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**2024 Rules of the  
Albuquerque Food Service and Retail Ordinance**



Environmental Health Department

1 Civic Plaza NW Room 3023

Albuquerque, NM 87102

4/5/2024

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1 **Part 1. Authority**

2 (A) These rules are promulgated by the Environmental Health Department  
3 pursuant to Sections 9-6-1 to -19 ROA 1994 hereafter the "Albuquerque  
4 Food Service and Retail Ordinance" or "FSO."

5 (B) In the event that these rules are in conflict with the provisions of the FSO,  
6 the provisions of the FSO shall prevail.

7

8 **Part 2. Definitions**

9 For the purpose of these Rules, the following definitions shall apply unless the  
10 context clearly indicates or requires a different meaning. Terms include either  
11 the singular or the plural as the case may be.

12 ADDRESS OF RECORD. The mailing address designated by the Permit Holder  
13 to receive notices and correspondence from the Enforcement Authority.

14 ADULT DAY CARE CENTER. As defined in Title 7, Chapter 13, Part 2 of the New  
15 Mexico Administrative Code.

16 ADULT DAY CARE HOME. As defined in Title 7, Chapter 13, Part 2 of the New  
17 Mexico Administrative Code.

18 ADULT LIVING FACILITY. As defined in Title 7, Chapter 8, Part 2 of the New  
19 Mexico Administrative Code.

20 ADULTERATED. The condition of a Food if:

21 (A) It bears or contains any poisonous or deleterious substance in a quantity  
22 which may render it injurious to health;

23 (B) If it bears or contains any added poisonous or deleterious substance, for  
24 which no safe tolerance has been established by regulations, or in excess  
25 of such tolerance if one has been established, except that an Edible  
26 Cannabis Product manufactured, labeled, and distributed by a cannabis

1 Food Establishment in compliance with the Cannabis Regulation Act,  
2 Chapter 26, Article 2C NMSA 1978 shall not be considered Adulterated  
3 solely on the basis of its cannabis content;

4 (C) If it consists in whole or in part of any filthy, putrid or decomposed  
5 substance, or if it is otherwise unfit for human consumption;

6 (D) If it has been produced, processed, prepared, packed or held under  
7 unsanitary conditions, whereby it may have become contaminated with  
8 filth, or whereby it may have been rendered diseased, unwholesome or  
9 injurious to health;

10 (E) If it is in whole or in part the product of a diseased animal, or an animal  
11 which has died otherwise than by slaughter; or

12 (F) If its container is composed in whole or in part of any poisonous or  
13 deleterious substance which may render the contents injurious to health.

14 ADVANCED PREPARATION. Food preparation with multi-step handling of raw  
15 or pre-cooked ingredients including but not limited to the cooking, cooling, or  
16 re-heating of TCS Food for holding or immediate service, or where significant  
17 risk factors contributing to foodborne illness may occur as determined by the  
18 Enforcement Authority.

19 ANNIVERSARY DATE. The first day of the calendar month in which the original  
20 Permit was issued.

21 APPROVED. Acceptable to the Enforcement Authority based on its  
22 determination as to conformance with the Food Code, FSO, industry standards  
23 including but not limited to the American National Standards Institute and the  
24 National Sanitation Foundation Standards, other laws, and good public health  
25 practice.

26 BED AND BREAKFAST. An overnight lodging facility with no more than eight  
27 (8) guest rooms that are rented at market rates and breakfast is served, or

1 as defined in Chapter 14, Article 16 section 7-1 of the Integrated Development  
2 Ordinance.

3 CATERING FOOD ESTABLISHMENT. A Food Establishment where a pre-  
4 arranged number of meals or Food products are prepared at one permitted  
5 premise for immediate service and consumption at another pre-arranged  
6 location and served, including the setup of a buffet, at the second prearranged  
7 location by the Food Establishment.

8 CERTIFIED FOOD PROTECTION MANAGER. An Employee that has supervisory  
9 and management responsibility and the authority to direct and control Food  
10 preparation and service that has shown proficiency in knowledge of required  
11 information through passing a test that is part of an accredited Food protection  
12 program.

13 CHARITABLE FOOD PROVIDER. A Person who donates Food directly to the  
14 consumer on or off the premises of a Food Establishment and does not charge  
15 a fee for any Food. Charitable Food Provider does not include Food  
16 Establishments providing complimentary Food to patrons as part of a  
17 conference, event, lodging, or similar circumstance.

18 CHILD CARE CENTER. As defined in Title 8, Chapter 16, Part 2 of the New  
19 Mexico Administrative Code.

20 CITY. The City of Albuquerque.

21 COMMISSARY. A permanent Food Establishment that acts as a base of  
22 operation for another Food Establishment where Food is stored,  
23 manufactured, Packaged, rePackaged, or prepared and intended for human  
24 consumption.

25 COMMERCIAL GRADE KITCHEN. A room, building, or any part thereof used for  
26 Food preparation that meets all the requirements of local building codes and  
27 the FSO, that is not a residential kitchen.

1 COMMISSARY TYPE 1 PERMIT. A Commissary without a Commercial Grade  
2 Kitchen whose services are restricted to storage of non-TCS prePackaged  
3 Food, Single-Service Articles, and chemicals necessary for the operations of  
4 the Food Establishment being serviced.

5 COMMISSARY TYPE 2 PERMIT. A Commissary with a Commercial Grade  
6 Kitchen; whose services allow for Limited Preparation, Advanced Preparation,  
7 or Special Processes.

8 CONCESSIONS FOOD ESTABLISHMENT. A Commissary that operates  
9 seasonally as part of a venue whose primary purpose is not the sale of Food.

10 CORRECTIVE ACTIONS. Written actions, as defined by the Enforcement  
11 Authority, that must be taken to bring a violation of the Food Code, FSO, or  
12 other laws into compliance within a specified time period.

13 CORE VIOLATION. A violation of a core item as defined in the Food Code or as  
14 otherwise prescribed in these rules.

15 EDIBLE CANNABIS PRODUCT. Any Food containing cannabis allowed under  
16 Cannabis Regulation Act, Chapter 26, Article 2C NMSA 1978. "EDIBLE  
17 CANNABIS PRODUCT" does not include unprocessed cannabis flowers or other  
18 unprocessed cannabis plant parts.

19 EDIBLE CANNABIS FINISHED PRODUCT. Any Edible Cannabis Product that is  
20 Packaged and labeled for retail sale allowed under the Cannabis Regulation  
21 Act, Chapter 26, Article 2C NMSA 1978. "EDIBLE CANNABIS FINISHED  
22 PRODUCT" does not include unprocessed cannabis flowers or other  
23 unprocessed cannabis plant parts.

24 EMPLOYEE. Includes the Permit Holder, Person In Charge, Person having  
25 supervisory or management duties, Person on the payroll, family member,  
26 volunteer, Person performing work under a contractual agreement, or any  
27 other Person working in a Food Establishment.

1 FAMILY CHILD CARE HOME. As defined in Title 8, Chapter 16, Part 2 of the  
2 New Mexico Administrative Code.

3 FOOD BANK. A Food Establishment operated by a non-profit organization that  
4 stores Food for distribution to the public and does not charge for the food.

5 FOOD ESTABLISHMENT. Any place where Food is stored, processed,  
6 Packaged, rePackaged, or prepared and intended for human consumption. The  
7 term includes any such place regardless of whether the consumption is on or  
8 off the premises and regardless of whether there is a charge for the Food.

9 (A) FOOD ESTABLISHMENT includes: Adult Day Care Home; Adult Day Care  
10 Center; Bed And Breakfast; Catering Establishment; Charitable Food  
11 Providers; Commissary; Concessions Food Establishment; Family Child  
12 Care Home; Food Bank; Food Establishment Cannabis; Food  
13 Establishment Grocery; Food Processing Establishment; Food Processing  
14 Establishment Cannabis; Market Food Establishment; Mobile Food  
15 Establishment; Retail Establishment; Retail Establishment Cannabis;  
16 Retail Establishment Cannabis Plus; Self-Service Food Establishment;  
17 Temporary Food Establishment; Vending Machine; Warehouse;  
18 Warehouse Cannabis.

19 (B) FOOD ESTABLISHMENT does not include:

20 (1) Any place where Food is produced, sold, distributed, or prepared and  
21 exempt from regulation pursuant to the Homemade Food Act, Chapter  
22 25, Article 12 NMSA 1978;

23 (2) A kitchen in a private home;

24 (3) Home-delivery vehicle and service including but not limited to pizza  
25 delivery, third party ordering and delivery services, and grocery  
26 delivery services; and

27 (4) A private home that receives catered or home-delivered Food.



1 FOOD ESTABLISHMENT CANNABIS. A specific, limited type of Food  
2 Establishment which is a cannabis establishment licensed under the Cannabis  
3 Regulation Act, Chapter 26, Article 2C NMSA 1978, where Edible Cannabis  
4 Product is prepared, or prepared and served, and intended for individual  
5 portion service. The term includes a licensed cannabis establishment with a  
6 licensed cannabis consumption area pursuant to the Cannabis Regulation Act,  
7 Chapter 26, Article 2C NMSA 1978. The term does not include private homes.

8 FOOD ESTABLISHMENT CLASS A PERMIT. A Permit that is restricted to the  
9 provision of prePackaged Food only.

10 FOOD ESTABLISHMENT CLASS B PERMIT. A Permit that includes the provision  
11 of prePackaged Food and Food requiring Limited Preparation.

12 FOOD ESTABLISHMENT CLASS C PERMIT. A Permit that includes the provision  
13 of prePackaged Foods, Food requiring Limited Preparation, and Food requiring  
14 Advanced Preparation.

15 FOOD ESTABLISHMENT CLASS D PERMIT. A Permit that includes the provision  
16 of prePackaged Foods, Food requiring Limited Preparation, Food requiring  
17 Advanced Preparation, and Food requiring Special Processes during  
18 preparation.

19 FOOD HANDLER CARD. A card issued to an individual after successful  
20 completion of a Food Handler Training Program.

