the Front Street Station area and shall operate in accordance with these RULES, the CITY HEALTH DIVISION MFU – Policies & Forms, and the MOBILE FOOD UNIT Operator shall obtain MFU–OPERATION SITE APPROVAL.
164	TFER § 228.235. MFU–Pushcarts.	<p>.235.002 Authorized Classifications.</p> <p>Classifications and regulations. MFU–PC may be classified and authorized as:</p> <p>(1) No Food Preparation. MFU–PCs classified and authorized as NO FOOD PREPARATION sell or convey FOOD in such a manner that no direct FOOD contact results. Direct FOOD handling of any type shall be prohibited by operators and by customers during the sale or conveyance of the FOOD when the MFU-PC is classified and authorized as only an MFU–PC with NO FOOD PREPARATION.</p> <p>(2) Light Food Preparation. MFU–PCs classified and authorized as LIGHT FOOD PREPARATION sell or convey FOOD in such a manner where FOODS require a limited amount of preparation, as authorized by the Health Official. MFU–PC with LIGHT FOOD PREPARATION shall:</p> <ul style="list-style-type: none"> a. be equipped with an integral handwash sink, which has hot and cold running water, b. have a supply of soap and paper towels on the MFU–PC at all times, c. limit the handling of FOOD through the use of tongs, forks, or similar UTENSILS, and d. serve all FOODS on SINGLE-SERVICE ARTICLES.

165	TFER § 228.235. MFU–Pushcarts.	<p>.235.003 Food Handling.</p> <p>(1) In general. FOOD shall be handled in accordance with the RULES.</p> <p>(2) TCS foods. All TCS FOODS shall be kept at SAFE TEMPERATURES as defined in § 228.2.</p> <p style="padding-left: 20px;">a. MFU–PCs serving hot TCS FOOD shall be equipped with fuel-fired or electric hot-holding devices capable of maintaining FOODS at SAFE TEMPERATURES for hot FOODS.</p> <p style="padding-left: 20px;">b. MFU–PCs serving or storing cold TCS FOOD shall have insulated storage compartments capable of maintaining refrigerated FOODS at SAFE TEMPERATURES for cold and/or frozen FOODS as applicable.</p> <p style="padding-left: 20px;">c. All MFU–PCs shall have accurate thermometers in each cold-holding and hot-holding compartment. The MFU–PC operator shall possess an accurate, probe-type thermometer for monitoring FOOD temperatures as required by 228.105(a)(3) of these RULES.</p> <p style="padding-left: 20px;">d. TCS FOODS which have been heated or kept refrigerated on an MFU–PC shall, if not sold in one day, be discarded at the end of each day, provided that unopened canned FOODS and properly maintained frozen FOODS may be returned to the BASE OF OPERATION for reuse.</p> <p style="padding-left: 20px;">e. MFU–PCs serving TCS FOODS shall be cleaned and sanitized daily at the BASE OF OPERATION.</p> <p>(3) Condiments. All CONDIMENTS shall be served in single-service containers, or APPROVED, commercially filled, dispenser-type containers. Bulk dispensers, bottles, or other containers shall not be permitted for conveyance of any condiment.</p>
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166	TFER § 228.235. MFU–Pushcarts.	<p>.235.004. Authorized Menu Items.</p> <p>(1) MFU–PCs shall be limited to an authorized menu as APPROVED by the Health Official.</p> <p>(2) The authorized menu items for any individual MFU–PC will determine the classification of the MFU–PC as with either NO FOOD PREPARATION or LIGHT FOOD PREPARATION.</p> <p>(3) Only those FOOD items listed on the HEALTH PERMIT may be sold or conveyed.</p> <p>(4) The authorized FOOD ITEMS are limited to the following, unless otherwise authorized by the Health Official:</p> <ul style="list-style-type: none"> a. baked goods, b. candy (pre-PACKAGED), c. cheese toppings (artificial, canned & pre-cooked), d. chili (canned & pre-cooked), e. chips (pre-PACKAGED), f. cotton candy, g. corn on the cob, h. fruits, i. hot dogs, j. ice – ice & shaved ice, k. ice cream & frozen novelties (pre-PACKAGED), l. nachos – see also chili and cheese toppings, m. popcorn, n. pretzels, o. roasted peanuts, p. sausage on a stick, q. tamales, r. snow cones, s. vegetables, t. fruit drinks (from dry mix only), u. lemonade, v. sodas / soft drinks (pre-PACKAGED), w. tea, and x. commercially-BOTTLED DRINKING WATER.
167	TFER § 228.235. MFU–Pushcarts.	<p>.235.005 Waste.</p> <p>(1) Liquid Waste retention. All liquid wastes resulting from the operation of an MFU–PC shall be collected and stored in an integral waste holding tank and disposed of in a sanitary sewer. Sizing and capacity of waste holding tank must meet NSF Standard 59 requirements.</p> <p>(2) Solid waste. The MFU operator shall provide a plastic waste receptacle with integral lid for collection of all solid waste produced by the an MFU–PC. Plastic waste receptacle liners shall be used at all times.</p>
168	TFER § 228.235. MFU–Pushcarts.	<p>.235.006 Food Storage and Equipment.</p> <p>(1) All FOODS sold or conveyed from an MFU–PC shall be stored or displayed only “within” or “on” the MFU–PC.</p> <p>(2) Additional EQUIPMENT, other than the operator’s chair, shall be prohibited.</p>

169	TFER § 228.235. MFU–Pushcarts.	<p>.235.007 Cleaning and Sanitizing.</p> <p>(1) MFU–PCs serving TCS FOODS shall be cleaned and sanitized daily at the BASE OF OPERATION.</p> <p>(2) MFU–PCs selling pre-PACKAGED or NTCS FOODS shall be washed and rinsed daily at the BASE OF OPERATION.</p> <p>(3) MFU–PCs shall be maintained in a clean, sanitary condition at all times of operation and while stored at the BASE OF OPERATION.</p>
170	TFER § 228.235. MFU–Pushcarts.	<p>.235.008 Personnel.</p> <p>(1) All PERSONS operating MFU–PCs where FOOD is prepared or non-pre-PACKAGED FOOD is served shall possess a valid FOOD HANDLER CERTIFICATE OF COMPLETION.</p> <p>(2) Operators shall comply with all PERSONAL HYGIENE requirements of these RULES.</p>
171	TFER § 228.235. MFU–Pushcarts.	<p>.235.009 MFU–PC Construction And Surfaces.</p> <p>(1) MFU–Pushcarts shall meet all construction and operation requirements of the National Sanitation Foundation (NSF) Standard 59 for FOOD pushcarts and shall be APPROVED by the REGULATORY AUTHORITY.</p> <p>(2) All FOOD-CONTACT SURFACES on MFU–PCs shall be stainless steel, polymer cutting boards, or equivalent as APPROVED by the REGULATORY AUTHORITY.</p>

172	TFER § 228.236. Itinerant Vendors & Delivery of Food.	<i>Amend subchapter F by adding new § 228.236 to read as follows:</i> § 228.236. Itinerant Vendors & Delivery of Food.
173	TFER § 228.236. Itinerant Vendors & Delivery of Food.	<p>.236.001. Itinerant Vendors.</p> <p>This subsection is applicable to the sale or conveyance of FOOD by ITINERANT VENDORS, and PERSONS delivering previously ordered FOOD from any ITINERANT VENDORS, other than MOBILE FOOD UNITS.</p> <p>(1) It shall be unlawful for any PERSON to sell or convey TCS FOODS or PERISHABLE FOODs (such as PRODUCE) from house-to-house or place-to-place in any zoning district within the CITY.</p> <p>(2) It is prohibited to sell or convey from house-to-house or place-to-place Non-TCS FOODS which are not commercially pre-PACKAGED.</p> <p>(3) Any FOODS sold or conveyed from house-to-house or place- to-place shall meet all applicable requirements of these RULES related to APPROVED SOURCE, TIME/TEMPERATURE CONTROLLED FOOD SAFETY (TCS), labeling, protection from contamination, WHOLESOMENESS, etc.</p> <p>(4) Any PERSON who sells, solicits, or conveys FOOD from house-to-house or place-to-place shall comply with all provisions of the Mesquite City Code relating to solicitors, vendors, and outdoor sales.</p> <p>Mesquite City Code references – Chapter 8, ARTICLE III. - SOLICITORS, VENDORS AND OUTDOOR SALES.</p>
174	TFER § 228.236. Itinerant Vendors & Delivery of Food.	<p>.236.002. Delivery of Food.</p> <p>This subsection is applicable to PERSONS who deliver FOOD which has been ordered by individuals or businesses in the CITY through United States mail, by telephone, internet, or other means of communication.</p> <p>(1) Any PERSON who delivers FOOD previously ordered to the PERSON who placed the order shall comply with all applicable sections of these Rules related to APPROVED SOURCE, TIME/TEMPERATURE CONTROL (TCS) FOODS, labeling, protection from contamination, WHOLESOMENESS, etc.</p> <p>(2) Vehicles used for the delivery of FOOD to the PERSON who placed the order shall meet the following minimum criteria:</p> <ol style="list-style-type: none"> a. The vehicle shall comply with all State of Texas rules for motor vehicles. b. The vehicle shall be equipped or maintained to adequately store FOOD during transportation to prevent contamination, adulteration, or damage to the FOOD or to containers in which the FOOD is stored. c. The vehicle shall be maintained in a clean and sanitary condition. <p>(3) Any PERSON who delivers FOOD to the PERSON who placed the order shall <u>not</u> be required to obtain a HEALTH PERMIT from the Health Official provided that:</p> <ol style="list-style-type: none"> a. The Health Official shall have the authority to inspect the vehicle, FOOD products, and any invoices and bills of lading at any reasonable time and shall have all authorities defined under enforcement. b. The PERSON delivering FOOD shall comply with all applicable sections of these Rules.

175	TFER § 228.237. Roadside Food Vendors.	<p><i>Amend subchapter F by adding new § 228.237 to read as follows:</i></p> <p>§ 228.237. Roadside Food Vendors.</p> <p>(1) A ROADSIDE FOOD VENDOR, as defined in these Rules, is prohibited within the CITY.</p> <p>(2) Any PERSON meeting the definition of a ROADSIDE FOOD VENDOR and operating in an unauthorized manner within the CITY is in violation of these RULES and this article.</p> <p>(3) Only MOBILE FOOD UNITS (MFUs) (such as MFU-C, MFU-F, MFU-IC, and MFU-PC) conducting lawful ROADSIDE FOOD OPERATIONS are permissible under these RULES.</p>
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SUBCHAPTER I. COMPLIANCE.		
176	TFER § 228.247. Permit Requirement, Prerequisite for Operation.	<p><i>Amend section in its entirety to read as follows:</i></p> <p>§ 228.247. PERMIT REQUIREMENT, PREREQUISITE FOR OPERATION.</p> <p>A PERSON may not operate a FOOD ESTABLISHMENT without a valid HEALTH PERMIT issued in accordance with DIVISION 3 (Health Permits) by the CITY HEALTH DIVISION. ^{Pf}</p> <p>Mesquite City Code reference – Chapter 8, Article VIII, Division 3 (Health Permits).</p>
177	TFER § 228.250. Competency of Inspectors and Access.	<p><i>Amend by adding a new subsection (f) to read as follows:</i></p> <p>§ 228.250. COMPETENCY OF INSPECTORS AND ACCESS.</p> <p style="text-align: center;">* * *</p> <p>(f) Offense. It is unlawful and an offense for any PERSON to hinder, physically prevent, interfere with or otherwise obstruct the lawful inspection of a FOOD ESTABLISHMENT by the Health Official. Such actions may also constitute reason for suspension of a PERMIT. In addition, it shall also constitute an offense if any PERSON willfully provides false information to the Health Official as it relates to enforcement of the provision of these Rules.</p> <p>Mesquite City Code reference – Chapter 8, Article VIII, Division 1, Sec. 8-546 – Violations and offenses.</p>
178	TFER § 228.251. Report of Findings.	<p><i>Amend subsection (f) by deleting the subsection in its entirety and adding a new subsection (f) to read as follows:</i></p> <p style="text-align: center;">* * *</p> <p>(f) Inspection report form. For the purpose of the Texas Health and Safety Code, Chapter 437, the HEALTH DIVISION adopts the Retail Food Establishment Inspection Report form as specified in the following figure:</p> <p>Figure: 25 TAC, §228.251(f)</p> <p style="text-align: center;">Retail Food Establishment Inspection Report</p> <p style="text-align: center;">* * *</p>

