Summary of Amendments

The following amendments have been enacted for the Rules of the Food Service and Retail Ordinance:

[Added Text]
[~~Removed Text~~]
Unchanged Text

1. All instances of "working days" have been changed to "business days" for consistency within the document and consistency with other City ordinances and regulations.
2. Any length of days without a notation of "working," "business," or "calendar" have been denoted as calendar days.
3. Several sections of the Rules were published with inconsistent numbering and formatting, those are being corrected with these revisions.
4. Part 2. Definitions
   a. Change:
   [CATERING FOOD ESTABLISHMENT CLASS B PERMIT. A Permit issued to a Catering Food Establishment that includes provision of Prepackaged Food and Food requiring Limited Preparation]
   [CATERING FOOD ESTABLISHMENT CLASS C PERMIT. A Permit issued to a Catering Food Establishment that includes the provision of Prepackaged Food, Food requiring Limited Preparation, and Food requiring Advanced Preparation.]
   [CATERING FOOD ESTABLISHMENT CLASS D PERMIT. A Permit issued to a Catering Food Establishment that includes the provision of Prepackaged Food, Food requiring Limited Preparation, Food requiring Advanced Preparation, and Food requiring Special Processes during preparation.]

   b. Change:
   CHARITABLE FOOD PROVIDER. A [~~Person who~~][Food Establishment that] donates Food on or off the premises of a Food Establishment and does not charge a fee for any Food. Charitable Food Provider does not include Food Establishments providing complimentary Food to patrons as part of another service such as a conference, event, lodging, or similar circumstance.

   c. Change:
   ~~[FOOD BANK. A Food Establishment operated by a non-profit organization that stores Food for distribution to the public and does not charge for the food.]~~

   d. Change:

   (A) FOOD ESTABLISHMENT includes: Adult Day Care Home; Adult Day Care Center; [Adult Living Facility;] Bed And Breakfast; Catering [Food] Establishment; Charitable Food Providers; Commissary; Concessions Food Establishment; Family Child Care Home; [Childcare Center;] [~~Food Bank~~]; Food Establishment Cannabis; Food Establishment Grocery; Food Processing Establishment; [Food Processing Establishment Plus;] Food Processing

Establishment Cannabis; [Food Processing Establishment Cannabis Plus;] Market Food Establishment; [Micro-Market], Mobile Food Establishment; Restaurants; Retail [Food] Establishment; Retail [Food] Establishment Cannabis; Retail [Food] Establishment Cannabis Plus; Self-Service Food Establishment; Temporary Food Establishment; Vending Machine; Warehouse; Warehouse Cannabis.

(B) FOOD ESTABLISHMENT DOES NOT INCLUDE:

(1) Any place where [the only] Food [~~is~~] produced, distributed, or prepared [~~and~~] [is] exempt from regulation pursuant to the Homemade Food Act, Chapter 25, Article 12 NMSA 1978;
(2) A kitchen in a private home;
(3) Home-delivery vehicle and service including but not limited to pizza delivery, third party ordering and delivery services, and grocery delivery services; and
(4) A private home that receives catered or home-delivered Food.

e. Change:

[FOOD ESTABLISHMENT CANNABIS CLASS A PERMIT. A Permit issued to a Food Establishment Cannabis that is restricted to the provision of Prepackaged Edible Cannabis Finished Products only.

FOOD ESTABLISHMENT CANNABIS CLASS B PERMIT. A Permit issued to a Food Establishment Cannabis that includes the provision of Prepackaged Edible Cannabis Finished Products and Edible Cannabis Products requiring Limited Preparation.

FOOD ESTABLISHMENT CANNABIS CLASS C PERMIT. A Permit issued to a Food Establishment Cannabis that includes the provision of Prepackaged Edible Cannabis Finished Products, Edible Cannabis Products requiring Limited Preparation, and Edible Cannabis Products requiring Advanced Preparation.