21 FOOD HANDLER TRAINING PROGRAM. An ANSI/ASTM E2659-09 accredited  
22 Food handler training certificate program.

23 FOOD PROCESSING ESTABLISHMENT. A Food Establishment that  
24 manufactures, packages, repackages, or labels Food for human consumption,  
25 including storage of Food manufactured by the Food Establishment and  
26 distribution of Food for wholesale.

1 FOOD PROCESSING ESTABLISHMENT CANNABIS. A specific, limited type of  
2 Food Processing Establishment which is also a cannabis establishment licensed  
3 under the Cannabis Regulation Act, Chapter 26, Article 2C NMSA 1978, where  
4 edible cannabis products are processed, prepared, Packaged, stored or  
5 distributed for human consumption excluding retail cannabis establishments  
6 and warehouses.

7 FOOD PROCESSING ESTABLISHMENT CLASS A PERMIT. A Permit issued to a  
8 specific, limited type of Food Processing Establishment which only repackages  
9 non-TCS Foods.

10 FOOD PROCESSING ESTABLISHMENT CLASS B PERMIT. A Permit issued to a  
11 Food Processing Establishment that manufactures Food using Limited  
12 Preparation only.

13 FOOD PROCESSING ESTABLISHMENT CLASS C PERMIT. A Permit issued to a  
14 Food Processing Establishment that manufactures Food using Advanced  
15 Preparation.

16 FOOD PROCESSING ESTABLISHMENT CLASS D PERMIT. A Permit issued to a  
17 Food Processing Establishment that manufactures Food using Special  
18 Processes.

19 FOOD PROCESSING ESTABLISHMENT PLUS PERMIT. Can be added to any  
20 Food Processing Establishment Permit to allow for the onsite retail sale of Food  
21 products manufactured by the Food Processing Establishment.

22 HERMETICALLY SEALED CONTAINER. A container which is designed and  
23 intended to be secure against the entry of microorganisms and to maintain  
24 the commercial sterility of its contents after processing.

25 INFESTATION. The presence of any insects, rodents, or other pests which is  
26 indicated by the observation of living or dead pests, rodent or other pest  
27 nesting materials, fecal material, insect casings, eggs, or egg casings on Food

1 contact surfaces, Food storage or preparation area, to such extent that it  
2 indicates an active presence of pests and constitutes an Imminent Health  
3 Hazard.

4 LIMITED PREPARATION. Food preparation that is restricted to assemble-serve,  
5 cook-serve, chill-serve, and/or hold-serve.

6 MARKET. Any temporary gathering of vendors, whether a single or recurring  
7 event, organized by a Market Coordinator and operating at a single location,  
8 whose primary purpose is the selling of goods.

9 MARKET COORDINATOR. Any Person responsible for the organization and  
10 supervision of a Market.

11 MARKET FOOD ESTABLISHMENT. A specific type of Food Establishment that  
12 operates at a Market.

13 MARKET FOOD VENDOR. Any Person, including their employees,  
14 representatives, and agents, operating a Market Food Establishment.

15 MOBILE FOOD ESTABLISHMENT. A specific type of Food Establishment that is  
16 vehicle mounted, self-contained, and designed to be readily movable from  
17 location to location. MOBILE FOOD ESTABLISHMENT includes push carts,  
18 trailers, and smokers.

19 PACKAGED. Bottled and capped, canned, cartoned, or securely wrapped.  
20 PACKAGED does not include wrapped or placed in a carry-out container to  
21 protect Food during service or delivery to the consumer.

22 PRIMARY PERMIT. The Permit issued that represents the main function of the  
23 Food Establishment.

24 PRIORITY VIOLATION. A violation of a priority item as defined in the Food  
25 Code or as otherwise prescribed in these rules.

1 PRIORITY FOUNDATION VIOLATION. A violation of a priority foundation item  
2 as defined in the Food Code or as otherwise prescribed in these rules.

3 PRIVATE EVENT. An event where Food is distributed and whose participants  
4 are limited to invited guests.

5 PULL DATE. The end of the last day on which a product is to be sold or offered  
6 for human consumption.

7 RAW MILK. Any milk which is not pasteurized or has not been treated or  
8 manipulated in any manner to destroy pathogens.

9 RAW MILK PRODUCT. Any of the following products which have been derived  
10 from Raw Milk and have not been treated or manipulated in any manner to  
11 destroy pathogens: cream, flavored milk, and half and half.

12 RAW MILK PERMIT. A Valid Permit issued by the Enforcement Authority which  
13 allows a Person to Vend Raw Milk or a Raw Milk Product and includes the  
14 following types of permits:

15 (A) Retail Food Establishment Raw Milk Permit: allows the Permit Holder of a  
16 Retail Food Establishment Permit Class 4, 5, or 6 to Vend and distribute  
17 Raw Milk and Raw Milk Product from the Retail Food Establishment Permit  
18 Class 4, 5, or 6 location.

19 (B) Market Food Establishment Raw Milk Permit: a specific type of Market  
20 Food Establishment Permit that allows a Person to Vend Raw Milk and  
21 Raw Milk Product at any Market.

22 RAW MILK VENDOR. Any Person, including their employees, representatives,  
23 or agents, operating a Market Food Establishment in possession of a Valid  
24 Market Food Establishment Raw Milk Permit.

25 REINSPECTION. One or more inspections conducted subsequent to an  
26 inspection that resulted in a Grade of Unsatisfactory or Closed due to

1 noncompliance with the Food Code, the FSO, or other laws, specifically to  
2 determine whether compliance with such regulations has been achieved.

3 REQUESTED INSPECTION. An inspection conducted in response to a Permit  
4 Holder's request which may be accompanied by a fee.

5 RETAIL FOOD ESTABLISHMENT. A Food Establishment where Food and Food  
6 products are offered for sale, donated, or distributed for off-the-premise  
7 consumption, to include, but not limited to, grocery stores, meat markets, and  
8 warehouses.

9 RETAIL FOOD ESTABLISHMENT CANNABIS. A type of Retail Food  
10 Establishment Cannabis, which is also a cannabis establishment licensed  
11 under the Cannabis Regulation Act, Chapter 26, Article 2C NMSA 1978, where  
12 Edible Cannabis Finished Products are offered for sale, donated, or distributed  
13 for off-the-premise consumption, or where edible cannabis products or Edible  
14 Cannabis Finished Products are stored.

15 RETAIL FOOD ESTABLISHMENT CANNABIS PLUS. A type of Retail Food  
16 Establishment, which is also a cannabis establishment with a cannabis  
17 consumption area, both licensed under the Cannabis Regulation Act, Chapter  
18 26, Article 2C NMSA 1978, where Edible Cannabis Finished Products are  
19 offered for sale, donated, or distributed for either off-the-premise  
20 consumption or in a cannabis consumption area. The term also includes the  
21 place where Edible Cannabis Finished products are stored.

22 RETAIL FOOD ESTABLISHMENT CLASS 1 PERMIT. A Retail Food Establishment  
23 Permit that is restricted to non-TCS prePackaged items and in which the sale  
24 or distribution of Food is not the primary function of the Food Establishment.

25 RETAIL FOOD ESTABLISHMENT CLASS 2 PERMIT. A Retail Food Establishment  
26 Permit that is restricted to non-TCS prePackaged Food and the sale or  
27 distribution of Food is the primary function of the Food Establishment.

1 RETAIL FOOD ESTABLISHMENT CLASS 3 PERMIT. A Retail Food Establishment  
2 Permit that includes the provision of TCS prePackaged Food, raw produce, and  
3 Food requiring Limited Preparation, and the sale or distribution of Food is not  
4 the primary function of the Food Establishment.

5 RETAIL FOOD ESTABLISHMENT CLASS 4 PERMIT. A Retail Food Establishment  
6 Permit that includes the provision of TCS prePackaged Food, raw produce, and  
7 Food requiring Limited Preparation, and the sale or distribution of Food is the  
8 primary function of the Food Establishment.

9 RETAIL FOOD ESTABLISHMENT CLASS 5 PERMIT. A Retail Food Establishment  
10 Permit that includes the provision of TCS prePackaged Food, raw produce,  
11 Food requiring Limited Preparation, and Food requiring Advanced Preparation.

12 RETAIL FOOD ESTABLISHMENT CLASS 6 PERMIT. A Retail Food Establishment  
13 Permit that includes the provision of prePackaged Foods, raw produce, Food  
14 requiring Limited Preparation, Food requiring Advanced Preparation, and Food  
15 requiring Special Processes during preparation.

16 RETAIL FOOD ESTABLISHMENT PLUS PERMIT. A supplemental Retail Food  
17 Establishment Permit that may be added to any other Retail Food  
18 Establishment Permit to allow for on-site consumption with seating not to  
19 exceed ten (10) persons.

20 UTENSIL. Any Approved implement used in the preparation, storage,  
21 transportation or service of Food.

22 VARIANCE. A written document issued by the Enforcement Authority that  
23 authorizes a modification or waiver of one or more requirements of these  
24 Rules, the Food Code, or the FSO.

25 SAFE TEMPERATURES. Temperatures as provided in the Food Code.

26 SAFETY PLAN. The primary document in a preventive Food safety system that  
27 provides a systematic approach to the identification of Food safety hazards

1 that must be controlled to prevent or minimize the likelihood of foodborne  
2 illness or injury during storage, processing, Packaging, rePackaging, or  
3 preparation of Food for human consumption.

4 SEALED. Free of cracks or other openings that may allow the entry or passage  
5 of moisture.

6 SECONDARY PERMIT. Any Food Permit issued as an addition to a Food  
7 Establishment with a Primary Permit.

8 SELF-SERVICE FOOD ESTABLISHMENT. A specific and limited type of  
9 unattended Food Establishment that offers prePackaged Food for customer  
10 self-service.

11 SIGNS OF INFESTATION. The presence of evidence indicating an Infestation  
12 on nonFood contact surfaces, nonFood storage or preparation areas, or other  
13 such locations, to such extent that without mediation an Imminent Health  
14 Hazard would result.

15 SINGLE-SERVICE ARTICLES. Cups, containers, lids or closures, and packaging  
16 materials, including bags and all similar articles designed for one-time, one-  
17 Person use and then discarded. The term does not include single use articles  
18 such as number 10 cans, aluminum pie pans, bread wrappers and similar  
19 articles into which Food has been Packaged by the manufacturer.