179	TFER § 228.255. Examination and Detention of Food.	<p><i>Amend subchapter "I" by deleting § 228.255 in its entirety and adding a new § 228.255 to read as follows:</i></p> <p>§ 228.255. EXAMINATION AND DETENTION OF FOOD.</p>
180	TFER § 228.255. Examination and Detention of Food.	<p>.255.001 Procedures for Examination and Detention of Food.</p> <p>(a) The HEALTH OFFICIAL, or his/her designees, may examine and collect samples of FOOD as often as necessary for the enforcement of this Code and these RULES. A receipt for samples shall be issued by the REGULATORY AUTHORITY.</p> <p>(b) The HEALTH OFFICIAL or his/her designees, upon written, printed, or electronic notice to the owner or PERSON IN CHARGE specifying the reason therefore, shall condemn, denature or destroy, or place under detention any FOOD which it has probable cause to believe is unapproved, ADULTERATED FOOD, or MISBRANDED and shall place a HOLD ORDER in accordance with the provisions of the Texas Health and Safety Code.</p> <p>(c) Under a HOLD ORDER, FOOD shall be allowed to be suitably stored.</p> <p>(d) No PERSON shall remove or alter a HOLD ORDER, Notice, or tag placed on FOOD by the REGULATORY AUTHORITY, and neither FOOD nor the containers shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without the permission of the REGULATORY AUTHORITY.</p> <p>Mesquite City Code reference – Chapter 8, Article VIII, Division 1, Sec. 8-546 – Violations and offenses. State law references – Texas Health & Safety Code, Chapter 431 – Texas Food, Drug, and Cosmetic Act, Health and Safety Code. Texas Health & Safety Code, Chapter 437 – Regulation of Food Service Establishments, Retail Food Stores, mobile Food units, and Roadside Food Vendors.</p>
181	TFER § 228.255. Examination and Detention of Food.	<p>.255.002 Notice of Hold Order.</p> <p>A Notice of HOLD ORDER shall be dated and state:</p> <p>(1) The reasons for the HOLD ORDER.</p> <p>(2) The evidence that the PERMIT HOLDER shall provide in order to demonstrate that the reasons for a HOLD ORDER have been eliminated.</p> <p>(3) Identify the option for appeal:</p> <p style="margin-left: 20px;">a. State that the PERMIT HOLDER may request an appeal hearing before the HEARING OFFICER (City Manager or his/her designee) by filing a timely request ("Notice of Appeal") with the City Secretary prior to the deadline of not later than the tenth (10th) calendar day after the date the decision by the REGULATORY AUTHORITY is made (See DIVISION 5, Sec. 8-623 Deadline); and</p> <p style="margin-left: 20px;">b. the REGULATORY AUTHORITY shall attach a copy of DIVISION 5 (Appeals of the Regulatory Authority's Decisions); and</p> <p style="margin-left: 20px;">c. provide the name and the address of the City Secretary to the PERMIT HOLDER.</p> <p>(4) Identify the option to request reinspection:</p> <p style="margin-left: 20px;">a. Any PERMIT HOLDER in possession of FOOD under a HOLD ORDER may make application for a re-inspection for the purpose of removing the HOLD ORDER.</p> <p style="margin-left: 20px;">b. Any PERMIT HOLDER who was not successful on an appeal under DIVISION 5 (Appeals of the Regulatory Authority's Decisions) of this</p>

		<p style="text-align: center;">article may also make application for a re-inspection for the purpose of removing the HOLD ORDER.</p> <p>State law references – Texas Health & Safety Code, Chapter 431 – Texas Food, Drug, and Cosmetic Act, Health and Safety Code. Texas Health & Safety Code, Chapter 437 – Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors.</p>
182	TFER § 228.255. Examination and Detention of Food.	<p>.255.003 Resolution of Hold Order.</p> <p>After the owner or PERSON IN CHARGE has been afforded an appeal as provided for in DIVISION 5 (Appeals of the Regulatory Authority’s Decisions) of this article and has either: (1) presented evidence in said appeal and received a ruling from the HEARING OFFICER, or (2) has failed to properly perfect the appeal within ten (10) calendar days, the HEALTH OFFICIAL, or his/her designees, may:</p> <ul style="list-style-type: none"> (1) Cancel the HOLD ORDER; (2) Oversee the disposal of the FOOD placed under the HOLD ORDER; or (3) Direct the owner or PERSON IN CHARGE to bring it into compliance with the provisions of LAW or these RULES.

SUBCHAPTER J. PRIVATE WATER SYSTEMS.		
NOTE: No Local Amendments to Subchapter J.		

Secs. 8-564 – 8-580. – Reserved.

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DIVISION 3. - HEALTH PERMITS.

~~Sec. 8-281.~~ Health Permit for Food Establishments.

(a) Food establishment health permit required.

- (1) *Permit.* No PERSON shall sell, offer to sell, or convey FOOD or operate a FOOD ESTABLISHMENT within the CITY without having first obtained a valid PERMIT (HEALTH PERMIT), as required in § 228.247 of the RULES and as identified herein in this DIVISION 3, issued by the Health Official. ^{Pf}
- (2) *Authority to operate.* A HEALTH PERMIT issued under this article and these RULES gives only the HOLDER or PERSON IN CHARGE, to whom the HEALTH PERMIT is issued, the authority to operate the FOOD ESTABLISHMENT identified on the HEALTH PERMIT.
- (3) *Conditions.* As a lawful condition to the operation of the establishment, the Health Official may impose in the HEALTH PERMIT such additional requirements relating to the operation of the FOOD ESTABLISHMENT as he or she determines necessary to protect the public health and safety.
- (4) *Conditional food establishment health permit.* A CONDITIONAL FOOD ESTABLISHMENT HEALTH PERMIT may be issued to the new owner of an existing FOOD ESTABLISHMENT pending completion of plan review requirements.
- (5) *Food establishments outside the jurisdiction of the Health Official.* FOOD from FOOD ESTABLISHMENTS outside the jurisdiction of the Health Official may be sold within the CITY if such FOOD ESTABLISHMENTS conform to the provisions of this article and these RULES, or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the Health Official may accept reports from responsible authorities in other jurisdictions where such FOOD ESTABLISHMENTS are located.

(b) Miscellaneous provisions.

- (1) *Non-transferable.* HEALTH PERMITS shall not be transferable from one (1) PERSON to another PERSON or place, or FOOD ESTABLISHMENT.
- (2) *Permit property of City.* Permits shall remain the property of the CITY.
- (3) *Permit valid until expiration unless suspended or revoked.* HEALTH PERMITS granted under the provisions of this article and the RULES shall remain valid from date of issuance until its expiration date, unless suspended or revoked for cause pursuant to DIVISION 4 (Suspensions and Revocations of Health Permit) of this article.

~~Sec. 8-552~~ **Application, fee, and initiation process.**

- (a) **Forms.** A PERSON desiring to operate a FOOD ESTABLISHMENT shall make written, printed, or electronic application for a PERMIT on forms provided by the HEALTH DIVISION.
- (b) **Application Process.**
- (1) **General application process for Food Establishment Health Permit.** Such general application and process to obtain a HEALTH PERMIT for a FOOD ESTABLISHMENT (other than an MFU-ANNUAL HEALTH PERMIT) shall include:
- a. the applicant's full name;
 - b. post office address and whether such applicant is an individual, firm, corporation, limited liability company, partnership, or other business entity (If the applicant is a partnership, the names of the partners and their complete addresses shall be included);
 - c. location and type of the proposed FOOD ESTABLISHMENT;
 - d. if the application is for temporary, seasonal, or pop-up operations, it shall also include the dates of the proposed operation;
 - e. include such other supplemental information as may be required by the Health Official;
 - f. the signature(s) of the applicant(s) or authorized agent(s);
 - g. obtain an inspection of the facility and EQUIPMENT as deemed necessary by the Health Official or his/her designee; and
 - h. pay all required fees.
- (2) **General application process for MFU-Annual Health Permit.** In order to obtain a HEALTH PERMIT (and sticker applicable to MFU-ANNUAL HEALTH PERMITS) to operate a MOBILE FOOD UNIT within the city limits of Mesquite, an applicant shall:
- a. submit the required information requested on the application to the HEALTH DIVISION;
 - b. submit any applicable supplemental documents to the HEALTH DIVISION (e.g. CENTRAL PREPARATION FACILITY (Commissary) Agreement or other FIXED COMMERCIAL LOCATION FOOD ESTABLISHMENT Agreement (Collectively referred to as a "BASE OF OPERATION") and Restroom Agreements (when applicable), etc.;
 - c. obtain an inspection of the EQUIPMENT, vehicle, and other reasonable inspections concerned with the mobile FOOD ESTABLISHMENT operations or BASE OF OPERATION as deemed necessary by the HEALTH OFFICIAL or his/her designee;
 - d. obtain a safety inspection of the MOBILE FOOD UNIT with the Mesquite Fire Department; and
 - e. pay all required fees.
- (c) **Health permit fees.**
- (1) **In general.** A PERSON shall pay all required fees prior to receiving a valid HEALTH PERMIT in accordance with Sec. 8-544 (Fees). Fees are located in Mesquite City Code, Appendix D – Comprehensive Fee Schedule, Article XII, [Section 12-113](#) (Health Division: Food and Food Establishments) and [Section 12-114](#) (Health Division: Other Food Related Permits).
- (2) **Exemptions and exception to the general rule.**
- a. **Exemptions.** No fee shall be charged to any FOOD ESTABLISHMENT owned and operated by a governmental agency, independent school district, or non-profit institution with an EIN (Employer Identification Number) and/or a 501(c)3 number from the IRS (Internal Revenue Service); however, such FOOD ESTABLISHMENT shall comply with all other requirements of this article and the RULES.
 - b. **Exception to the general rule.** The Health Official retains the authority to charge a fee or make restrictions if he or she deems it appropriate.

~~Sec. 8-531.~~ **Health permit approval and issuance.**

- (a) ***In general.*** HEALTH PERMIT approval shall be based upon the RULES, regulations, and policies of the HEALTH DIVISION, and ordinances in effect at the time the original application for the PERMIT is filed.
- (b) ***Approval standards for Health Permit issuance.*** Upon receiving a complete application for a HEALTH PERMIT, the HEALTH DIVISION shall approve and issue a HEALTH PERMIT only if:
 - (1) the required application is deemed complete;
 - (2) any applicable supplemental documents have been provided and also deemed complete;
 - (3) any inspection of facilities, EQUIPMENT, or vehicles by the HEALTH DIVISION, when required by the HEALTH OFFICIAL or his/her designee, reveals compliance with the applicable requirements of these RULES, and if applicable any CITY HEALTH DIVISION policies, forms, and procedures, and any other federal, State, or local laws;
 - (4) for both FIXED COMMERCIAL LOCATION FOOD ESTABLISHMENTS and MOBILE FOOD UNITS, the safety inspection by the Mesquite Fire Department reveals compliance with the applicable requirements of these RULES, and if applicable any CITY HEALTH DIVISION and Fire Department policies, forms, and procedures, the Mesquite Fire Code (Chapter 6, [Article II](#)), and any other applicable federal, State, or local laws; and
 - (5) all required fees have been paid.
- (c) ***Suspension and revocation of health permit.*** See DIVISION 4 (Suspensions and Revocations of Health Permit) of this article.
- (d) ***Reinstatement of suspended permit.*** See DIVISION 4 (Suspensions and Revocations of Health Permit) of this article.
- (e) ***Appeals of the regulatory authority's decisions.*** See DIVISION 5 (Appeals of the Regulatory Authority's Decisions) of this article.