20 SPECIAL PROCESSES. Actions taken during the storage, manufacturing,  
21 packaging, or preparation of Food often using unusual technologies that are  
22 not fully addressed in the Food Code.

23 TABLEWARE. All multi-use eating and drinking Utensils.

24 TAMPER-EVIDENT PACKAGING. A package having one or more indicators or  
25 barriers to entry which, if breeched or missing, can reasonably be expected to  
26 provide visible evidence to consumers that tampering has occurred.

1 TEMPORARY FOOD ESTABLISHMENT. A Food Establishment which operates at  
2 a fixed location for a temporary period of time, not to exceed fourteen (14)  
3 days, in connection with a single event and at a single location.

4 TIME/TEMPERATURE CONTROL FOR SAFETY FOOD or TCS. Food that requires  
5 time or temperature control for safety to limit pathogenic microorganism  
6 growth or toxin formation; or as otherwise defined in the Food Code.

7 VEND. The act of selling, trading, bartering or giving away.

8 VENDING MACHINE. A self-service device that, upon insertion of a coin, paper  
9 currency, token, card, or key, or by electronic transaction or optional manual  
10 operation, dispenses unit servings of Food in bulk or in packages without the  
11 necessity of replenishing the device between each vending operation.

12 VENDING MACHINE CLASS A REGISTRATION. A Vending Machine restricted to  
13 non-TCS prePackaged Food.

14 VENDING MACHINE CLASS B PERMIT. A Vending Machine Permit that includes  
15 the provision of TCS prePackaged Food.

16 WAREHOUSE. A specific type of Food Establishment where Food is stored and  
17 distributed to other Food Establishments.

18 WAREHOUSE CANNABIS. A specific, limited type of Food Establishment which  
19 is a cannabis establishment licensed under the Cannabis Regulation Act,  
20 Chapter 26, Article 2C NMSA 1978, where Edible Cannabis Product is stored  
21 and distributed to other Food Establishments Cannabis.

22 **Part 3. Administrative Codes and Regulations Adoption.**

23 (A) The 2022 United States Food and Drug Administration Model Food Code  
24 January 18, 2023 Version as published by the U.S. Department of Health  
25 and Human Services is hereby adopted and incorporated in its entirety.



1 (B) The following statutes, administrative codes, and regulations are adopted,  
2 and incorporated as modifications to the 2022 Food Code:

3 (1) Subsections (C), (D), (E), and (F) of 7.6.2.11 NMAC;

4 (2) 7.6.2.12 NMAC;

5 (3) Subsections (B) and (D) of 7.6. 2.13 NMAC; and

6 (4) The Current Good Manufacturing Practices in Manufacturing, Packing,  
7 or Holding Human Food, 21 C.F.R. § 110, Subparts (A), (B), and (C).

8 (C) The following sections of the Food Code are amended as follows:

9 (1) A violation of section 5-205.15(B) shall be a Priority Violation when it  
10 is evident that the leak is from a water source that is non-potable,  
11 wastewater, or used water; and

12 (2) A violation of 3-307.11 shall be a Priority Foundation Violation.

13 (D) When a conflict exists in a specific requirement between applicable  
14 sections of the Food Code and the Albuquerque Food Service and Retail  
15 Ordinance or these Rules, the Albuquerque Food Service and Retail  
16 Ordinance and the Rules shall control.

17

18 **Part 4. Pre-inspection Application Information.**

19 (A) An Applicant seeking a Permit shall submit a signed pre-inspection  
20 application, a copy of the Food Establishment's business registration, and  
21 a copy of the Food Establishment's State of New Mexico Taxation and  
22 Revenue Department registration certificate to the Enforcement Authority.  
23 The pre-inspection application shall be submitted to the Enforcement  
24 Authority at least five working days prior to the commencement of  
25 operations.

1 (1) In the case of an application for a Food Establishment who is also  
2 applying for a license pursuant to the Liquor Control Act, Chapter 60,  
3 Article 3A NMSA 1978, a pre-inspection application is required. The  
4 Enforcement Authority may issue a Permit while the application for a  
5 State issued liquor license pursuant to the Liquor Control Act is  
6 pending. The Applicant shall contact the Enforcement Authority at  
7 least five (5) working days prior to the anticipated commencement  
8 of Food operations to schedule a pre-opening inspection of the Food  
9 Establishment.

10 (2) In order to receive a Market Food Establishment, Permit by April 1,  
11 an Applicant shall submit a pre-inspection application to the  
12 Enforcement Authority by March 15 of each year. In the event that  
13 an Applicant submits a pre-inspection application after March 15, the  
14 Applicant shall submit the Permit application to the Enforcement  
15 Authority at least five (5) business days prior to the anticipated  
16 opening date of the Market Food Establishment. Market Food  
17 Establishment pre-inspection applications received after March 15  
18 may not be processed by April 1.

19 (B) The pre-inspection application shall include the following:

20 (1) The name, Address Of Record, telephone number, and e-mail address  
21 of the proposed Permit Holder, and designated agent if different from  
22 the owner.

23 (a) The name, mailing address, telephone number, and e-mail  
24 address of the Applicant.

25 (b) A list of all Food items to be prepared, offered to the public, or  
26 sold.

1 (c) A list of any Valid Food Establishment Permits held by the  
2 Applicant, or a disclosure of any Food Establishment Permits  
3 previously held by the Food Establishment owner designated  
4 agent or Applicant within the last three years.

5 (d) The name, title, mailing address, telephone number, and e-mail  
6 address of the Applicant's Commissary when applicable.

7 (e) A copy of the current Commissary agreement, when the  
8 Commissary is not owned and operated by the Applicant, that  
9 includes the following:

10 (i) A list of all services provided to the Applicant by the  
11 Commissary;

12 (ii) Identification of the name, title, mailing address, telephone  
13 number, and e-mail address of the Commissary and Food  
14 Establishment; and

15 (iii) A statement signed by the Applicant and Commissary owner  
16 that attests to the accuracy of the information provided and  
17 affirms that the Applicant will visit the Commissary on every  
18 day of operations.

19 (C) Corrections. Incomplete pre-inspection applications will not be  
20 considered. Incomplete pre-inspection applications will be returned to the  
21 Applicant with a list of missing information. The Enforcement Authority's  
22 determination that an application is incomplete does not constitute a denial  
23 of the pre-inspection application.

24 **Part. 5 Pre-Opening Inspection of Food Establishments.**

25 (A) The Enforcement Authority shall perform a pre-opening inspection of each

1 Food Establishment seeking a Permit except in the following situations:

2 (2) Inspection shall be deferred until five (5) working days prior to the  
3 commencement of operations when a Food Establishment is seeking a  
4 liquor license from the State of New Mexico in accordance with the  
5 Liquor Control Act, Chapter 60, Article 3A NMSA 1978, but the Food  
6 Establishment is not yet in operation.

7 (3) The Enforcement Authority may waive the pre-opening inspection for a  
8 Temporary Food Establishment or Market Food Establishment when the  
9 Enforcement Authority finds that waiver of the pre-opening inspection  
10 will not result in a condition injurious to health or safety.

11 **Part 6. Issuance of Permits; Payment of Permit Fees.**

12 (A) The Enforcement Authority shall issue a provisional Permit, Valid for thirty  
13 (30) days, when the Applicant receives a Grade of Approved or Conditional  
14 Approved from the Enforcement Authority during the pre-opening  
15 inspection.

16 (1) A provisional Permit Holder has thirty (30) days from the date of  
17 issuance of the provisional Permit to pay all applicable fees.

18 (2) Upon receipt of payment for all applicable fees, the Enforcement  
19 Authority shall issue a Permit and the Food Establishment's Grade  
20 sticker.

21 (3) The provisional Permit shall expire when payment is not made within  
22 the thirty (30) days. If a Permit Holder wishes to obtain a Food  
23 Establishment Permit after expiration, the Person must reapply for a  
24 Permit as outlined in Part 3 of these rules.

25 (a) When reapplying for a Permit after expiration of a provisional

1                   thirty (30) day Permit, the Applicant shall make payment in full  
2                   before being issued a permit and approved to operate.

3 (B) When an Applicant does not receive a Grade of Approved or Conditional  
4       Approved during the pre-opening inspection, the Enforcement Authority  
5       shall provide a written list of Corrective Actions to be taken. The Applicant  
6       may have up to thirty (30) days to request a Reinspection and receive a  
7       Grade of Approved or Conditional Approved.

8       (1) The initial pre-inspection application shall be denied when the  
9       Applicant fails to contact the Enforcement Authority to provide proof of the  
10      completion of the Corrective Actions provided by the Enforcement  
11      Authority at the pre-opening inspection and to request another pre-  
12      opening inspection prior to the expiration of the thirty (30) day Corrective  
13      Action timeframe.

14 (C) An Applicant seeking a liquor license from the State of New Mexico in  
15      accordance with the Liquor Control Act, Chapter 60, Article 3A NMSA 1978,  
16      shall remit payment for the Food Establishment Permit prior to issuance of the  
17      Permit.

18 (D) An Applicant for a Temporary Food Establishment or Market Food  
19      Establishment Permit shall remit payment for the Permit prior to the  
20      commencement of operations or within fourteen (14) calendar days of  
21      Permit approval, whichever occurs first.

22 **Part 7. Term and Scope of Permit.**

23 (A) A Permit shall be Valid and shall authorize a Food Establishment to operate  
24      for one calendar year from the Anniversary Date.

25 (B) Temporary Food Establishment Permits shall be Valid for the duration of  
26      the single event or celebration, not to exceed fourteen (14) days.

1 (C) Temporary Mobile Food Establishment permits shall be Valid for up to  
2 three (3) months from the date of issuance.

3 (1) Market Food Establishment permits issued on or before April 1 are  
4 through March 31. Market Food Establishment permits issued after April  
5 1 are Valid from the date of issuance through March 31.

6 **Part 8. Permit Renewal.**

7 (A) A Food Establishment shall renew their Permit(s) on or before the  
8 Expiration Date by paying the annual Permit fee.

9 (1) Any Permit operating under a Commissary agreement shall also submit  
10 a Valid Commissary agreement at the time of Permit renewal.

11 (2) All Permit Holders shall verify and update any contact information and  
12 the Address Of Record on file with the Enforcement Authority at the  
13 time of Permit renewal.

14 (3) Any Food Establishment that wishes to permanently cease operations  
15 shall notify the Enforcement Authority in writing within thirty (30) days  
16 of closure.

17 (B) The Enforcement Authority shall provide a notice and invoice for the  
18 amount due at least thirty (30) days prior to the Expiration Date. The  
19 Permit Holder is required to renew their Permit(s) regardless of whether  
20 the Enforcement Authority issues this notice.

21 (1) The Enforcement Authority shall issue a new Permit to the Food  
22 Establishment after receipt of full payment of all applicable fees.

23 (2) When fees are not paid in full prior to the Expiration Date of the Food  
24 Establishment's Permit, the Food Establishment will be provided with  
25 a notice of past due fees and invoice every thirty (30) days, up to  
26 ninety (90) days past the Expiration Date.

1 (3) A Food Establishment that fails to pay its renewal fees within ninety  
2 (90) days of the Food Establishment's Permit Expiration Date, shall  
3 have its Permit(s) suspended.

4 (4) Following a notice of suspension, A Food Establishment that fails to  
5 pay its renewal fees within ninety-five (95) days of the Food  
6 Establishment's Permit Expiration Date shall have its Permit(s)  
7 revoked.

8 **Part 9. Fees.**

9 (A) Permit fees are non-refundable.

10 (B) First year Permit fees are due prior to the expiration of the provisional  
11 Permit.

12 (1) When a Permit is being added to an existing Food Establishment, the  
13 initial Permit fee for the new Permit shall be prorated so that the  
14 Anniversary Date of the new Permit is the same as the Anniversary  
15 Date of the existing Food Establishment's Permit.

16 (2) The proration of fees shall be calculated on a monthly basis and  
17 permits issued after the 15<sup>th</sup> of the current month will not be assessed  
18 the monthly fee for that month.

19 (3) No Temporary Food Establishment Permit or Market Food  
20 Establishment Permit is Valid until all Permit fees are received by the  
21 Enforcement Authority.

22 (4) In the case where there is, under single ownership or management,  
23 more than one Food Establishment or more than one place within a  
24 Food Establishment where Food is prepared and served within a single  
25 building or structure, and separate inspections are required, as  
26 determined by the Enforcement Authority based on the Food

1 Establishment's ability to meet the conditions of these Rules and the  
2 FSO independent of the Primary Permit, each such Food Establishment  
3 or place shall pay a separate annual fee. The Food Establishment or  
4 place that represents the main function of the Food Establishment shall  
5 be considered the Primary Permit for the purposes of determining fees;  
6 all other permits shall be considered Secondary except that:

- 7 (a) A Food Processing Establishment may only be a Primary or  
8 Secondary Permit to another Food Processing Establishment Permit;
- 9 (b) A Food Establishment may only be a Primary or Secondary Permit  
10 to another Food Establishment Permit;
- 11 (c) A Retail Food Establishment may only be a Primary or Secondary  
12 Permit to another Retail Food Establishment Permit;
- 13 (d) In no case shall a Food Processing Establishment Cannabis Permit  
14 be considered as a Primary or Secondary Permit for the purposes of  
15 calculating inspection fees for a Food Processing Establishment;
- 16 (e) In no case shall a Food Establishment Cannabis Permit be considered  
17 as a Primary or Secondary Permit for the purposes of calculating  
18 inspection fees for Food Establishment permits;
- 19 (f) In no case shall a Retail Food Establishment Cannabis be considered  
20 as a Primary or Secondary Permit for the purposes of calculating  
21 inspection fees for Retail Food Establishments;
- 22 (g) In no case shall a Warehouse Cannabis be considered as a Primary  
23 or Secondary Permit for the purposes of calculating inspection fees  
24 for Food Establishments;
- 25 (h) In no case shall a Retail Food Establishments Cannabis Plus Permit  
26 be considered as a Primary or Secondary Permit for the purpose of  
27 calculating inspection fees for Food Establishments; and



1 (i) A Mobile Food Establishment Permit shall be a standalone permit and  
2 in no case be considered as a Primary or Secondary Permit for the  
3 purpose of calculating inspection fees for Food Establishments.

4 (C) Fee Schedule and Administrative Fees.

5 (a) Primary Permits. See Appendix A.

6 (b) Secondary Permits. See Appendix B.

7 (c) Standalone Permits. See Appendix C.

8 (d) Administrative Fees. See Appendix D.

9 **Part 10. Risk Categories and Inspection Frequency.**

10 (A) Food Establishments shall be assigned a risk category based on the  
11 following criteria:

12 (1) Food Establishments restricted to the distribution of prePackaged Food  
13 shall be considered risk category 1 and shall receive and pass an  
14 inspection at least once every eighteen (18) months.

15 (2) Food Establishments restricted to the distribution of prePackaged Food  
16 where the primary population served is highly susceptible, or Food  
17 Establishments that include Limited Preparation of Food shall be risk  
18 category 2 and shall receive and pass an inspection at least once every  
19 twelve (12) months.

20 (3) Food Establishments that include Limited Preparation of Food and where  
21 the primary population served is highly susceptible, or Food  
22 Establishments that include Advanced Preparation of Food shall be risk  
23 category 3 and shall receive and pass an inspection at least once every  
24 six (6) months.

25 (4) Food Establishments that include Advanced Preparation of Food and  
26 where the primary population served is highly susceptible, Self-Service  
27 Food Establishments that offer TCS Foods, or Food Establishments that

1 include Special Processes shall be risk category 4 and shall receive and  
2 pass an inspection at least once every four (4) months.

3 (B) A Food Establishment's risk category may be increased or decreased based  
4 on past performance of the Food Establishment to conform with the Food  
5 Code, the FSO, these rules, and other laws; or based on the risk to public  
6 health.

7 **Part 11. Grading of Food Establishments.**

8 (A) Grades of Food Establishments shall be determined by the score issued  
9 after each inspection and remain in effect until the next inspection as  
10 follows:

11 (1) APPROVED. A Food Establishment that receives an inspection score of  
12 eighty-five (85) points or higher as determined by the Enforcement  
13 Authority showing compliance with the standards in the Food Code, the  
14 FSO, other industry standards, and other laws will receive a Grade of  
15 Approved and is able to operate.

16 (2) CONDITIONAL APPROVED. A Food Establishment that is found to be in  
17 violation of the standards in the Food Code, the FSO, other industry  
18 standards, and other laws by receiving an inspection score between  
19 seventy-five (75) and eighty-four (84) points will receive a Grade of  
20 Conditional Approved and the Food Establishment is able to operate but  
21 is required to follow Corrective Actions issued by the Enforcement  
22 Authority.

23 (3) UNSATISFACTORY. A Food Establishment that meets minimum  
24 standards in the Food Code, the FSO, other industry standards, and  
25 other laws by receiving an inspection score between sixty-five (65) and  
26 seventy-four (74) points, having any 3 or more priority violations out  
27 of compliance during a single inspection, or any Priority Violation,

1 Priority Foundation Violation, or Core Violation being out of compliance  
2 on a repeated basis within the last thirty-six (36) months as determined  
3 by the Enforcement Authority will receive a Grade of Unsatisfactory but  
4 is allowed to continue Food operations while following any Corrective  
5 Actions issued by the Enforcement Authority.

6 (a) Any Grade of Unsatisfactory issued to an establishment is subject  
7 to supervisory review based on evidence provided by the issuing  
8 Enforcement Authority employee.

9 (4) CLOSED. A Food Establishment that receives an inspection score of  
10 sixty-four (64) or less due to failure to comply with the minimum  
11 standards of the Food Code, the FSO, or these rules, or the Enforcement  
12 Authority finding an imminent or substantial health hazard, shall receive  
13 a Grade of Closed and shall immediately cease operations until such  
14 time that Corrective Actions are completed to the satisfaction of the  
15 Enforcement Authority.

16 (a) Any Grade of Closed issued to an establishment is subject to  
17 supervisory review based on evidence provided by the issuing  
18 Enforcement Authority employee.

19 (b) The Enforcement Authority may issue a Grade of Closed to a portion  
20 of a Food Establishment affected by an Imminent Health Hazard  
21 when the Food Establishment demonstrates that Food safety is not  
22 affected by the partial Closure and the Enforcement Authority  
23 determines that no threat to public health will result from allowing  
24 other Food operations to continue.

25 **Part 12. Scoring of Food Establishments.**

26 (A) Each inspection shall be scored out of one-hundred (100) points with a  
27 predetermined point value deducted for each violation applicable to their  
28 Food operations.

- 1 (1) The Enforcement Authority shall deduct six (6) points from the total  
2 score for each Priority Violation;
- 3 (2) The Enforcement Authority shall deduct three (3) points from the total  
4 score for each Priority Foundation Violation; and
- 5 (3) The Enforcement Authority shall not deduct points from the total score  
6 but shall mark each Core Violation as out of compliance.
- 7 (B) Food Establishments shall be provided a score during each inspection  
8 based on the scoring rubric.
- 9 (C) Scoring Rubric. If multiple violations apply to the same infraction, only the  
10 highest violation score will apply.

11 **Part 13. Corrective Actions.**

- 12 (A) A Food Establishment shall provide evidence of compliance with  
13 Corrective Actions through the submission of work orders, photographs,  
14 receipts, and/or reinspection. When compliance with Corrective Actions  
15 cannot be verified through the presentation of documentary evidence  
16 alone, the Enforcement Authority shall perform a reinspection of the Food  
17 Establishment within the timeframe provided. When the reinspection does  
18 not result in a Grade of Approved or Conditional Approved, any  
19 subsequent reinspection required to verify compliance with the Corrective  
20 Actions may be assessed a fee as specified in Appendix D. Fees are due  
21 at the time the request for reinspection is made.
- 22 (B) The Enforcement Authority may grant an extension of the Corrective  
23 Action timeframe when the Permit Holder can demonstrate reasonable  
24 efforts to comply with the Corrective Actions. In order to be granted an  
25 extension, the Permit Holder shall request an extension of the Corrective  
26 Action timeframe in writing. The Enforcement Authority shall review the  
27 request and provide a written determination approving or denying the

1 request. If the request for extension is approved the Enforcement  
2 Authority shall provide a written addendum with a new timeframe.