Cross references –

§ 228.247 (Permit Requirement, Prerequisite for Operation), Chapter 8, Article VIII, DIVISION 2.
Mesquite City Code, Article VIII, Division 1, Sec. 8-544 Fees.
Appendix D – Comprehensive Fee Schedule, Article XII, Sec. 12-113 Health Division: Food & Food Establishments.
Appendix D – Comprehensive Fee Schedule, Article XII, Sec. 12-114 Health Division: Other Food Related Permits.

~~Sec. 8-534.~~ **Certified Food Protection Manager – Certificate of Registration.**

- (a) ***In general.*** Generally, unless otherwise provided by the Health Official or in accordance with the RULES, the FOOD ESTABLISHMENT shall have at least one (1) REGISTERED FOOD PROTECTION MANAGER on duty at all hours of operation.
- (b) ***Issuance.*** A CITY CERTIFICATE OF REGISTRATION is issued by the HEALTH DIVISION to a CERTIFIED FOOD PROTECTION MANAGER who registers with the City of Mesquite, pays the required fee, and has a valid and current FOOD PROTECTION MANAGER CERTIFICATE OF COMPLETION.

Cross references –

§ 228.33.002 Registered Food Protection Manager, Chapter 8, Article VIII, DIVISION 2 (Food Establishment Rules).
Appendix D – Comprehensive Fee Schedule, Article XII, Sec. 12-113 Health Division: Food and Food Establishments.

~~Sec. 8-583~~ **Fixed Commercial Location Food Establishment Health Permits.**

The following HEALTH PERMITS may be APPROVED and issued by the HEALTH DIVISION for FIXED COMMERCIAL LOCATION FOOD ESTABLISHMENTS in accordance with Sec. 8-583 (Health Permit Approval and Issuance) and this section.

(a) **Standard Food Establishments.**

- (1) **In general.** A Standard Food Establishment Health Permit is a permit issued to FOOD ESTABLISHMENTS on an annual basis and allows for FIXED COMMERCIAL LOCATION FOOD ESTABLISHMENT operations as APPROVED by the REGULATORY AUTHORITY. The primary examples of standard FOOD ESTABLISHMENTS include, but are not limited to, restaurants, a CENTRAL PREPARATION FACILITY (Commissary), and CATERING ESTABLISHMENTS.
- (2) **Permit types.** Standard FOOD ESTABLISHMENT HEALTH PERMIT types are as follows:
 - a. Standard FOOD ESTABLISHMENT for 1 to 9 employees Permit (per facility) per year.
 - b. Standard FOOD ESTABLISHMENT for 10 to 19 employees Permit (per facility) per year.
 - c. Standard FOOD ESTABLISHMENT for 20 or more employees Permit (per facility) per year.
- (3) **Fees.** See City Code, Appendix D – Comprehensive Fee Schedule, Sec. 12-113 (Health Division: Food & Food Establishments).

(b) **Bed & Breakfast.**

- (1) **In general.** A Bed & Breakfast Food Establishment Health Permit is a permit issued to FOOD ESTABLISHMENTS associated with Bed & Breakfast operations on an annual basis and allows for FIXED COMMERCIAL LOCATION FOOD ESTABLISHMENT operations as APPROVED by the REGULATORY AUTHORITY.
- (2) **Permit types.** Bed & Breakfast Food Establishment Health Permit types are as follows:
 - a. BED & BREAKFAST LIMITED (facilities with limited stay) Permit per year.
 - b. BED & BREAKFAST EXTENDED (facilities with 7+ rooms or extended stays) Permit per year.
 - c. BED & BREAKFAST FOOD ESTABLISHMENT Permit per year.
- (3) **Fees.** See City Code, Appendix D – Comprehensive Fee Schedule, Sec. 12-113 (Health Division: Food & Food Establishments).

(c) **Concession Facilities.**

- (1) **In general.** A Concession Facility Food Establishment Health Permit is a permit issued to CONCESSION FACILITIES on a seasonal or other temporary basis and allows for FIXED COMMERCIAL LOCATION FOOD ESTABLISHMENT operations as APPROVED by the REGULATORY AUTHORITY.

- (2) **Permit types.**
 - a. A Concession Facility Food Establishment Health Permit may be issued to a FIXED COMMERCIAL LOCATION operation.
 - b. A Concession Facility Food Establishment Health Permit may also be issued to a MOBILE FOOD UNIT that is parked and kept in a stationary mode in a single location on a seasonal basis as APPROVED by the Health Official or his/her designee.
- (3) **Fees.** See City Code, Appendix D – Comprehensive Fee Schedule, Sec. 12-113 (Health Division: Food & Food Establishments).

~~Sec. 8-583~~ **Temporary, Seasonal, and Pop-Up Food Establishment Health Permits.**

The following HEALTH PERMITS may be APPROVED and issued by the HEALTH DIVISION for Temporary, Seasonal, and Pop-Up FOOD ESTABLISHMENTS in accordance with Sec. 8-583 (Health Permit Approval and Issuance) and this section.

- (a) **Temporary Food Establishment Health Permit.**
 - (1) **In general.** A Temporary Food Establishment Health Permit is a permit issued to temporary FOOD ESTABLISHMENTS on a temporary basis (for 15 days or less) and allows for temporary FOOD ESTABLISHMENT operations.
 - (2) **Exclusions.** The following types of FOOD ESTABLISHMENTS may operate within the CITY on a temporary basis; however, they do not qualify for a Temporary Food Establishment Health Permit:
 - a. MOBILE FOOD UNITS (MFU) required to be HOLDERS of a valid CITY MFU–ANNUAL HEALTH PERMIT (e.g. MFU-C; MFU-F; MFU-IC); and
 - b. MFU–Pushcarts operating in a mobile capacity in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA including the Front Street Station area, or as otherwise authorized by the Health Official; and
 - c. FARMERS MARKET VENDORS required to be HOLDERS of a valid Farmers Market Vendor Health Permit.
 - (4) **Fees.** See City Code, Appendix D – Comprehensive Fee Schedule, Sec. 12-113 (Health Division: Food & Food Establishments).
- (b) **Seasonal or Pop-Up Food Establishment Health Permits.**
 - (1) **Seasonal or Pop-Up Food Establishment Health Permit.**
 - a. **In general.** A Seasonal or Pop-Up Food Establishment Health Permit is a permit issued to FOOD ESTABLISHMENTS on a seasonal or other temporary basis and allows for FOOD ESTABLISHMENTS that are not considered FIXED COMMERCIAL LOCATION facilities to operate as APPROVED by the REGULATORY AUTHORITY.

- b. **Exclusions.** The following types of FOOD ESTABLISHMENTS may operate within the CITY on a seasonal or pop-up basis; however, they do not qualify for a Seasonal or Pop-Up Food Establishment Health Permit:
 - 1. MOBILE FOOD UNITS (MFU) required to be HOLDERS of a valid CITY MFU-ANNUAL HEALTH PERMIT (e.g. MFU-C; MFU-F; and MFU-IC);
 - 2. MFU-PUSHCARTS operating in a mobile capacity in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA including the Front Street Station area, or as otherwise authorized by the Health Official; and
 - 3. FARMERS MARKET VENDORS required to be HOLDERS of a valid Farmers Market Vendor Health Permit.

(2) **Pop-Up Food Establishment Annual Health Permit (For Intermittent Operations).**

- a. **In general.** A Pop-Up Food Establishment Annual Health Permit is a permit issued to FOOD ESTABLISHMENTS on an annual basis and allows for FOOD ESTABLISHMENTS that are not considered FIXED COMMERCIAL LOCATION facilities to operate on an intermittent pop-up basis throughout any one (1) year period (365 days) as APPROVED by the REGULATORY AUTHORITY.
- b. **Exclusions.** The following types of FOOD ESTABLISHMENTS may operate within the CITY on an intermittent pop-up basis throughout any one (1) year period (365 days); however, they do not qualify for a Pop-Up Food Establishment Annual Health Permit:
 - 1. MOBILE FOOD UNITS (MFU) required to be HOLDERS of a valid CITY MFU-ANNUAL HEALTH PERMIT (e.g. MFU-C; MFU-F; and MFU-IC);
 - 2. MFU-PUSHCARTS operating in a mobile capacity in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA including the Front Street Station area, or as otherwise authorized by the Health Official; and
 - 3. FARMERS MARKET VENDORS required to be HOLDERS of a valid Farmers Market Vendor Health Permit.

- (3) **Fees.** See City Code, Appendix D – Comprehensive Fee Schedule, Sec. 12-113 (Health Division: Food & Food Establishments).

~~Sec. 8-507.~~ **MFU-Pushcarts (MFU-PC).**

- (a) **In general.**
 - (1) **Stationary capacity.** MFU-Pushcarts (MFU-PC) may operate in a stationary capacity with a Temporary Food Establishment Health Permit (Sec. 8-586).
 - (2) **Mobile capacity.** MFU-Pushcarts (MFU-PC) may operate in a mobile capacity in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA, including the Front Street Station area, with an MFU-ANNUAL HEALTH PERMIT (Sec. 8-588).
- (b) **Display of health permit.** The valid HEALTH PERMIT shall be posted in public view by an MFU-PC.

~~Sec. 8-583~~ **Mobile Food Units: MFU–Annual Health Permits.**

The following MFU–ANNUAL HEALTH PERMITS may be APPROVED and issued by the HEALTH DIVISION for MOBILE FOOD UNIT (MFU) FOOD ESTABLISHMENTS in accordance with Sec. 8-583 (Health permit approval and issuance) and this section.

- (a) ***In general.*** An MFU–ANNUAL HEALTH PERMIT is a HEALTH PERMIT issued to certain MOBILE FOOD UNITS on an annual basis and allows for the MOBILE FOOD UNIT to lawfully operate as a FOOD ESTABLISHMENT within the CITY for any one (1) year period (365 days) as APPROVED by the HEALTH DIVISION.

- (b) ***Permit and MFU types and classifications.***
 - (1) An MFU–ANNUAL HEALTH PERMIT is required for the following MFU types and classifications:
 - a. **MFU–C.** Catering Trucks & Trailers Permit (per unit) per year.
 - b. **MFU–IC.** Ice Cream Trucks & Trailers Permit (per unit) per year.
 - c. **MFU–F.** Food Trucks & Trailers Permits:
 - 1. MFU–F with LIGHT FOOD PREPARATION (per unit) per year. Includes Snow Cone Trucks & Trailers.
 - 2. MFU–F with HEAVY FOOD PREPARATION (per unit) per year.
 - d. **MFU–PC.** Pushcarts (for authorized daily operations in Downtown Mesquite) Permits:
 - 1. MFU–PC with NO FOOD PREPARATION (per unit) per year.
 - 2. MFU–PC with LIGHT FOOD PREPARATION (per unit) per year.

- (c) ***Fees.*** See City Code, Appendix D – Comprehensive Fee Schedule, Sec. 12-113 (Health Division: Food & Food Establishments).

- (d) ***Physical permit issuance.*** Issuance of an MFU–ANNUAL HEALTH PERMIT shall be in the form of a paper permit (or if transmitted electronically, a printable permit) along with a sticker for the MFU.

- (e) ***Display of health permit and sticker.*** The valid MFU–ANNUAL HEALTH PERMIT & sticker shall be displayed by a MOBILE FOOD UNIT as follows:
 - (1) The hard copy of the HEALTH PERMIT shall be posted in public view inside the MFU; and
 - (2) The sticker permit shall be posted on the back right corner on the outside of the vehicle or trailer – it will display the date of expiration of the permit and the MFU ID number.