3 (C) Food Safety Training Required. When a Food Establishment receives a  
4 Grade of Unsatisfactory or Closed, the Food Establishment's Food  
5 Employees shall complete an Approved Food safety training.

6 (D) Infestation Corrective Actions.

7 (1) Food Establishments shall hire a professional pest control applicator  
8 licensed through the New Mexico Department of Agriculture to treat  
9 any Infestation.

10 (2) Food Establishments shall remove rodent droppings in accordance with  
11 current Centers for Disease Control and Prevention recommendations  
12 published on the Enforcement Authority's website.

13 (3) Food Establishments that receive a Grade of Closed due to Infestation  
14 shall remain closed for a minimum of two (2) calendar days and shall  
15 not be Reinspected until such time professional pest control reports and  
16 documentation of other completed Corrective Actions are provided to  
17 the Enforcement Authority.

18 (4) Reinspection may occur prior to two (2) calendar days and without the  
19 presentation of professional pest control records when a Food  
20 Establishment receives a Grade of Closed due to Signs Of Infestation.

21 **Part 14. Construction, Remodeling, and Conversions.**

22 (A) Prior to when a Food Establishment is hereafter constructed or extensively  
23 remodeled, or when an existing structure is converted for use as a Food  
24 Establishment, the appropriate permits shall be obtained from the City of  
25 Albuquerque's Planning Department in accordance with the Uniform  
26 Administrative Code of the City of Albuquerque.

27 (B) Following the completion of construction, extensive remodeling, or  
28 conversion; the Food Establishment shall pass an inspection conducted by

1 the Enforcement Authority prior to the commencement of operations.

2 **Part 15. Condemnation of Food and Equipment.**

3 (A) If after examination, the Enforcement Authority determines or has reason  
4 to suspect that Food is Adulterated or misbranded:

5 (1) The Food Establishment may be issued a Grade of Closed for an  
6 Imminent Health Hazard;

7 (2) The Food may be discarded voluntarily by the Person In Charge; or

8 (3) Upon written notice to the Permit Holder or Person In Charge at the  
9 time of inspection, the Enforcement Authority may label and seal such  
10 Food as "embargoed." Such labeled and sealed Food shall then be  
11 separated from other Food and shall not be used in the operations of  
12 the Food Establishment or distributed until the Enforcement Authority  
13 has examined the Food and determined whether such Food is safe for  
14 human consumption. After making a determination, the Enforcement  
15 Authority may remove the label and seal, or may require the Permit  
16 Holder or Person In Charge of the Food to denature, remove, or destroy  
17 such Food or to bring the Food into compliance with the requirements  
18 of the Food Code, the FSO, these rules, or other laws.

19 (4) If the suspected Adulterated or misbranded Food has been distributed,  
20 the Permit Holder shall be given the opportunity to recall the Food  
21 voluntarily at the Permit Holder's expense. If the Permit Holder refuses  
22 to recall the suspected Food, the Enforcement Authority may order a  
23 mandatory recall of the suspected Food and recover the cost associated  
24 with mandatory recall from the Permit Holder.

25 (a) Food Processing Establishments and Food Establishments  
26 manufacturing Food for distribution to other Food Establishments

1 under their control shall have recall procedures prepared and on file  
2 at the Food Establishment where the Food was manufactured.  
3 Procedures shall include plans for recalling products which may be  
4 injurious to human health; for identifying products which may be  
5 injurious to human health; for identifying, collecting, warehousing,  
6 and controlling products; for determining the effectiveness of  
7 recalls; and for notifying the Enforcement Authority, and if  
8 applicable, the Food and Drug Administration, and United States  
9 Department of Agriculture of any recalls.

10 (B) If after examination, the Enforcement Authority determines or has reason  
11 to suspect that a Food Utensil or piece of Food equipment is worn,  
12 defective, unsanitary, or otherwise injurious to health:

13 (1) The Food Utensil or piece of Food equipment shall be discarded  
14 voluntarily by the Person In Charge;

15 (2) Such Utensil or equipment may be labeled "condemned" by the  
16 Enforcement Authority. The Utensil or Food equipment so labeled shall  
17 not thereafter be used for Food storage, preparation, handling, or  
18 serving; or

19 (3) The Enforcement Authority may require the Food Establishment to  
20 bring the condemned Utensil or Food equipment into compliance with  
21 the requirements of these rules, the Food Code, the FSO, or to remove  
22 it from the Food Establishment.

23 (a) Upon presentation of sufficient evidence that the condemned Utensil  
24 or Food equipment has been brought into compliance with  
25 requirements of these rules, the Food Code, or the FSO, the  
26 Enforcement Authority shall remove the "condemned" label and  
27 allow the Utensil or Food equipment to be used for Food storage,  
28 preparation, handling, or serving.

29 (C) Removal of Seal. An "embargoed" or "condemned" label, tag, or seal,

1 having once been affixed by the Enforcement Authority to Food or  
2 equipment, shall be removed only by the Enforcement Authority except as  
3 otherwise provided by law.

4 **Part 16. Food Safety Training Requirements.**

5 (A) All Food Establishments shall have at least one Certified Food Protection  
6 Manager.

7 (1) A Certified Food Protection Manager shall pass a test accredited and  
8 listed by the Conference for Food Protection, and such Employee shall  
9 have supervisory and management responsibility with the authority to  
10 direct and control Food preparation and service.

11 (2) The Enforcement Authority may waive this requirement for certain  
12 types of Food Establishments deemed by the Enforcement Authority to  
13 pose minimal risk of causing or contributing to Foodborne illness based  
14 on the nature of the operation and extent of Food preparation.

15 (3) A single Certified Food Protection Manager may be responsible for more  
16 than a single Food Establishment, provided that a Variance is Approved  
17 by the Enforcement Authority as specified in §9-6-15 of the FSO.

18 (4) A Person In Charge who demonstrates knowledge by being a food  
19 protection manager that is certified by a food protection manager  
20 certification program, evaluated and listed by a Conference for Food  
21 Protection-recognized accrediting agency as conforming to the  
22 conference for food protection standards for accreditation of food  
23 protection manager certification programs, is deemed to comply with  
24 paragraph 2-102.11(B) of the FDA Food Code.

25 (5) A Food Establishment that has an employee that is certified by a food  
26 protection manager certification program, evaluated and listed by a  
27 Conference for Food Protection-recognized accrediting agency as



1 conforming to the conference for food protection standards for  
2 accreditation of food protection manager certification programs, is  
3 deemed to comply with paragraph 2-102.12 of the FDA Food Code.

4 (6) The Certified Food Protection Manager requirements of Part 15 of these  
5 rules shall become effective ninety (90) days after the effective date of  
6 these rules.

7 (B) Food Handler Cards. Employees who handle open Food shall demonstrate  
8 their knowledge of safe Food handling practices through passing a test  
9 from a Food Handler Training Program, Approved by the Enforcement  
10 Authority, and possess a Valid Food Handler Card within thirty (30) days  
11 of employment in a Food Establishment unless:

12 (1) The Food Employee is a Certified Food Protection Manager;

13 (2) The Food Employee does not prepare or handle TCS Food, provided that  
14 at a minimum, the Permit Holder assures the Food Employee complies  
15 with Part 16 of these rules; or

16 (3) The Food Employee is working as a Food Employee or volunteer of a  
17 Temporary Food Establishment or Charitable Food Provider, provided  
18 that at minimum, the Person In Charge is a Certified Food Protection  
19 Manager or has a Valid Food Handler Card, either of which shall be  
20 obtained prior to the issuance of a Temporary Food Establishment  
21 Permit or Charitable Food Provider Permit, and the Person In Charge  
22 ensures the Food Employee complies with Part 16 of these rules.

23 (C) Food handler cards shall be kept by the Food Employee on their Person  
24 while working as a Food Employee or volunteer for a Food operation, or a  
25 copy shall be kept on file by the current employer and upon request be  
26 immediately made available for inspection by the Enforcement Authority.

1 (D) Alternative to Food Handler Cards. The Enforcement Authority may  
2 approve a Food Establishment's training program to be used in lieu of  
3 requiring a Food Handler Card training of its Food Employees when the  
4 training program is found to be comparable to a Food handler card training  
5 course. A Food Employee must complete the Food Establishment's  
6 Approved training program at least once every three years. This  
7 exemption is only valid during the Food Employee's time of employment  
8 with the Food Establishment that administered the training;

9 (1) A Food Employee must be trained in safe Food handling by the Certified  
10 Food Protection Manager within thirty (30) days of employment at the  
11 Food Establishment and the Food Establishment must maintain records  
12 of training including the name of the Certified Food Protection Manager,  
13 date of training, and name(s) of Food employees. Such records shall be  
14 maintained on file and made available to the Enforcement Authority  
15 upon request; and

16 (2) Records of the training shall be maintained for the duration of the Food  
17 Employee's employment.

18 **Part 17. General Sanitation**

19 (A) The Permit Holder has the duty to take all necessary, reasonable, and  
20 usual precautions to keep, place, and preserve the Food Establishment in  
21 such condition, and to conduct and maintain the Food Establishment in  
22 such sanitary manner, that it shall not be dangerous or deleterious to the  
23 public or in violation of the FSO, and all other laws.

24 (B) All parts, equipment, and facilities of every Food Establishment, and all  
25 vehicles used in transporting Food, shall be kept in a clean, healthful, and  
26 sanitary condition, and in compliance with the FSO.

1 (C) All Food equipment in a Food Establishment shall be certified by the  
2 American National Standards Institute and the National Sanitation  
3 Foundation.

4 (D) A Food Establishment shall not use steam tables, slow cookers, or other  
5 hot holding devices in cooking, heating, or reheating. Food shall only be  
6 cooked, heated, or reheated as specified under Sections 3-401 and 3-403  
7 of the Food Code.

8 (E) Food Source.

9 (1) A Food Establishment shall obtain all Food from an Approved source.

10 (2) TCS Foods and Food in a Hermetically Sealed Container shall not be  
11 home prepared or obtained from sources other than Food  
12 Establishments in possession of a Valid Permit.

13 (3) Nothing in the FSO or these rules shall be construed to prohibit the  
14 donation or distribution of Food pursuant to NMSA 1978, §41-10-3.

15 (F) Special Processes.

16 (1) Any Food Establishment that performs Advanced Preparation that  
17 includes Special Processes requires a written safety plan.

18 (2) A safety plan may include Hazard Analysis and Critical Control Point  
19 plans, Standard Operating Procedures, or Variances.

20 (3) It is a Civil Penalty for a Food Establishment to prepare Food in any  
21 other manner than those practices in the written safety plan.

22 (G) Food Protection.

23 (1) TCS Foods shall be kept at Safe Temperatures at all times and Food

1 Establishments shall maintain adequate and contemporaneous  
2 temperature logs of TCS Foods while being stored, thawed, cooled,  
3 prepared, displayed, dispensed, or transported.

4 (2) Food Establishments shall calibrate measuring equipment in  
5 accordance with the manufacturer recommendations and shall maintain  
6 adequate and contemporaneous calibration logs for calibration of  
7 equipment.

8 (3) Food Establishments shall date mark raw meat or raw meat products  
9 that have been combined with ready-to-eat Food, as defined in the  
10 Food Code, in the same manner as prescribed by section 3-501.17 of  
11 the Food Code.

12 (4) A Food Establishment shall store liquid milk, liquid milk products, and  
13 shellfish at forty-one degrees Fahrenheit (41°F) or less.

14 (5) Food Establishments shall not use raw unpasteurized eggs that have  
15 been cracked and combined together (pooled eggs). Food  
16 Establishments shall only combine enough raw eggs for immediate  
17 service in response to a customer's order; or use pooled eggs mixed  
18 with other ingredients immediately before cooking such as in baking  
19 batters.

20 (6) Food Establishments shall properly rotate Retail Food stock with the  
21 first in, first out method.

22 (7) Food Establishments shall segregate spoiled, damaged, returned,  
23 embargoed, or condemned Food items in designated areas pending  
24 final disposition.

25 (H) Pet dogs in outdoor dining areas; requirements.

1 (1) A Food Establishment may allow pet dogs in outdoor dining areas  
2 designated by the Food Establishment if the following requirements are  
3 met:

4 (a) No pet dog shall be allowed in any area where Food is prepared;

5 (b) Patrons shall keep their pet dogs on a leash and patrons shall  
6 have full control of their pet dogs at all times;

7 (c) Pet dogs shall not be allowed on chairs, tables, or other  
8 furnishings;

9 (d) Pet dogs shall only use designated water dishes or Single-Service  
10 Articles such as water dishes; and

11 (e) Signs shall be posted to place the public on notice that the  
12 designated outdoor dining area is available for the use of patrons  
13 with pet dogs.

14 (i) Signs shall be at a minimum eight and one-half inches by  
15 eleven inches in size and use type that is uniform in size and  
16 no smaller than necessary to fill the sign to within two inches  
17 of the borders.

18 (ii) Signs shall contain language reasonably designed to inform  
19 the public that dogs are allowed in outdoor dining areas and  
20 may be present.

21 (iii) Signs shall be posted prominently and be easily visible in both  
22 the area where dogs are allowed and at each entrance of the  
23 Food Establishment.

24 (2) Food Employees shall:

25 (a) Wash hands when inadvertently coming into contact with a pet  
26 dog. Food Employees are prohibited from touching, petting, or  
27 otherwise handling pet dogs.

1 (b) Immediately clean up accidents involving pet waste in a manner  
2 consistent with FDA Food Code section 2-501.11 and with  
3 equipment designated for the cleaning of pet waste. Pet waste  
4 shall be disposed of in outdoor covered receptacles.

5 (3) Nothing in this section shall be interpreted to prohibit a Food  
6 Establishment from excluding any pet dog from a Food Establishment  
7 or impacting the rights of service animals.

8 **Part 18. Permit Specific Requirements.**

9 (A) Cannabis Food Establishments.

10 (1) Applicants and Permit Holders for Food Establishment Cannabis, Food  
11 Processing Establishment Cannabis, Retail Food Establishment  
12 Cannabis, Retail Food Establishment Cannabis Plus, and Warehouse  
13 Cannabis Permits shall provide a copy of any license issued to the Food  
14 Establishment under the Cannabis Regulation Act, Chapter 26, Article  
15 2C NMSA 1978, as part of the pre-inspection application and Permit  
16 renewal.

17 (2) In the event that both Food and Edible Cannabis Products are  
18 processed, prepared, packed, stored, distributed, or prepared and  
19 intended for individual portion service in the same Food Establishment,  
20 the Permit Holder shall ensure that:

21 (a) Equipment, Food contact surfaces, and utensils are cleaned and  
22 sanitized in a manner consistent with sections 4-6 and 4-7 of the  
23 Food Code when alternating between preparation of Edible  
24 Cannabis Products to Food; or separate equipment, Food contact  
25 surfaces, and utensils for Food and Edible Cannabis Products are  
26 used;

1 (b) A Person washes their hands in a manner consistent with section  
2 2-301.12 of the Food Code when alternating between the  
3 preparation of Edible Cannabis Products and Food; and

4 (c) When required to wear gloves consistent with the Food Code, a  
5 Person changes gloves when alternating between handling Edible  
6 Cannabis Products and Food.

7 (B) Catering Food Establishments.

8 (1) Catering Food Establishments operating as an extension of a permitted  
9 Food Establishment do not require a separate catering Permit when  
10 delivering Food for service by the customer, but shall comply with ii and  
11 v of this section.

12 (2) All Catering Food Establishments are required to maintain, for ninety  
13 (90) days, and make available for inspection by the Enforcement  
14 Authority, adequate and contemporaneous records identifying:

15 (a) Dates, times, and menus for all events; and

16 (b) Temperatures for TCS Foods while in transport and at the time of  
17 delivery and service.

18 (3) Catering Food Establishments shall operate from a Commissary with a  
19 Commissary Type 2 Permit and shall report each day of operation. All  
20 catering activities that occur prior to service must occur at the  
21 Approved Commissary.

22 (4) Catering Food Establishment Class C and D Permits require that  
23 applicable standard operating procedures, safety plans, and  
24 transportation plans be submitted to and Approved by the Enforcement  
25 Authority.

1 (5) Catering Food Establishments shall construct, equip, and maintain all  
2 vehicles carrying Food and Food products so as to protect the purity  
3 and wholesomeness of the transported products. Personal vehicles are  
4 prohibited for use with a Food catering operation.

5 (6) Catering Food Establishments shall discard Food products that have  
6 been cooked or prepared at the event at the end of each day.

7 (7) Acceptable booth enclosure for all Food activities is required where Food  
8 service occurs outdoors.

9 (8) Catering Food Establishments shall protect all Foods offered for  
10 customer self-service, such as a buffet, from contamination by the use  
11 of packaging, Food guards, display cases, or other effective means. In  
12 addition, Foods that have been offered in this manner shall not be  
13 offered for human consumption after the completion of each day.

14 (C) Charitable Food Providers.

15 (1) Charitable Food Providers shall renew their Permits annually and  
16 Charitable Food Providers are subject to inspection by the Enforcement  
17 Authority.

18 (2) Charitable Food Providers shall prepare all TCS Food in a Commercial  
19 Grade kitchen that complies with the Food Code and the FSO.

20 (3) Charitable Food Providers shall keep, and make readily available to the  
21 Enforcement Authority for inspection, records of all Food items  
22 prepared and distributed, and locations where those Food items were  
23 provided to the public.

24 (4) When Food is being distributed off the premises of a Commercial  
25 Kitchen the Person In Charge must be in possession of a Valid



1 Charitable Food Provider Permit.

2 (D) Commissaries.

3 (1) No Food Establishment shall act as a Commissary for another Food  
4 Establishment without first obtaining a Commissary Permit from the  
5 Enforcement Authority unless the Commissary is in possession of a  
6 Valid Food Establishment Permit and the Food Establishment requiring  
7 a Commissary is owned by the same Permit Holder.

8 (2) Food Establishments whose primary function is the service of Food to  
9 highly susceptible populations shall not act as a Commissary for any  
10 other Food Establishment.

11 (3) All Commissaries shall provide separate designated and labeled spaces  
12 for the proper storage of Food, Food containers, and Food supplies to  
13 each Food Establishment serviced.

14 (4) When Food preparation is conducted at the Commissary, the  
15 Commissary must be equipped with adequate cleaning and sanitizing  
16 equipment for use by Food Establishments.

17 (5) Commissary facilities servicing Mobile Food Establishments must  
18 provide for the sanitary disposal of liquid waste; handling and disposal  
19 of garbage, grease, and rubbish originating from the Food  
20 Establishment; and facilities for filling the potable water holding tank.  
21 Those commissaries with an outdoor servicing area shall include an  
22 adequate area for washing and storing of the Mobile Food  
23 Establishment and sufficient electrical outlets.

24 (6) Any Person operating a Commissary shall maintain and make available  
25 for inspection by the Enforcement Authority:

1 (a) A list of all Food Establishments making use of the Commissary  
2 with a copy of their current Permit; and

3 (b) Logs of visits for each Food Establishment making use of the  
4 Commissary for the duration of the Food Establishment's use of  
5 the Commissary, plus one calendar year.

6 (E) Family Child Care Homes and Childcare Centers.

7 (1) Family Child Care Homes and Child Care Centers may not allow children  
8 in the kitchen except under careful supervision.

9 (2) If Food is brought to a Family Child Care Home or Childcare Center from  
10 a child's home, the Family Child Care Home or Childcare Center shall  
11 label it with the child's name and refrigerate, if necessary. A Family  
12 Child Care Home or Childcare Center shall label and refrigerate bottles  
13 of infant formula or breast milk.