- (f) **Other MFU related approvals, submissions, or permits.** The following other MOBILE FOOD UNIT related approvals, submissions, or permits may be required in association with certain MOBILE FOOD UNIT operations.
- (1) **MFU–Operation Site Approval.** MFU–Operation Site Approval obtained by the property owner for MOBILE FOOD UNIT operations on private property. MFU–Operation Site Approval shall be obtained by the MFU Operator for MOBILE FOOD UNIT operations on public property. See DIVISION 6 (Operation Site Approval for Mobile Food Units).
 - (2) **Special Event and Parade Permits.** Special Event Permit obtained by EVENT organizer or sponsor. See Chapter 8, [Article XV](#) (Special Events and Parades).
 - (3) **Submission of MFU–Itinerary to the City Health Division.** When required by the HEALTH OFFICIAL, MOBILE FOOD UNIT (MFU) types MFU–C; MFU–IC; MFU–F; and MFU–PC shall submit route information and itineraries to the HEALTH DIVISION for purposes of the HEALTH OFFICIAL and his/her designee knowing where the MFU is located for inspection purposes. MFU Operators may submit route information and itineraries electronically or via any other APPROVED method to the HEALTH DIVISION in accordance with MFU – Policies & Forms.
- (g) **Suspension and revocation of permit.** See DIVISION 4 (Suspensions and Revocations of Health Permit) of this article.
- (h) **Reinstatement of suspended permit.** See DIVISION 4 (Suspensions and Revocations of Health Permit) of this article.
- (i) **Appeals of the regulatory authority’s decisions.** See DIVISION 5 (Appeals of the Regulatory Authority’s Decisions) of this article.

~~Sec. 8-401~~ **Downtown Mesquite Food Vendor Health Permit.**

- (a) **In general.** A Downtown Mesquite Food Vendor Health Permit is a permit issued to a DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA FOOD vendor. Said permit allows for the FOOD ESTABLISHMENT to operate as APPROVED by the REGULATORY AUTHORITY.
- (b) **Permit types.** Downtown Mesquite Food Vendor Health Permit types are as follows:
- (1) DT–Food Vendor Permit (1-day) per Food Vendor.
 - (2) DT–Food Vendor Permit (4 days or less) per Food Vendor.
 - (3) DT–Food Vendor Permit (Annual) Intermittent Operations per Food Vendor per year.
- (c) **Exclusions.** The following types of FOOD ESTABLISHMENTS may operate within the CITY as a DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA FOOD vendor; however, they do not qualify for a Downtown Mesquite Food Vendor Health Permit:
- (1) MOBILE FOOD UNITS (MFU) required to be HOLDERS of a valid CITY MFU–ANNUAL HEALTH PERMIT (e.g. MFU–C; MFU–F; and MFU–IC);
 - (2) MFU–Pushcarts operating in a mobile capacity in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA including the Front Street Station area, or as otherwise authorized by the Health Official; and
 - (3) FARMERS MARKET VENDORS required to be HOLDERS of a valid Farmers Market Vendor Health Permit.

~~Sec. 8-591~~ Farmers Market Vendor Health Permits (Includes Cottage Food).

- (a) ***In general.*** A Farmers Market Vendor Health Permit is a permit issued to a FARMERS MARKET VENDOR selling or conveying FARMERS MARKET VENDOR PRODUCTS and COTTAGE FOOD. Said permit allows for the FARMERS MARKET VENDOR to operate as APPROVED by the REGULATORY AUTHORITY.
- (b) ***Permit types.*** Farmers Market Vendor Health Permit types are as follows:
 - (1) Single Day FM–Temporary Food Establishment Permit (per FM Vendor).
 - (2) Year-Round Farmers Market Vendor Permit (per FM Vendor) per year.
- (c) ***Exclusions.*** The following types of FOOD ESTABLISHMENTS may operate within the CITY at FARMERS MARKETS; however, they do not qualify for a Farmers Market Vendor Health Permit:
 - (1) MOBILE FOOD UNITS (MFU) required to be HOLDERS of a valid CITY MFU–ANNUAL HEALTH PERMIT (e.g. MFU-C; MFU-F; and MFU-IC); and
 - (2) MFU–Pushcarts (MFU–PC) required to be HOLDERS of a valid MFU–ANNUAL HEALTH PERMIT or a Temporary Food Establishment Permit.

~~Sec. 8-591~~ Miscellaneous Food Related Health Permits.

- (a) ***Daycare Permit.*** A Daycare Permit is a HEALTH PERMIT issued to daycare facilities serving FOOD.
- (b) ***Incidental Sales Permit.*** An INCIDENTAL SALES Permit is a HEALTH PERMIT issued to an establishment when Non-TCS FOODS and pre-PACKAGED FOODS constitute twenty percent (20%) or less of the total retail space at retail facilities.
- (c) ***Kiosk Permit.*** A Kiosk Permit is a HEALTH PERMIT issued to a temporary, seasonal, or pop-up FOOD ESTABLISHMENT located within a FIXED COMMERCIAL LOCATION.

Sec. 8-592 – 8-610. – Reserved.

DIVISION 4. - SUSPENSIONS AND REVOCATIONS OF HEALTH PERMIT.

~~Sec. 8-568~~. Suspension of Health Permits.

(a) Suspensions.

(1) General suspension.

a. Grounds for a General Suspension of Health Permit.

1. If the REGULATORY AUTHORITY finds a condition constituting a public health nuisance, as defined in Texas Health and Safety Code, § 341.011, but not constituting an immediate health HAZARD to the public exists in the operation of an FOOD ESTABLISHMENT, operating under a valid PERMIT issued by the REGULATORY AUTHORITY, he or she may issue a written, printed, or electronic Notice of Violation and order abatement of the nuisance to any PERSON, operator, HOLDER, or PERSON IN CHARGE responsible for the nuisance.
2. A PERMIT may be suspended for interference with the Health Official or his/her designees in the performance of his/her duties while acting as the REGULATORY AUTHORITY. Interference includes, but may not be limited to the following: Hindering, physically preventing the Health Official or his/her designees, interfering with, or otherwise obstructing the lawful inspection of FOOD or a FOOD ESTABLISHMENT by the Health Official.

b. **Notice of Violation(s).** Violations shall generally be identified in a written, printed, or electronic Notice of Violation from the Health Official or his/her designees and shall constitute a warning.

c. **General Suspension Notice.** Whenever a PERSON, PERMIT HOLDER, operator, or PERSON IN CHARGE has failed to correct a violation or comply with any written, printed, or electronic Notice of Violation issued under the provisions of this division, the PERMIT HOLDER, operator, or PERSON IN CHARGE shall be notified in writing that the PERMIT is immediately suspended, upon receipt of the General Suspension Notice or a date certain as otherwise listed in the Suspension Notice.

d. The General Suspension Notice shall be dated and state:

1. The reasons for the General Suspension.
2. The evidence that the PERMIT HOLDER shall provide in order to demonstrate that the reasons for a General Suspension have been eliminated.
3. Identify the option for appeal:
 - (i) State that the PERMIT HOLDER may request an appeal hearing before the HEARING OFFICER (City Manager or his/her designee) by filing a timely request ("Notice of Appeal") with the City Secretary prior to the deadline of not later than the tenth (10th) calendar day after the date the decision by the REGULATORY AUTHORITY is made (See DIVISION 5, Sec. 8-568 Deadline); and
 - (ii) the REGULATORY AUTHORITY shall attach a copy of DIVISION 5 (Appeals of the Regulatory Authority's Decisions); and

- (iii) provide the name and the address of the City Secretary to the PERMIT HOLDER.
- 4. Identify the option to request reinspection:
 - (i) Any PERMIT HOLDER whose permit has been suspended may make application for a re-inspection for the purpose of reinstating the PERMIT pursuant to Subsection (b) (Reinstatement of a suspended Health Permit); and
 - (ii) Any PERMIT HOLDER who was not successful on an appeal under DIVISION 5 (Appeals of the Regulatory Authority's Decisions) of this article may also make application for a re-inspection for the purpose of reinstating the PERMIT pursuant to Subsection (b) (Reinstatement of a suspended Health Permit).
- e. **Remedies not in lieu of any other penalties.** The issuance of a General Suspension may be a remedy in addition to, and not in lieu of, any penalty authorized under this division, such as a revocation of PERMIT, and shall not limit any other rights of the REGULATORY AUTHORITY to pursue other actions or remedies to address any violation of the provisions of this article and the Rules.

(2) **Emergency suspension.**

- a. **Grounds for Emergency Suspension of Permit.** If the REGULATORY AUTHORITY finds a condition constituting an IMMINENT HEALTH HAZARD or that a public health nuisance, as that term is defined in Texas Health and Safety Code, § 341.011, exists in an establishment operating under a valid PERMIT issued by the REGULATORY AUTHORITY; the REGULATORY AUTHORITY may issue a summary Emergency Suspension of said PERMIT without prior warning, notice, or hearing. A Notice of Emergency Suspension and Violations shall be issued upon the Emergency Suspension.
- b. **The Notice of Violations and Emergency Suspension shall be dated and state:**
 - 1. the violations constituting an Emergency Suspension;
 - 2. the PERMIT has been immediately suspended under an EMERGENCY SUSPENSION;
 - 3. the evidence that the PERMIT HOLDER shall provide in order to demonstrate that the reasons for Emergency Suspension have been eliminated;
 - 4. Identify the option for an appeal:
 - (i) the PERMIT HOLDER may request an appeal hearing before the HEARING OFFICER (City Manager or his/her designee) by filing a timely request ("Notice of Appeal") with the City Secretary prior to the deadline not later than the tenth (10th) calendar day after the date the decision by the REGULATORY AUTHORITY is made (See DIVISION 5, Sec. 8-568 Deadline);
 - (ii) the REGULATORY AUTHORITY shall attach a copy of DIVISION 5 (Appeals of the Regulatory Authority's Decisions); and
 - (iii) provide the name and the address of the City Secretary to the PERMIT HOLDER;

5. Identify the option to request reinspection:

- (i) Any PERMIT HOLDER whose permit has been suspended may make application for a re-inspection for the purpose of reinstating the PERMIT pursuant to Subsection (b) (Reinstatement of a suspended Health Permit).
- (ii) Any PERMIT HOLDER who was not successful on an appeal under DIVISION 5 (Appeals of the Regulatory Authority's Decisions) of this article may also make application for a re-inspection for the purpose of reinstating the PERMIT pursuant to Subsection (b) (Reinstatement of a suspended Health Permit).

c. **Remedies not in lieu of any other penalties.** The issuance of an Emergency Suspension may be a remedy in addition to, and not in lieu of, any penalty authorized under this division, such as a revocation of PERMIT, and shall not limit any other rights of the REGULATORY AUTHORITY to pursue other actions or remedies to address any violation of the provisions of this article.

(b) **Reinstatement of a suspended Health Permit.**

- (1) Any PERSON whose PERMIT has been suspended (by either a General Suspension or Emergency Suspension) may make application for a re-inspection for the purpose of reinstating the PERMIT.
- (2) The application shall be submitted not be more than sixty (60) days after the date of suspension. The date of suspension shall be considered Day Zero (0).
- (3) The application shall include a statement signed by the applicant that in his/her opinion the condition(s) causing the suspension of the PERMIT has been corrected.
- (4) Within ten (10) business days following receipt of a written, printed, or electronic request for re-inspection the REGULATORY AUTHORITY shall make a re-inspection. The date of an accepted and complete application shall be considered Day Zero (0).
- (5) Upon the decision of the Health Official that the applicant is:
 - a. complying with the requirements of this article, the PERMIT shall be reinstated; or
 - b. NOT complying with the requirements of this article, the PERMIT shall be revoked pursuant to the process and procedures in Sec. 8-612 (Revocation of Health Permits).

~~Sec. 8-612~~ **Revocation of Health Permits.**

- (a) **Grounds for revocation of Health Permit.** A HEALTH PERMIT may be revoked for:
- (1) a finding by the Regulatory Authority of the PERMIT HOLDER not complying with the requirements of this article upon a re-inspection for the purpose of reinstating a suspended PERMIT; or
 - (2) serious or repeated violations of any of the requirements of this article, the Rules, or other law; or
 - (3) two scores below 70 during any twelve (12) consecutive month period; or
 - (4) interference with the Health Official or his/her designees in the performance of his/her duties while acting as the Regulatory Authority. Interference includes, but may not be limited to the following: Hindering, physically preventing the Health Official or his/her designees, interfering with, or otherwise obstructing the lawful inspection of FOOD or a FOOD ESTABLISHMENT by the Health Official.
- (b) **Opportunity for appeal.** The HEALTH PERMIT may be permanently revoked only after a revocation notice is issued to the PERMIT HOLDER providing for an opportunity to appeal.
- (c) **Revocation notice.** The revocation notice shall be dated and state:
- (1) the violations constituting the revocation;
 - (2) the evidence that the PERMIT HOLDER shall provide in order to demonstrate that the reasons for revocation have been eliminated;
 - (3) the PERMIT HOLDER may request an appeal hearing before the HEARING OFFICER (City Manager or his/her designee) by filing a timely request with the City Secretary prior to the deadline pursuant to DIVISION 5 (Appeals of the Regulatory Authority's Decisions) of this article;
 - (4) the deadline to file a notice of appeal must be filed not later than the tenth (10th) calendar day after the date the decision by the REGULATORY AUTHORITY is made. See DIVISION 5, Sec. 8-568 (Deadline); and
 - (5) the REGULATORY AUTHORITY shall attach a copy of DIVISION 5 (Appeals of the Regulatory Authority's Decisions), and provide the name and the address of the City Secretary to the PERMIT HOLDER.
- (d) **Suspension of permit pending revocation or an appeal hearing.** A PERMIT may be suspended pursuant to Sec. 8-611 (Suspension of Health Permits), for cause, pending its revocation or an appeal hearing relative thereto.

Secs. 8-613—8-620. - Reserved.

DIVISION 5. - APPEALS OF THE REGULATORY AUTHORITY'S DECISIONS.

~~Sec. 8-621.~~ – In General.

An appeal may be made from the decision of the Health Official, or his/her designees, acting as the REGULATORY AUTHORITY under this article, the Texas Food Establishment Rules (“TFER”), or other State, federal, or local law. The appeal shall be made in writing addressed to the City Manager and filed with the City Secretary in accordance with this division.

~~Sec. 8-622.~~ – Persons authorized to make an appeal.

An applicant, PERMIT HOLDER, or other interested party (“Appellant”) may appeal the Health Official's administrative decision (or his/her designee's decision) while acting as the REGULATORY AUTHORITY under this article, the Code, and the Texas Food Establishment Rules (“TFER”).

~~Sec. 8-623.~~ – Deadline.

For an appeal to be considered by the HEARING OFFICER (City Manager or his/her designee), the notice of appeal must be filed not later than the tenth (10th) calendar day after the date the decision by the REGULATORY AUTHORITY is made. The date the decision is made shall be considered Day Zero (0).

~~Sec. 8-624.~~ – Initiating an appeal.

- (a) *Notice of appeal.* A notice of appeal (“appeal”) shall be in writing, addressed to the City Manager, and may be on forms provided by the City.
- (b) *Filing with City Secretary.* The appeal shall be filed with the City Secretary or his/her designee.
- (c) *Fee.* Unless otherwise herein authorized, an appeal must be accompanied by the required fee(s) as set in the City of Mesquite Comprehensive Fee Schedule (Section 12-113), or paid in accordance with any CITY-issued invoice. There are no fee requirements if an appeal is filed by any officer, department, board, bureau, or commission of the City.
- (d) *Appellate burden.* The appellant is responsible for establishing the decision being appealed is contrary to the applicable approval standards, law, or other rules or regulations.
- (e) *Contents of notice of appeal.* A notice of appeal (“appeal”) shall identify the following information (when known) and the grounds for the appeal:
 - (1) The name, mailing address, physical address, e-mail address, and telephone number of the appellant.
 - (2) The name of the original applicant, if the appellant is not the original applicant.
 - (3) A description of the appellant's status as a PERSON authorized to make an appeal.
 - (4) Set forth the decision of the complained-of action or decision of the REGULATORY AUTHORITY being appealed.
 - (5) The date of decision of the REGULATORY AUTHORITY.
 - (6) The reasons the appellant believes the decision of the REGULATORY AUTHORITY is in error and does not comply or is contrary to the applicable approval standards, law, or other rules or regulations of this City Code, the Texas Food Establishment Rules (TFER), or other State, federal, or local law.
 - (7) Contain any documents and argument on this issue for the HEARING OFFICER to consider.
 - (8) The requested relief the appellant is seeking from the HEARING OFFICER.
 - (9) If applicable, discuss any emergency or exigent circumstances that appellant believes are material to when the hearing should be set.

Cross reference— The Comprehensive Fee Schedule, Mesquite City Code, Appendix D, Section 12-113.

~~Sec. 8-422~~ – Acceptance and processing of appeal.

- (a) An appeal is considered accepted and officially filed upon the City Secretary or his/her designee's receipt before 5:00 p.m. on a business day during normal office hours.
- (b) Any appeal received on or after 5:00 p.m. on a business day or on Saturday, Sunday, or holidays shall not be considered officially accepted and filed until the next business day following the date the information was received or entered.
- (c) *Officially filed or rejected.* An appeal shall not be considered accepted and officially filed unless it is accompanied by the required fee(s), or the fees shall be paid in accordance with the terms of any City-issued invoice.
 - (1) *Accepted – officially filed.* After the City Secretary or his/her designee preliminarily accepts the appeal and fee, if it is determined the appeal was received prior to the deadline and in accordance with this division, the City Secretary or his/her designee shall mark the notice of appeal submitted by the appellant as "ACCEPTED – Officially Filed on: _____ [Insert Date]."
 - (2) *Rejected – not filed.* After the City Secretary or his/her designee preliminarily accepts the appeal and/or fee, if it is determined the appeal was received after the deadline and contrary to the terms in this division, the City Secretary shall mark the notice of appeal submitted by the appellant as "REJECTED – Not Filed" and shall refund any fees to the applicant, if paid.

Cross references—

Mesquite City Code, Article VIII, Division 1, Sec. 8-544 Fees.

Mesquite City Code, Appendix D - Comprehensive Fee Schedule, Article XII, Sec. 12-113.

~~Sec. 8-424~~ – Action by the City Secretary and Regulatory Authority.

The City Secretary and the REGULATORY AUTHORITY, or his/her designee, shall take the following actions upon the City's acceptance and the official filing of the notice of appeal:

- (a) *City Secretary notification of appeal being filed to parties in interest.* Upon receipt of an officially filed notice of appeal, a copy of which shall be transmitted to the parties in interest, including the Health Official or his/her designee from whom the appeal is taken. The HEARING OFFICER shall also be notified and receive a copy of the Notice of Appeal.
- (b) *Health Official transmission of the record to the Hearing Officer.* Upon notification, The Health Official and/or his designee(s) shall immediately transmit to the HEARING OFFICER all the papers constituting the record of the action that is being appealed including a summary of the record for presentation to the HEARING OFFICER.
- (c) *Scheduling of hearing.* The City Secretary, in coordination with the HEARING OFFICER shall schedule the officially filed appeal for a hearing within five (5) business days. The date the appeal is considered officially filed is considered Day Zero (0). The City Secretary and HEARING OFFICER shall consider if emergency or exigent circumstances exist, and in that situation the hearing shall be scheduled as soon as practicable.
- (d) *Notice of hearing.* Notice shall be provided to the Appellant and any parties in interest via e-mail or hand-delivery, including the Health Authority, regarding the details of the scheduling of the appeal.

~~Sec. 8-627~~. – Approval standards to modify or reverse administrative decision.

In order to grant an appeal modifying or reversing the Health Official or other REGULATORY AUTHORITY'S administrative decision:

- (a) the appellant must establish the REGULATORY AUTHORITY'S decision being appealed is contrary to the applicable approval standards (for originally approving the permit), or is contrary to law, or other rules or regulations; and
- (b) the HEARING OFFICER (City Manager or his/her designee) must:
 - (1) find the administrative decision is erroneous; and
 - (2) provide a statement of grounds in support of the finding; and
 - (3) state what the HEARING OFFICER determines to be the correct interpretation of the matter at issue in the appeal.

~~Sec. 8-628~~. – Action by the Hearing Officer (City Manager or his/her designee).

- (a) *Hearing.* After receipt of an accepted and officially filed notice of appeal, the HEARING OFFICER shall hear and decide the appeal at a hearing in accordance with this division.
- (b) *Hearing procedures.* The written, printed, or electronic record shall be reviewed by the HEARING OFFICER prior to the Hearing. At the hearing, the appellant shall have the opportunity to present all relevant arguments and may be represented by legal counsel. The appellant, or his/her legal counsel, may present evidence, witnesses, and may cross-examine any of the City's witnesses. The City shall be represented by the City Attorney or his/her designee. The hearing shall take no longer than six (6) hours unless the HEARING OFFICER grants an extension to meet the requirements of due process and proper administration of justice for the appellant.
- (c) *Hearing Officer decision.* The HEARING OFFICER shall evaluate the appeal based upon the written, printed, or electronic record and any supplemental oral testimony made during the hearing. Utilizing the approval standards in Sec. 8-627 (Approval standards to modify or reverse administrative decision), the HEARING OFFICER may:
 - (1) Affirm decision of the REGULATORY AUTHORITY; or
 - (2) Modify the REGULATORY AUTHORITY'S order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the HEARING OFFICER has the same authority as the REGULATORY AUTHORITY; or
 - (3) Reverse decision of the REGULATORY AUTHORITY.

~~Sec. 8-629~~ – Hearing Officer decision is final.

- (a) *Issuance of decision.* Within two (2) business days after the hearing whereby the HEARING OFFICER (City Manager or his/her designee) made their decision, the HEARING OFFICER shall issue their written, printed, or electronic decision (the “Record of Decision of the HEARING OFFICER”) dated as of the date the HEARING OFFICER made the decision. If emergency or exigent circumstances exist, the HEARING OFFICER shall issue their decision as soon as practicable.
- (b) *Contents of the record of decision.* The written, printed, or electronic “Record of Decision of the HEARING OFFICER” shall include the specific reasons for the HEARING OFFICER’s decision, pursuant to this article including this division.
- (c) *Delivery of record of decision.* The “Record of Decision of the HEARING OFFICER” shall be delivered to the appellant and any parties in interest by e-mail and U.S. certified mail return receipt requested. In the case of emergency or exigent circumstances, delivery of the Record of Decision shall also be made by hand-delivery of posting on the front door, or other noticeable area, of the Food Establishment or premises.
- (d) *Decision of the Hearing Officer is final.* The decision of the HEARING OFFICER (City Manager or his/her designee) is final.

Secs. 8-630 — 8-650. - Reserved.

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DIVISION 6. - OPERATION SITE APPROVAL FOR MOBILE FOOD UNITS (MFUS).

~~Sec. 8-651.~~ **In general.**

- (a) **MFU–Operation Site.** This division identifies location standards (Sec. 8-653) and permissible locations (Sec. 8-654) for MFU–OPERATION SITES subject to MFU–OPERATION SITE APPROVAL from the City Manager or his/her designee pursuant to this division.
- (b) **MFU–Operation Site Approval.**
 - (1) **In general.** Generally, MFU–OPERATION SITE APPROVAL is in the form of an MFU–OPERATION SITE PERMIT (Sec. 8-658), but MFU–OPERATION SITE APPROVAL may also be in the form of a Special Event Permit, or a City Park pavilion rental reservation or other City facility reservation, or other written, printed, or electronic authorization when applicable as authorized in this article. So long as the specific MOBILE FOOD UNITS are listed on the said application or reservation, an MFU–OPERATION SITE PERMIT is not required.
 - (2) **Private Property.** Subject to any exceptions and exclusions, an owner of real property, or the authorized agent of the owner of real property, shall obtain MFU–OPERATION SITE APPROVAL prior to allowing any MOBILE FOOD UNIT to operate on its property.
 - (3) **Public Property.** Subject to any exceptions and exclusions, a MFU operator, or the authorized agent, shall obtain MFU–OPERATION SITE APPROVAL prior to operating any MOBILE FOOD UNIT on City-owned or other public property.
- (c) **Approval for Mobile Food Unit Operations and the number of MFU–Stalls on Real Property.**
 - (1) Subject to the exceptions and exclusions of this division, the total number, if any at all, of MFU–Stalls available on any real property shall be approved by the City Manager or his/her designee.
 - (2) An MFU–OPERATION SITE PERMIT may accommodate any MFU, with a valid CITY issued MFU–ANNUAL HEALTH PERMIT, as authorized by the real property owner or property owner’s agent so long as the total number of MFUs does not exceed the approved number of MFU–Stalls.