14 (F) Mobile Food Establishments.

15 (1) Mobile Food Establishments shall provide the license plate number for  
16 their registered vehicle, if applicable, with their pre-inspection  
17 application.

18 (2) Mobile Food Establishments shall operate from a Commissary and shall  
19 report to the Commissary each day of operation, or as otherwise  
20 provided by these Rules. The Commissary used must be in possession  
21 of a Commissary Permit issued by the Enforcement Authority unless  
22 otherwise exempt under these rules. The use of a private residence for  
23 the storage of food utensils and equipment or food is prohibited.

24 (3) Mobile Food Establishments may submit a request to modify its  
25 Commissary from one location to another location within the City by

1 submitting a written request on a form provided by the Enforcement  
2 Authority. The Enforcement Authority shall review the request and  
3 make a determination within a reasonable time.

4 (a) The Mobile Food Establishment may be required to receive a Grade  
5 of Approved or Conditional Approved during an inspection at the  
6 new Commissary prior to approval of the request.

7 (4) The following acts are prohibited:

8 (a) The operation of any Mobile Food Establishment on the property  
9 of a residence unless the Mobile Food Establishment has obtained  
10 a Temporary Food Permit from the Enforcement Authority to  
11 participate in a private event;

12 (b) The operation of any Mobile Food Establishment on the residential  
13 side of any street for a period longer than five minutes, unless  
14 the Mobile Food Establishment is participating in a private event;

15 (i) Mobile Food Establishments shall obtain, keep, and  
16 make available for inspection by the Enforcement  
17 Authority, an event agreement with the owner or occupant  
18 of the residence listing the date and times the event will  
19 occur;

20 (c) Operating a Mobile Food Establishment for more than twelve (12)  
21 days in any calendar year from the same residential street.

22 (d) The vending or serving of Food to students of public, private or  
23 parochial schools from a Mobile Food Establishment on a public  
24 street, thoroughfare, boulevard or alley or other public way in  
25 the City is prohibited within 900 feet from the outermost  
26 boundary of the grounds of any public, private, or parochial  
27 school during school hours or school events, and within one hour

1 before school begins or ends. The 900 feet is to be measured by  
2 the most direct traveled route from the nearest boundary of the  
3 school grounds to the Mobile Food Establishment;

4 (e) Mobile Food Establishments conducting business with the use of  
5 amplified sound within 900 feet of a residential street before  
6 10:00 a.m. or after sunset;

7 (f) Mobile Food Establishments using amplified sound soliciting their  
8 products on the same residential street more than once before  
9 noon and more than once after noon in any twenty-four-hour  
10 day.

11 (g) This section shall not prohibit the sale and delivery of Food or  
12 any Food product to a house, business, manufacturing plant,  
13 construction site, institution, or any place of like nature.

14 (5) Parking.

15 (a) Where parking stalls have been marked by sign, meter, or  
16 painted lines on the pavement, a Mobile Food Establishment shall  
17 pay all applicable parking fees and shall not exceed the  
18 boundaries of the painted lines.

19 (b) It is a violation of these rules to violate City of Albuquerque Traffic  
20 Code § 8-5-1-42, ROA 1994 *Mobile Food Units on Public Streets*.

21 (G) Processing Food Establishments. Any Processing Food Establishment  
22 Permitted after the enactment of These Rules shall not:

- 23 (1) Have open rafters over any area where Food is exposed;  
24 (2) Have garage type doors that open directly into an area where Food  
25 is exposed;  
26 (3) Conduct any step of processing in an area where access is granted  
27 to the general public.

1 (H) Raw Milk.

2 (1) General Requirements.

3 (a) A Retail Food Establishment shall possess a Valid Retail Food  
4 Establishment Raw Milk Permit and any required Permit from the  
5 New Mexico Department of Agriculture.

6 (b) Retail Food Establishment Raw Milk Permits shall not be granted to  
7 any Retail Food Establishment whose primary function is to serve a  
8 highly susceptible population as defined in Part 1-9 of the Food  
9 Code.

10 (c) A Raw Milk Vendor shall possess a Valid Market Food Establishment  
11 Raw Milk Permit and any Valid Permit from the New Mexico  
12 Department of Agriculture pursuant to Title 21, Chapter 34, Part 2  
13 of the New Mexico Administrative Code and a Raw Milk Permit prior  
14 to vending or storing Raw Milk or Raw Milk Product at a Market.

15 (2) Food Safety.

16 (a) Raw milk and Raw Milk Product shall be wholesome; free from  
17 adulteration, spoilage, filth, and any other contamination.

18 (b) Raw milk and Raw Milk Product shall be received Packaged from a  
19 facility in possession of a Valid Permit from the New Mexico  
20 Department of Agriculture pursuant to Title 21, Chapter 34, Part 2  
21 of the New Mexico Administrative Code and shall be kept in the  
22 Hermetically Sealed Container in which the Raw Milk or Raw Milk  
23 Product was received until vended;

24 (c) Raw milk and Raw Milk Product may only be vended to a consumer  
25 for personal consumption;

26 (d) Except in a private home, a Person in possession of a Raw Milk  
27 Permit shall not allow Raw Milk or Raw Milk Product to be served to  
28 any Person, removed from any package, offered as a sample, or  
29 used as an ingredient in any Food Establishment;

- 1 (e) All Packaged Raw Milk or Raw Milk Product shall be conspicuously  
2 labeled or marked as "RAW MILK" in addition to all legally required  
3 labels or markings, and shall meet the labeling requirements as  
4 specified in 21.34.2.12 NMAC now adopted and incorporated herein;
- 5 (f) Raw milk and Raw Milk Product shall be displayed separately from  
6 and shall not be commingled with pasteurized milk or other  
7 pasteurized dairy product; and
- 8 (g) The length of the pull date of Raw Milk or Raw Milk Product shall not  
9 exceed five (5) days including the date the Raw Milk or Raw Milk  
10 Product was Packaged.
- 11 (h) The Permit Holder shall maintain, for ninety (90) days, and make  
12 available for inspection by the Enforcement Authority, adequate and  
13 contemporaneous records identifying:
- 14 (i) The name and address of facility in possession of a Valid  
15 Permit from the New Mexico Department of Agriculture  
16 pursuant to Title 21, Chapter 34, Part 2 of the New Mexico  
17 Administrative Code where Raw Milk or Raw Milk Product were  
18 obtained;
- 19 (ii) The Pull Date of each Raw Milk or Raw Milk Product offered for  
20 human consumption; and
- 21 (iii) The location(s) where Raw Milk or Raw Milk Product were  
22 distributed by the Permit Holder.
- 23 (i) The Permit Holder shall maintain, for ninety (90) days, and make  
24 available for inspection by the Enforcement Authority, adequate  
25 and contemporaneous temperature logs of Raw Milk and Raw  
26 Milk Product while being stored, vended, held, or transported.
- 27 (j) Any Person vending Raw Milk and Raw Milk Product at a Market  
28 shall:

- (i) Have a placard displayed at the point of sale and any location offering Raw Milk or Raw Milk Product that is easily visible to the public and that conforms to the labeling requirements as specified in 21.34.2.12(C) NMAC; and
- (ii) Transport and store Raw Milk and Raw Milk Product in an on-site powered refrigeration unit at 41°F or lower;
- (iii) Not display Raw Milk or Raw Milk Product outside of the on-site powered refrigeration unit.

(3) Suspension of Raw Milk Permits. Raw milk Permits may be suspended whenever the Enforcement Authority finds:

- (a) Raw milk or Raw Milk Product vended were not obtained from a Raw Milk distributor in possession of a Valid Permit from the New Mexico Department of Agriculture pursuant to Title 21, Chapter 34, Part 2 of the New Mexico Administrative Code;
- (b) Raw milk or Raw Milk Product are offered for human consumption past the Pull Date;
- (c) Raw milk or Raw Milk Product are offered for sale without the proper markings, labels, or signage;
- (d) The Permit Holder has failed to comply with a recall of Raw Milk or Raw Milk Product;
- (e) The Permit Holder has offered for sale Raw Milk or Raw Milk Product that the Permit Holder knows to contain unsafe levels of coliforms or bacterial colonies; or
- (f) The Raw Milk or Raw Milk Product markings, label, or signage contain any misleading statement(s).

(I) Self-Service Food Establishments.

- (1) Self-Service Food Establishments located in a place where no Food

1 Employee is present shall:

2 (a) Place TCS Food in a device equipped with a digital temperature  
3 measuring device and notification system that can be remotely  
4 monitored, and an automatic shut off switch that prevents  
5 consumers from continuing to access Food when unSafe  
6 Temperatures have been detected for a period of time as listed in  
7 the Food Code 4-204.111; and

8 (b) Serve Food in Tamper-Evident Packaging.

9 (J) Retail Food Establishments.

10 (1) Retail Food Establishment Class 1 permits are exempt from the  
11 inspection frequency requirements in Part 9(A)(1), but are subject to  
12 periodic inspection by the Enforcement Authority.

13 (2) Retail Food Establishments shall receive Food containing CBD or Hemp  
14 Packaged from a facility in possession of a Valid Permit from the New  
15 Mexico Environment Department pursuant to the Hemp Manufacturing  
16 Act, Chapter 76, Article 24 NMSA 1978, and sell the product in the same  
17 package as it was received.

18 (K) Temporary Food Establishments and Market Food Establishments.

19 (1) Temporary Food Establishment Permits are not required for Private  
20 Events where the Food being distributed is limited to non-TCS Food, is  
21 provided by a Food Establishment in possession of a Valid Food  
22 Establishment Permit, or the of participants is limited to twenty-five  
23 (25) persons or less.

24 (2) No Market Coordinator shall allow a Temporary Food Establishment or  
25 Market Food Establishment to operate at their Market without a Valid  
26 Permit issued by the Enforcement Authority.