~~Sec. 8-652.~~ **Exceptions and exclusions.**

This section identifies the exceptions and exclusions from the requirement of property owners, or MFU operators, to obtain an MFU–OPERATION SITE PERMIT.

- (a) **Exceptions.** The following are exceptions from the requirement to obtain an MFU–OPERATION SITE PERMIT. MFU–OPERATION SITE APPROVAL is still required; however, in the following exceptions the operation site “approval” is granted through some “other” authorization; therefore, an MFU–OPERATION SITE PERMIT is not required for:
 - (1) **Public Events with Special Event Permit.** Any MFU operating at a PUBLIC EVENT when the PUBLIC EVENT is authorized pursuant to the issuance of a Special Event Permit in accordance with [Sec. 8-893](#) if the MFU is identified in the Special Event Permit Application (or a supplement thereto) as a participating concessionaire, caterer, or other authorized MFU FOOD service provider for the EVENT.
 - (2) **MFU operations on City-owned public property pursuant to authorization.** The requirements of this division do not apply when express written, printed, or electronic authorization is granted for MFUs to operate on City-owned public property, including but not limited to a public park, public library, recreation center, aquatics center, performing art center, or Downtown Mesquite’s Front Street Station. Express written, printed, or electronic authorization may be in the form of a contract or other agreement, or some other authorization for MFU operations associated with CITY-approved or CITY-sponsored EVENTS.

- (b) **Exclusions.** The following are exclusions identifying when property owners (or in some cases the MFU Operators) are exempt from the requirements of this division. MFU–OPERATION SITE APPROVAL and an MFU–OPERATION SITE PERMIT shall not be required for:
- (1) **Private Events on Private Residential Property or Private Commercial Property.** Private residential or commercial property owners allowing MFUs to operate at a PRIVATE EVENT (on private property) when the PRIVATE EVENT does not require a Special Event Permit in accordance with [Sec. 8-893](#). Note: MFUs operating on private property for a PRIVATE EVENT shall comply with Sec. 8-653 (Location Standards for Mobile Food Units).
 - (2) **Farmers Markets.** Any MFU operating at a FARMERS MARKET when:
 - a. The MFU is operating at Front Street Station during a FARMERS MARKET authorized by the CITY.
 - b. The MFU is operating at any City-owned public property during a FARMERS MARKET authorized by the CITY.
 - c. MFU–stalls have been identified on a site plan associated with a Conditional Use Permit (CUP) issued in accordance with the Mesquite Zoning Ordinance, Part 3, 3-600, [Section 3-602](#) (Outdoor Display Lot).
 - (3) **MFU–Parks on private commercial property.** Private commercial property owners allowing MFUs to operate at privately-owned MFU–Parks classified as lawful FIXED COMMERCIAL LOCATIONS in accordance with the Mesquite Zoning Ordinance, Part 3, [3-500](#), Section 3-512 (Mobile Food Unit Park).

~~Sec. 8-653~~ Location standards for Mobile Food Units (MFUs).

- (a) The following are locational standards for MOBILE FOOD UNITS (MFUs), unless otherwise provided, or unless specific authorization is granted within an MFU–OPERATION SITE PERMIT (Sec. 8-658), a Special Event Permit ([Sec. 8-893](#)), or other lawful authorization, including but not limited to temporary street or block closures during EVENTS:
 - (1) MOBILE FOOD UNITS shall not, unless otherwise authorized, operate in:
 - a. public or private rights-of-way (except as authorized in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA),
 - b. access easements,
 - c. fire lanes,
 - d. loading zones, or
 - e. any handicap accessible parking space or handicap accessible routes.
 - (2) MOBILE FOOD UNITS shall not be located in such a manner which impedes the free movement of automobiles and pedestrians.
 - (3) MOBILE FOOD UNITS shall not use more than twenty-five percent (25%) of existing required parking spaces on any commercial site during the business hours for the commercial site.
 - (4) Separation from existing buildings and other MOBILE FOOD UNITS shall meet the requirements of the Mesquite Fire Code (Chapter 6, [Article II](#)).
 - (5) MFU–OPERATION SITES shall not have installed permanent drive-through facilities or other drive-through designations associated with any MOBILE FOOD UNIT. MFU–OPERATION SITES may allow for temporary drive-through EVENTS as may be authorized by a MFU–OPERATION SITE PERMIT (Sec. 8-658), a Special Event Permit ([Sec. 8-893](#)), or other lawful authorization.
 - (6) MOBILE FOOD UNITS operating at any MFU–OPERATION SITE that has not been authorized under this DIVISION 6, unless otherwise provided, is prohibited.
- (b) MOBILE FOOD UNITS shall operate from a concrete or asphalt surface unless otherwise provided, or unless specific authorization is granted within an MFU–OPERATION SITE PERMIT (Sec. 8-658), a Special Event Permit ([Sec. 8-893](#)), or other lawful authorization.
- (c) When operating from a fixed-location, MOBILE FOOD UNITS shall be setback at least twenty-five (25) feet from any property line that bounds any street unless otherwise provided, or unless specific authorization is granted within an MFU–OPERATION SITE PERMIT (Sec. 8-658), a Special Event Permit ([Sec. 8-893](#)), or other lawful authorization. This setback requirement shall not be applicable to the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA.
- (d) MOBILE FOOD UNITS shall be removed from the premises of operation daily when the MFU is closed for business, unless otherwise authorized under the MFU–OPERATION SITE APPROVAL or in the MFU–OPERATION SITE PERMIT, or unless otherwise authorized by any applicable exceptions or exclusions (Sec. 8-652).
- (e) When storing or parking MOBILE FOOD UNITS inside the CITY limits, when the MFU is not in operation, MFUs shall be stored or parked at a location not used as a residence.
- (f) PERSONS operating a MOBILE FOOD UNIT at a PRIVATE EVENT, on private residential property less than eighteen (18) hours, do not violate any provision of Chapter 9, Article VI, [Division 1](#) (Commercial Motor Vehicles, Oversized Vehicles, Recreational Vehicles (RVs), etc. and Trailers).

~~Sec. 8-564~~ **Permissible Locations of Operations for Mobile Food Units (MFUs).**

(a) **Overview.**

- (1) This section identifies the permissible locations for MOBILE FOOD UNIT operations (“MFU–Operation Site”).
- (2) The City Manager, or his/her designee, has the authority to limit the total number, if any at all, of MFUs at any one location unless otherwise provided by law. For example, the total number of MFUs allowed at MOBILE FOOD UNIT PARKS (“MFU-Park”) is regulated under the Mesquite Zoning Ordinance.
- (3) When reviewing an application for MFU–OPERATION SITE APPROVAL, the City Manager or his/her designee may grant MFU–OPERATION SITE APPROVAL for any of the following events or locations, and may issue an MFU–OPERATION SITE PERMIT in accordance with this section.

(b) **Public Events.**

- (1) ***In general.*** Mobile Food Units (MFUs) may operate in the CITY associated with “PUBLIC EVENTS” as that term is defined in DIVISION 2, Sec. 8-563, § 228.2.
- (2) ***Health permit.*** MFUs may operate at PUBLIC EVENTS as a FOOD ESTABLISHMENT with an MFU–ANNUAL HEALTH PERMIT issued in accordance with DIVISION 3 (Health Permits).
- (3) ***Operation site approval.***
 - a. ***Private property with a private event.*** Unless otherwise provided, property owners allowing MFUs to operate on private property at a PRIVATE EVENT shall not be required to obtain an MFU–OPERATION SITE APPROVAL.
 - b. ***Private property with a public event.*** Unless otherwise provided, property owners allowing MFUs to operate on private property at a PUBLIC EVENT shall be required to obtain an MFU–OPERATION SITE APPROVAL.
 - c. ***Public property.*** Unless otherwise provided, EVENT organizers or MOBILE FOOD UNIT operators are required to obtain MFU–OPERATION SITE APPROVAL to operate on public property at a PRIVATE EVENT or PUBLIC EVENT.

(c) **Seasonal or pop-up commercial locations.**

- (1) ***In general.*** MOBILE FOOD UNITS (MFUs) may operate in the CITY associated with Seasonal or Pop-Up commercial activities and locations when such locations are approved by the CITY and/or in accordance with the Mesquite Zoning Ordinance.
- (2) ***Health permit.*** MFUs may operate at Seasonal or Pop-Up commercial activities and locations as a FOOD ESTABLISHMENT with an MFU–ANNUAL HEALTH PERMIT issued in accordance with DIVISION 3 (Health Permits).
- (3) ***Operation site approval.***
 - a. ***Indoor (seasonal or pop-up commercial location).*** Property owners hosting indoor seasonal or pop-up commercial activities in connection with allowing MFUs to operate on private property shall be required to obtain MFU–OPERATION SITE APPROVAL.
 - b. ***Outdoor (seasonal or pop-up commercial location).*** Property owners hosting outdoor seasonal or pop-up commercial activities in connection with allowing MFUs to operate on private property shall be required to obtain MFU–OPERATION SITE APPROVAL. Such “approval” may be in the form of a Conditional Use Permit (CUP), or some other approval, so long as MFU–Stalls are identified on a site plan associated with an approved CUP, or some other approval, issued in accordance with the Mesquite Zoning Ordinance.

(d) **Mobile Food Unit Parks.**

- (1) ***In general.*** MOBILE FOOD UNITS (MFUs) may operate in designated MOBILE FOOD UNIT PARKS (“MFU-Parks”) in accordance with the Mesquite Zoning Ordinance.
- (2) ***Health permit.*** MFU types MFU–C, MFU–F, and MFU–IC may operate at MFU-Parks utilizing an MFU–ANNUAL HEALTH PERMIT issued in accordance with DIVISION 3 (Health Permits).
- (3) ***Operation site approval.*** Property owners allowing MFUs to operate at privately-owned MFU–Parks (developed and approved by City Council in accordance with Mesquite Zoning Ordinance, Sec. 3-512) have received MFU–OPERATION SITE APPROVAL and do not need to obtain an MFU–OPERATION SITE PERMIT.

(e) **City-owned or other Public Property.**

- (1) ***In general.*** MOBILE FOOD UNITS (MFUs) may operate on City-owned or other public property when authorized in accordance with this section.
- (2) ***Health permit.*** MFUs may operate on City-owned or other public property as a FOOD ESTABLISHMENT with an MFU–ANNUAL HEALTH PERMIT issued in accordance with DIVISION 3 (Health Permits).
- (3) ***Operation site approval.***
 - a. Unless otherwise provided for in the exceptions and exclusions in Sec. 8-652, for any PUBLIC EVENT or PRIVATE EVENT on CITY-owned property, MFU–OPERATION SITE APPROVAL shall be obtained from the CITY by the MOBILE FOOD UNIT Operator or the EVENT Organizer.
 - b. Such approval may be in the form of a Special Event Permit or a City Park Pavilion rental reservation or other City facility reservation obtained by the EVENT organizer. So long as the specific MOBILE FOOD UNITS are listed on the said application or reservation, an MFU–OPERATION SITE PERMIT is not required.

(f) **Downtown Mesquite – Main Street Program Boundary Area.**

- (1) ***In general.*** MOBILE FOOD UNITS (MFUs) may operate in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA including the Front Street Station area (collectively sometimes referred to as “Downtown Mesquite”).
- (2) ***Health permit.*** MFUs may operate in Downtown Mesquite as a FOOD ESTABLISHMENT with an MFU–ANNUAL HEALTH PERMIT issued in accordance with DIVISION 3 (Health Permits).
- (3) ***Operation site approval.***
 - a. ***Private property.*** Unless otherwise provided for in the exceptions and exclusions in Sec. 8-652, Property Owners allowing MFUs to operate on private property shall obtain MFU–OPERATION SITE APPROVAL.
 - b. ***City-owned property and right-of-way including Front Street Station.***
 1. **MFU–Pushcarts operating in a mobile capacity in the Downtown Mesquite Main Street Program Boundary Area.**
 - (i) ***Daily operations.*** MFU–OPERATION SITE APPROVAL shall be obtained from the CITY for MFU–PC daily mobile operations. An MFU–OPERATION SITE PERMIT shall be issued when MFU–OPERATION SITE APPROVAL has been granted to the MFU–PC Operator for daily operations in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA including Front Street Station.
 - (ii) ***Public or Private Events.*** A PUBLIC EVENT or PRIVATE EVENT requires MFU–OPERATION SITE APPROVAL. The MFU–OPERATION SITE APPROVAL may be in the form of a Special Event Permit obtained by the EVENT organizer so long as the EVENT organizer specified MFUs would be at the Special Event.
 2. **All other MFU types: MFU–C, MFU–F, and MFU–IC.**
 - (i) ***Daily operations.*** MFU–OPERATION SITE APPROVAL shall be obtained from the CITY. An MFU–OPERATION SITE PERMIT shall be issued when MFU–OPERATION SITE APPROVAL has been granted to the MFU Operator for daily operations in the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA including Front Street Station.
 - (ii) ***Public or Private Events.*** A PUBLIC EVENT or PRIVATE EVENT requires MFU–OPERATION SITE APPROVAL. MFU–OPERATION SITE APPROVAL may be in the form of a Special Event Permit obtained by the EVENT organizer so long as the EVENT organizer specified MFUs would be at the Special Event.

(g) **Areas Zoned to Allow Food Establishments and Office “O” Zoning .**

(1) ***In general.***

a. ***All zoning districts which allow food establishments.*** MOBILE FOOD UNITS (MFUs) may operate in any location zoned under the Mesquite Zoning Ordinance to allow FOOD ESTABLISHMENTS.

b. ***Office (“O”) zoning district.*** MFUs may operate in any location within the Office (“O”) zoning district.

(2) ***Health permit.*** MFUs may operate as a FOOD ESTABLISHMENT with an MFU–ANNUAL HEALTH PERMIT.

(3) ***Operation site approval.*** Property owners allowing an MFU to operate on private property in an area zoned to allow FOOD ESTABLISHMENTS or within the Office (“O”) zoning district shall be required to obtain MFU–OPERATION SITE APPROVAL.

(h) **Residential Districts and Neighborhoods.**

(1) ***In general.*** MOBILE FOOD UNITS (MFUs) may operate in residential districts and neighborhoods in limited circumstances in accordance with this division and subsection.

(2) ***Health permit.*** MFUs may operate as a FOOD ESTABLISHMENT with an MFU–ANNUAL HEALTH PERMIT issued in accordance with DIVISION 3 (Health Permits).

(3) ***Operation site approval.***

a. ***City-owned property in residential districts and neighborhoods.*** See Subsection (e).

b. ***MFU–Ice Cream Trucks & Trailers (MFU–IC).*** MFU–Ice Cream Trucks & Trailers (MFU–IC) may operate in residential districts as a “mobile vendor” in accordance with [Sec. 8-247](#) (Mobile vendors). Mobile vendors is a defined term in [Sec. 8-196](#). MFU–ICs shall not be required to obtain an MFU–OPERATION SITE PERMIT.

c. ***MFU–Catering Trucks & Trailers and MFU–Food Trucks & Trailers.***

1. ***Areas with construction activity.*** MFU–Catering Trucks & Trailers (MFU–C) and MFU–Food Trucks & Trailers (MFU–F) may regularly sell FOOD to construction workers in residential areas with active construction activity and shall not be required to obtain an MFU–OPERATION SITE PERMIT.

2. ***Private property.***

(i) ***Private events.*** MFU–C and MFU–F may operate on private residential or commercial property at PRIVATE EVENTS, unless otherwise provided and shall not be required to obtain an MFU–OPERATION SITE APPROVAL.

(ii) ***Public events.*** MFU–C and MFU–F may operate on private residential or commercial property at PUBLIC EVENTS and shall be required to obtain an MFU–OPERATION SITE APPROVAL.

3. ***Public property.*** MFU–C and MFU–F may operate at PRIVATE EVENTS and PUBLIC EVENTS, unless otherwise provided and shall be required to obtain MFU–OPERATION SITE APPROVAL.

4. *Community common areas.* To operate at any community common area in a residential area or neighborhood having a Home Owner's Association or other Neighborhood Association (collectively referred to as "HOA"), the event organizer or HOA representative shall:
- (i) obtain the written, printed, or electronic permission from the HOA; and
 - (ii) shall be required to obtain MFU–OPERATION SITE APPROVAL.

~~Sec. 8-455.~~ Application, fee, and initiation process.

- (a) **Application.** An applicant shall submit an application for an MFU–OPERATION SITE PERMIT on forms and in such quantity, and with any supplemental materials, as may be required by the application instructions.
- (b) **Fee.**
 - (1) Unless otherwise herein authorized, each application must be accompanied by the required fee(s) as set in the City of Mesquite Comprehensive Fee Schedule (Section 12-113), or the fees shall be paid in accordance with the terms of any CITY-issued invoice.
 - (2) There are no fee requirements if an application is submitted by any officer, department, board, or commission of the City.
- (c) **Complete application.** A complete application includes, but may not be limited to:
 - (1) Required forms and information, plans, and other data as specified in the application requirements;
 - (2) Where MOBILE FOOD UNITS (MFU–Stalls) are proposed to be located on the real property;
 - (3) The location of any REFUSE receptacle(s), vehicle parking, dining area(s) if applicable, public restroom(s) if applicable, and any other pertinent information regarding the operation of the MOBILE FOOD UNIT on and about the MFU–Operation Site;
 - (4) Identify restroom location(s) within five hundred (500) feet of the MFU–Stall for the purpose of the MFU Operator obtaining a Restroom Use Agreement (from a property owner). Said Restroom Use Agreement is for the purpose of securing restroom facilities for the MFU Operator's use while the MFU is operational;
 - (5) Any additional information as may be deemed necessary by the City Manager or his/her designee to thoroughly review the request shall also be submitted as part of the permit application; and
 - (6) The required fee(s).
- (d) **Initiation.** An applicant shall submit a complete application including the fee, or pay the fee in accordance with any City-issued invoice, to the Department of Planning and Development Services.
- (e) **Action by Director.** The Director of Planning and Development Services or his/her designee shall process the application and payment of fees. When a complete application is received, the Director or his/her designee shall forward the application to the City Manager or his/her designee for review and decision.

Cross reference – Mesquite City Code, Article VIII, Division 1, Sec. 8-544 Fees.

~~Sec. 8-653~~ **Approval standards.**

The City Manager or his/her designee in approving or denying a complete application for MFU–OPERATION SITE PERMIT shall consider the:

- (1) Location standards for MOBILE FOOD UNITS (Sec. 8-653);
- (2) Permissible locations of operations for MOBILE FOOD UNITS (Sec. 8-654);
- (3) Potential impact to existing uses in the surrounding area; however, proximity to a FOOD ESTABLISHMENT with a FIXED COMMERCIAL LOCATION shall not be reason for denial of the application;
- (4) Noise, dust, light, and traffic generated;
- (5) Health and sanitary conditions; and
- (6) Compliance with other laws and regulations of this chapter.

~~Sec. 8-657~~ **City Manager or his/her designee review and decision.**

- (a) *In general.* The City Manager or his/her designee upon receipt of a completed application from the Director of Planning and Development Services shall review the application and make a decision.
- (b) *Action by the City Manager.*
 - (1) The City Manager or his/her designee must review the application and pursuant to the approval standards (Sec. 8-656), may take any of the following actions regarding the decision on an application for MFU–OPERATION SITE APPROVAL and issuance of an MFU–OPERATION SITE PERMIT:
 - a. Approval;
 - b. Approval with modifications (modified from what was requested in the application or other modified rules or regulations); or
 - c. Denial.
 - (2) The City Manager or his/her designee may require that any MFU–OPERATION SITE PERMIT be:
 - a. Revocable;
 - b. Effective for a specified time period; or
 - c. Subject to one (1) or more conditions.
 - (3) *Modifications and conditions.*
 - a. *Granting an MFU–Operation Site Approval with a modification.* The City Manager or his/her designee may grant an MFU–OPERATION SITE APPROVAL (and subsequent MFU–OPERATION SITE PERMIT) that is less than, or more than, that requested in the submitted application. The City Manager or his/her designee may also modify any rule or regulation when it has been decided that such modification will not interfere with the public health, safety, and welfare.
 - b. *Granting an MFU–Operation Site Permit with conditions and restrictions.* The City Manager or his/her designee may impose such conditions and restrictions upon the MFU–OPERATION SITE PERMIT as may be deemed necessary for the protection of the public health, safety, and welfare.
 - (4) *Decision.* The City Manager's decision shall be forwarded to the Director of Planning and Development Services.

~~Sec. 8-658~~ **Sec. 8-658. Issuance of MFU–Operation Site Permit or notice of decision.**

The Director of Planning and Development Services or his/her designee shall issue the City Manager-approved MFU–OPERATION SITE PERMIT, or in the case of a denial, the Director shall issue a written "Record of Decision of the City Manager" to the applicant.

- (1) **Issuance of permit.** If the application for an MFU–OPERATION SITE PERMIT is approved, the permit shall be issued with an issuance date, and expiration date in accordance with Sec. 8-659, and shall contain the terms of the approval in accordance with this article.
- (2) **Notice of decision.** If the application for an MFU–OPERATION SITE PERMIT is denied, the "Record of Decision of the City Manager" shall provide notice of the decision and state the reasons for denial. The record of decision shall be in writing and shall be sent to the applicant by e-mail (if an e-mail address has been provided by the applicant) and certified mail, return receipt requested, through the United States Postal Service or hand delivered.

~~Sec. 8-659~~ **Sec. 8-659. Expiration date.**

- (a) **Date range specific permit for less than six months.** An MFU–OPERATION SITE PERMIT may be issued for up to a maximum of six (6) months at a time. An MFU–OPERATION SITE PERMIT shall expire, when issued for a specific date range, as identified on the MFU–OPERATION SITE PERMIT, but in no event shall a permit issued for a specific date range be longer than six (6) months.
- (b) **Six-month permit.**
 - (1) **Initial permit issuance and expiration date.** Regardless of the date of initial issuance, all MFU–OPERATION SITE PERMITS intended to be on a six-month permit time period shall expire on June 30 or December 31 of such calendar year (whichever date occurs first following the initial issuance of the permit).
 - (2) **Six-month permit renewals and expiration date.** Any MFU–OPERATION SITE PERMIT may be renewed on July 1 (or any day thereafter), or January 1 (or any day thereafter); and regardless of the date of issuance, all MFU–OPERATION SITE PERMITS being renewed and intended to be on a six-month permit time period shall expire on June 30 or December 31 of such calendar year (whichever date occurs first following the issuance of the permit).
- (c) **No expiration date on permit.** An MFU–OPERATION SITE PERMIT shall expire, when not issued for a specific date range, on June 30 or December 31 of such calendar year (whichever date occurs first following the issuance of the permit).

~~Sec. 8-660~~ **Sec. 8-660. – Appeal of City Manager's decision.**

- (a) A decision of the City Manager or his/her designee ("City Manager's decision") regarding a MFU–OPERATION SITE PERMIT may be appealed to the City Council within ten (10) calendar days of the issuance, denial, or revocation of a permit in accordance with the process and procedures identified in Article 1, DIVISION 2 (Appeal of the City Manager's Decision to City Council).
- (b) The date of the City Manager's decision is considered Day Zero (0). The date of the City Manager's decision will be identified on either the City Manager-approved MFU–OPERATION SITE PERMIT or in the case of a denial, on the "Record of Decision of the City Manager".
- (c) If no appeal is received by the City Secretary within ten (10) calendar days of the administrative decision regarding an MFU–OPERATION SITE PERMIT in accordance with this division, the City Manager's decision (or his/her designee's decision) shall be deemed a final decision on the eleventh (11th) calendar day.