- 1 (3) Temporary Food Establishments and Market Food Establishments are  
2 subject to inspection each day of operation.
- 3 (4) All Temporary Food Establishments and Market Food Establishments,  
4 with the exception of Food Establishments vending only raw, uncut  
5 produce, shall operate out of a Commissary and shall report at least  
6 once each day of operation to the Commissary for all supplies, cleaning,  
7 and servicing operations.
- 8 (5) Temporary Food Establishment Permits are Valid for one location for up  
9 to fourteen (14) consecutive days. Temporary Food Establishments  
10 shall obtain a Permit for each location, each time the Food  
11 Establishment locates or relocates at the same or other location.
- 12 (6) All Temporary Food Establishments and Market Food Establishments,  
13 operating on private property shall provide an agreement, signed by  
14 the property owner, to the Enforcement Authority when submitting a  
15 permit application.
- 16 (7) Market Food Establishment Permits authorize a Market Food Vendor to  
17 operate at any Market in the City.
- 18 (8) Food Safety.
- 19 (a) Food must be kept at Safe Temperatures and protected from  
20 contamination during transportation of Food from the Commissary  
21 to a Temporary Food Establishment or Market Food Establishment.
- 22 (b) Enough potable water shall be available in each Temporary Food  
23 Establishment or Market Food Establishment for Food preparation,  
24 cleaning and sanitizing utensils and equipment, and handwashing.
- 25 (i) When a conventional handwashing sink is not available or in close  
26 proximity to the Temporary Food Establishment or Market Food  
27 Establishment, an Approved temporary hand wash station shall  
28 be made available and consist of an insulated container that is

1 equipped with a minimum five (5) gallon capacity and a spigot to  
2 allow for the continuous flow of water; a wastewater container  
3 capable of properly retaining wastewater from the hand wash  
4 station; and an adequate supply of hand soap and paper towels.

5 (ii) Each Temporary Food Establishment and Market Food  
6 Establishment without effective facilities for cleaning and  
7 sanitizing Tableware shall provide only Single-Service Articles for  
8 use by the consumer.

9 (c) Temporary Food Establishments or Market Food Establishments  
10 using ice that is consumed or that contacts Food shall use ice that  
11 has been made under conditions meeting the requirements of the  
12 FSO. The ice shall be obtained only in chipped, crushed, or cubed  
13 form and in single-use safe plastic or wet strength paper bags filled  
14 and Sealed at the point of manufacture. The ice shall be held in  
15 these bags until it is dispensed in a way that protects it from  
16 contamination. The bags shall be stored at least four (4) inches off  
17 the ground.

18 (d) Food Display and Storage.

19 (i) All Temporary Food Establishment and Market Food  
20 Establishment Food displays and preparation areas shall be  
21 smooth, durable, and easily cleanable.

22 (ii) Temporary Food Establishment and Market Food Establishment  
23 Food displays shall be confined to tables or to the bed of a vehicle.  
24 Food must be at least six (6) inches above the ground.

25 (iii) Temporary Food Establishment and Market Food Establishment  
26 Food contact surfaces of equipment shall be protected from  
27 contamination by consumers and other contaminating agents.

1 Effective shields for such equipment shall be provided, as  
2 necessary, to prevent contamination. Servicing areas shall be  
3 provided with overhead protection.

4 (e)Retail of Raw Animal Foods; Additional Restrictions.

5 (i) A Temporary Food Establishment or Market Food Establishment  
6 shall not remove, or allow to be removed, raw animal Foods from  
7 the original packaging in which the Foods were Packaged.

8 (ii) A Temporary Food Establishment or Market Food Establishment  
9 shall not Vend raw animal Food products in any condition other  
10 than frozen.

11 (iii) A Temporary Food Establishment or Market Food Establishment  
12 shall not Vend raw animal Foods unless they have the Federal  
13 USDA mark of inspection. A copy of the Valid Federal USDA mark  
14 of inspection shall be provided with the pre-inspection  
15 application.

16 (f) Prohibited Sales. A Temporary Food Establishment or Market Food  
17 Establishment shall not Vend live animals, uncooked seafood,  
18 uncooked shellfish, or cannabis products.

19 (L) Vending Machines.

20 (1) Class A Vending Machines are exempt from the requirement to obtain  
21 a Permit, but shall register with the Enforcement Authority, and comply  
22 with these rules and the FSO.

23 (a) Each Vending Machine shall display the registration number  
24 assigned by the Enforcement Authority and a statement  
25 informing the public that the machine is not subject to inspection  
26 and include contact information where requests for inspection can  
27 be directed.

- 1 (2) Vending machines located on the premises of a permitted Food  
2 Establishment and operated under the control of the Permit Holder are  
3 exempt from the requirement to obtain a Permit.
- 4 (3) Each Applicant and Permit Holder for a Vending Machine Permit or  
5 registration shall maintain, and make available for inspection by the  
6 Enforcement Authority, a current list of machines by location to be  
7 covered by the Permit. The list shall provide the unique identifiers and  
8 locations for all machines, frequency of service, type of machine (class  
9 A or B), and the permitted Commissary or other Food Establishment  
10 from which each machine is serviced.
- 11 (4) A permanent sign, visible to consumers, showing the Permit number  
12 assigned by the Enforcement Authority to the Permit Holder, the Permit  
13 Holder's business name, a unique identifier assigned to the machine by  
14 the Permit Holder, and a telephone number that consumers may use to  
15 contact the Permit Holder, of an Approved size and style, shall be  
16 permanently and conspicuously affixed to each Vending Machine.
- 17 (5) Commissary Required. Every Permit Holder or registrant of a Vending  
18 Machine shall designate and use an Approved Commissary for all Food  
19 storage. Vending Machine Permit Holders or registrants that operate  
20 their own Commissary shall obtain the appropriate Permit for that Food  
21 Establishment. Water vending machines do not require a Commissary.
- 22 (6) Notwithstanding the other provisions of the FSO, a Permit Holder for a  
23 Vending Machine may submit a request to modify its Commissary from  
24 one location to another location within the City by submitting a written  
25 request on a form provided by the Enforcement Authority. The  
26 Enforcement Authority shall review the request and make a  
27 determination within a reasonable time.

1 (a) The Vending Machine establishment may be required to receive  
2 a score of Approved during an inspection at the new Commissary  
3 prior to approval of the request.

4 (7) The Vending Machine Permit Holder shall notify the Enforcement  
5 Authority whenever adding new types of vending machines, or  
6 converting existing Vending Machines to dispense TCS Food other than  
7 those for which the Vending Machine Permit was issued.

**Appendix A: Primary Permit Fee Schedule**

<b>Food Establishment</b>		Risk Category			
		1	2	3	4
Class Code	A	\$200	\$600		
	B		\$700	\$800	
	C			\$900	\$1,000
	D				\$1,100
Months between Inspections		18	12	6	4

<b>Food Processing</b>		Risk Category			
		1	2	3	4
Class Code	A		\$700		
	B		\$900		
	C		\$1,000	\$1,100	
	D				\$1,300
Months between Inspections		18	12	6	4

<b>Food Retail</b>		Risk Category			
		1	2	3	4
Class Code	1	\$200			
	2	\$400			
	3		\$600		
	4		\$700		
	5		\$800	\$900	
	6				\$1,000
Months between Inspections		18	12	6	4

<b>Commissary</b>		Risk Category			
		1	2	3	4
Class Code	1	\$400	\$600		
	2			\$800	\$1,000
Months between Inspections		18	12	6	4

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**Appendix A: Primary Permit Fee Schedule**

<b>Catering</b>		Risk Category			
		1	2	3	4
Class Code	A				
	B		\$800		
	C			\$1,000	\$1,100
	D			\$1,100	\$1,200
Months between Inspections		18	12	6	4

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**Appendix B: Secondary Permit Fee Schedule**

<b>Food Establishment</b>		Risk Category			
		1	2	3	4
Class Code	A	\$200	\$300		
	B		\$350	\$400	
	C			\$450	\$500
	D				\$550
Months between Inspections		18	12	6	4

  

<b>Food Retail</b>		Risk Category			
		1	2	3	4
Class Code	1	\$200			
	2	\$200			
	3		\$300		
	4		\$350		
	5		\$400	\$450	
	6				\$500
Months between Inspections		18	12	6	4

<b>Food Processing</b>		Risk Category			
		1	2	3	4
Class Code	A		\$350		
	B		\$450		
	C		\$500	\$550	
	D				\$650
Months between Inspections		18	12	6	4

  

<b>Commissary</b>		Risk Category			
		1	2	3	4
Class Code	1	\$200	\$300		
	2			\$400	\$500
Months between Inspections		18	12	6	4



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### Appendix B: Secondary Permit Fee Schedule

<b>Catering</b>		Risk Category			
		1	2	3	4
Class Code	A				
	B		\$400		
	C			\$500	\$550
	D			\$550	\$600
Months between Inspections		18	12	6	4

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### Appendix C: Standalone Permit Fees

Permit Type	Annual Fee
Market Food Establishment-Annual	\$50
Market Food Establishment Raw Milk-Annual	\$50
Market Food Establishment-Late Season	\$30
Market Food Establishment Raw Milk-Late Season	\$30
Raw Milk Permit	\$80
Temporary Food Establishment-Prepackaged-Risk 1	\$25
Temporary Food Establishment-Limited Preparation-Risk 2	\$35
Temporary Food Establishment-Advanced Preparation-Risk 3	\$50
Temporary Mobile Food Establishment	\$100
Concessions-Prepackaged-Risk 1	\$150
Concessions- Limited Preparation-Risk 2	\$200
Concessions- Advanced Preparation-Risk 3	\$300
Vending Machine Class A Registration	\$15 per 10 machines
Vending Machine Class B Permit	\$30 per 10 machines
Food Processor Plus Permit	\$100
Retail Food Establishment Plus	\$100
Retail Food Establishment Cannabis Plus	\$100
Charitable Food Provider	\$0
Food Bank	\$0

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### Appendix D: Administrative Fees

<b>Fee Description</b>	<b>One Time Fee</b>
Hazard Analysis and Critical Control Point (HACCP) plan review	\$50
Variance Request	\$25
Requested Inspection	\$150
Re-Inspection Fee	\$150
Civil Penalty First Offense	\$250
Civil Penalty Second Offense	\$500
Civil Penalty Third Offense	\$1000

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