Cross reference— Appeal of City Manager's decision to City Council; Chapter 8, Article 1, [Division 2](#).

Sec. 8-661 – 8-775. - Reserved.

FINAL dated 06.02.2021.

EXHIBIT C

To Ordinance No. 4868

Mesquite City Code, Chapter 8, Article I,
Division 2 Appeal of City Manager's Decision to City Council

Chapter 8 – LICENSES, PERMITS AND BUSINESS REGULATIONS

ARTICLE I. - IN GENERAL

* * *

[Editor's Note: Make the following revisions with additions identified in green font and underlined and deletions identified in ~~red font with strikethrough~~.]

DIVISION 2. - APPEAL OF CITY MANAGER'S DECISION TO CITY COUNCIL

~~Sec. 8-11~~ Purpose.

An applicant, permittee, or other interested party may appeal certain administrative decisions of the City Manager or his/her designee, collectively may be referred to as either "City Manager" or "administrative official(s)", to the City Council as herein identified in this article.

~~Sec. 8-12~~ Appeals of certain administrative decisions of the City Manager.

- (a) The following administrative decisions of the City Manager, or his/her designee, may be appealed to the City Council in accordance with this article:
- (1) Special Event Permits (Ch. 8, Article XV – Special Events and Parades); ~~and~~
 - (2) Temporary Noise Permits (Ch. 8, Article XVII, Division 2 – Temporary Noise Permit); ~~and~~
 - (3) Mobile Food Unit (MFU) – Operation Site Permits (Ch. 8, Article VIII, Division 6 – Operation Site Approval for Mobile Food Units).
- (b) The following, in ~~associated~~ association with the decision(s) in sub-section (a) above, may be appealed:
- (1) Approval,
 - (2) Denial,
 - (3) Modification,
 - (4) Condition(s),
 - (5) Time period,
 - (6) Revocation, and
 - (7) Requests for refunds of deposits.

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~~Sec. 8-20~~ Approval standards to modify or reverse administrative decision.

In order to grant an appeal modifying or reversing the City Manager's administrative decision (or his/her designee's decision):

- (a) the appellant must establish the administrative official's decision being appealed is contrary to the applicable approval standards (for originally approving the permit), or is contrary to law, or other regulations; and

- (b) the City Council must:
- (1) find the administrative decision is erroneous; and
 - (2) provide a statement of grounds in support of the finding; and
 - (3) state what the ~~Beard~~City Council determines to be the correct interpretation of the matter at issue in the appeal.

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EXHIBIT D

To Ordinance No. 4868

Mesquite City Code, Chapter 8, Article III, Division 4 and Division 5.

Chapter 8 – LICENSES, PERMITS AND BUSINESS REGULATIONS

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ARTICLE III. - SOLICITORS, VENDORS AND OUTDOOR SALES

* * *

[Editor's Note: Make the following revisions with additions identified in green font and underlined and deletions identified in ~~red font with strikethrough~~.]

DIVISION 4. - SOLICITATIONS ON PUBLICLY OWNED PROPERTY

* * *

~~Sec. 8-117~~ – Mobile vendors.

- (a) No ~~merchant~~ mobile vendor, as defined in Sec. 8-196 (Definitions), shall engage in, or attempt to engage in, any mobile vending operation, unless that ~~merchant~~ mobile vendor has in his/her immediate possession a valid solicitor's permit issued to him/her under the provisions of Division 2 (Permit to Solicit) of this Code article.
- (b) No ~~merchant~~ mobile vendor shall engage in, or attempt to engage in, any mobile vending operation involving a food item, unless that ~~merchant~~ mobile vendor has in his/her immediate possession a valid health ~~card~~ permit issued to him by the City ~~health department~~ Health Division.
- (c) No ~~merchant~~ mobile vendor shall engage in, or attempt to engage in, any mobile vending operation on any public street which is not residential in character, or on any street which includes four (4) or more marked traffic lanes.
- (d) If bells, music boxes, radios or any other mechanical or electronic sound-producing device is employed to attract patrons, such device shall be operated as to be inaudible at a distance of two hundred (200) feet in every direction. Such sound-producing devices shall not be used during the hours from 12:00 noon until 3:00 p.m., nor from 9:00 p.m. until 9:00 a.m.
- (e) ~~Merchants~~ Mobile vendors engaged in mobile vending operations shall comply with all traffic laws and parking regulations. ~~Sales and deliveries of products shall not be made from any part of the vehicle away from the curb.~~
- (f) Mobile vendors, as defined in Sec. 8-196 (Definitions), engaging in the sale or conveyance of food or beverages shall comply with Article VIII – Food and Food Establishments.

Cross references –

Chapter 8, Article III, Division 2 – Permit to Solicit.

Chapter 8, Article VIII – Food and Food Establishments.

Chapter 9, Motor Vehicles and Traffic.

Chapter 10, Article III – Noise.

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[Editor's Note: Make the following revisions with additions identified in green font and underlined and deletions identified in ~~red font with strikethrough.~~]

DIVISION 5. - OUTDOOR SOLICITATIONS ON PRIVATE PROPERTY

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Sec. 8-262. - Certificate of occupancy required.

- (a) Unless otherwise provided under the Mesquite Zoning Ordinance, generally ~~Ne~~no merchant shall engage in, or attempt to engage in, any outdoor sales activity, unless such activity is incidental to the normal conduct of business operated by the same merchant or his employer in an on-site building for which a valid certificate of occupancy exists.
- (b) This section shall not apply to:
- (1) Home solicitations;
 - (2) Mobile vending operations;
 - (3) Sales of newspapers, candy, gum, cigarettes, or other items from vending machines;
 - (4) Coin-operated kiddie rides;
 - (5) Coin-operated telephones;
 - (6) ~~Sales of prepackaged food, drink and snack items at construction sites, from vehicles commonly known as Catering Trucks;~~ Mobile Food Unit (MFU) operations, including all types of Mobile Food Units;
 - ~~(6)~~(7) Farmers Markets;
 - ~~(7)~~(8) Sales of real estate; or
 - ~~(8)~~(9) Sales events of no more than three (3) days duration, conducted by, and for the benefit of, charitable, religious, philanthropic, or other not-for-profit organizations.

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EXHIBIT E

To Ordinance No. 4868

Mesquite City Code, Appendix D – Comprehensive Fee Schedule
Articles I and XII

MESQUITE CITY CODE
* * *
APPENDIX D
COMPREHENSIVE FEE SCHEDULE
ARTICLE I. – ADMINISTRATION

* * *

[Editor's Note: Add the following new text as shown in green font and underlined.]

Sec. 1-105. – Appeals.

Appeals of City Manager's (or Designee's) Administrative Decision to City Council under City Code, [Chapter 8](#):

Appeals of Special Event Permits\$250.00

Appeals of Temporary Noise Permits\$250.00

Appeals of Mobile Food Unit (MFU) – Operation Site Permits\$250.00

Cross reference— Appeal of City Manager's decision—Special Events and Parades; [Sec. 8-904](#).

Appeal of City Manager's decision—Temporary Noise Permit; [Sec. 8-989](#).

Appeal of City Manager's decision—Mobile Food Unit (MFU) – Operation Site Permit; Sec. 8-660.

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ARTICLE XII. – PLANNING AND DEVELOPMENT SERVICES

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[Editor's Note: Repeal and replace Sections 12-113 and 12-114 with the following text.]

Sec. 12-113. – Health Division: Food & Food Establishments.

CERTIFIED FOOD PROTECTION MANAGER – CERTIFICATE OF REGISTRATION.

Certified Food Protection Manager – Certificate of Registration, City of Mesquite, Texas\$40.00

FIXED COMMERCIAL LOCATION FOOD ESTABLISHMENT ANNUAL HEALTH PERMITS.

STANDARD FOOD ESTABLISHMENTS:

Standard Food Establishment for 1 to 9 employees Permit fee (per facility) per year\$250.00

Standard Food Establishment for 10 to 19 employees Permit fee (per facility) per year\$300.00

Standard Food Establishment for 20 or more employees Permit fee (per facility) per year\$350.00

BED & BREAKFAST:

Bed & Breakfast Limited (i.e. limited stay) Permit fee per year.....\$200.00

Bed & Breakfast Extended (i.e. 7+ rooms or extended stays) Permit fee per year\$250.00

Bed & Breakfast Food Establishment Permit fee per year\$300.00

CONCESSION FACILITIES:

Concession Facility Food Establishment Health Permit fee (per facility) per season\$100.00

TEMPORARY, SEASONAL, AND POP-UP FOOD ESTABLISHMENT HEALTH PERMITS.

Temporary Food Establishment for 15 days or less Permit fee (per vendor) per event \$75.00

Seasonal or Pop-up Food Establishment Permit fee (per food vendor) per season or other time period \$100.00

Pop-Up Food Establishment Annual Health Permit fee (for Intermittent Operations) (per food vendor) per year \$250.00

MOBILE FOOD UNIT FOOD ESTABLISHMENT ANNUAL HEALTH PERMITS.

MFU–ANNUAL HEALTH PERMITS (Obtained By Operators of MFUs):

- MFU–C.** Catering Trucks & Trailers Permit fee (per unit) per year\$200.00
- MFU–IC.** Ice Cream Trucks & Trailers Permit fee (per unit) per year\$200.00
- MFU–F.** Food Trucks & Trailers Permits:
 - MFU–F with Light Food Preparation Permit fee (per unit) per year \$300.00
 - MFU–F with Heavy Food Preparation Permit fee (per unit) per year\$300.00
- MFU–PC.** Pushcarts (for authorized daily operations in Downtown Mesquite) Permits:
 - MFU–PC with No Food Preparation Permit fee (per unit) per year\$200.00
 - MFU–PC with Light Food Preparation Permit fee (per unit) per year\$200.00

MOBILE FOOD UNIT–OPERATION SITE PERMITS.

MFU–OPERATION SITE PERMIT (PRIVATE PROPERTY).

(Obtained by private property owners hosting MFU operations.)

Initial Permit Fee and each Renewal Fee:

- 1 to 7 days (per unit) \$75.00
- 8 to 31 days (per unit)\$100.00
- > Greater than 1-month, but less than < 3-months (per unit)\$150.00
- > Greater than 3-months, but less than < 6-months (per unit)\$200.00

MFU–OPERATION SITE PERMIT (PUBLIC PROPERTY).

(Obtained by MFU operators operating on City-owned or other public property.)

Initial Permit Fee and each Renewal Fee for any 6-month or less period (per unit)\$50.00

APPEALS – DECISIONS REGARDING MFU–OPERATION SITE PERMITS.

Appeals of City Manager’s (or Designee’s) Administrative Decision to City Council; See [Sec. 1-105](#).

DOWNTOWN MESQUITE FOOD VENDOR HEALTH PERMITS.

- DT–FOOD VENDOR PERMIT (1-day) fee (per Food Vendor)\$ 30.00
- DT–FOOD VENDOR PERMIT (4 days or less) fee (per Food Vendor)\$ 50.00
- DT–FOOD VENDOR PERMIT (Annual) Intermittent Operations fee (per Food Vendor) per year\$250.00

FARMERS MARKET VENDOR HEALTH PERMITS (Includes Cottage Food Vendors).

- 1-day Farmers Market Vendor Permit (per FM vendor) fee \$ 10.00
- Year-Round Farmers Market Vendor Permit (per FM vendor) fee per year\$100.00

APPEALS.

Appeals of the Regulatory Authority’s decision to the City Manager\$200.00

Sec. 12-114. – Health Division: Other Food Related Permits.

MISCELLANEOUS FOOD RELATED HEALTH PERMITS:

Daycare Permit fee per year\$200.00

Incidental Sales Permit fee per year\$100.00

Mall Kiosk Permit fee per time period\$100.00

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