FOOD ESTABLISHMENT CANNABIS CLASS D PERMIT. A Permit issued to a Food Establishment Cannabis that includes the provision of Prepackaged Edible Cannabis Finished, Edible Cannabis Products requiring Limited Preparation, Edible Cannabis Products requiring Advanced Preparation, and Edible Cannabis Products requiring Special Processes during preparation.

FOOD PROCESSING ESTABLISHMENT CANNABIS CLASS A PERMIT. A Permit issued to a specific, limited type of Food Processing Cannabis Establishment which only Repackages non-TCS Edible Cannabis Finished Product.

FOOD PROCESSING ESTABLISHMENT CANNABIS CLASS B PERMIT. A Permit issued to a Food Processing Cannabis Establishment that manufactures Edible Cannabis Finished Products using Limited Preparation.

FOOD PROCESSING ESTABLISHMENT CANNABIS CLASS C PERMIT. A Permit issued to a Food Processing Cannabis Establishment that manufactures Edible Cannabis Finished Products using Advanced Preparation.

FOOD PROCESSING ESTABLISHMENT CANNABIS CLASS D PERMIT. A Permit issued to a Food Processing Cannabis Establishment that manufactures Edible Cannabis Finished Products using Special Processes.

FOOD PROCESSING ESTABLISHMENT CANNABIS PLUS PERMIT. Can be added to any Food Processing Establishment Cannabis Permit to allow for the onsite retail sale of Edible Cannabis Finished Products manufactured by the Food Processing Cannabis Establishment.

RETAIL FOOD ESTABLISHMENT CANNABIS CLASS 1 PERMIT. A Retail Food Establishment Cannabis Permit that is restricted to non-TCS Prepackaged Edible Cannabis Finished Product and in which the sale or distribution of Food is not the primary function of the Food Establishment.

RETAIL FOOD ESTABLISHMENT CANNABIS CLASS 2 PERMIT. A Retail Food Establishment Cannabis Permit that is restricted to non-TCS Prepackaged Edible Cannabis Finished Product and the sale or distribution of Food is the primary function of the Food Establishment.

RETAIL FOOD ESTABLISHMENT CANNABIS CLASS 3 PERMIT. A Retail Food Establishment Cannabis Permit that includes the provision of TCS Prepackaged Edible Cannabis Finished Product, and Edible Cannabis Products requiring Limited Preparation, and the sale or distribution of Food is not the primary function of the Food Establishment.

RETAIL FOOD ESTABLISHMENT CANNABIS CLASS 4 PERMIT. A Retail Food Establishment Cannabis Permit that includes the provision of TCS Prepackaged Edible Cannabis Finished Product, and Edible Cannabis Product requiring Limited Preparation, and the sale or distribution of Food is the primary function of the Food Establishment.

RETAIL FOOD ESTABLISHMENT CANNABIS CLASS 5 PERMIT. A Retail Food Establishment Cannabis Permit that includes the provision of TCS Prepackaged Edible Cannabis Finished Product, Edible Cannabis Product requiring Limited Preparation, and Edible Cannabis Product requiring Advanced Preparation.

RETAIL FOOD ESTABLISHMENT CANNABIS CLASS 6 PERMIT. A Retail Food Establishment Cannabis Permit that includes the provision of Prepackaged Edible Cannabis Finished Product, Edible Cannabis Product requiring Limited Preparation, Edible Cannabis Product requiring Advanced Preparation, and Edible Cannabis Product requiring Special Processes during preparation.]

f. Change:

LIMITED PREPARATION. Food preparation that is restricted to [activities that do not require cooling of cooked TCS Food, on-premise cooking and hot holding of TCS Food for later use, complex preparation, or multiple preparation steps that significantly increase the risk of contamination or pathogen growth.][~~assemble-serve and reheat-serve.~~]

(A) Limited Preparation [also] includes [but is not limited to assemble-serve], steaming, boiling, or roasting hot dogs or corn; preparing beverages that are for immediate service, in response to an individual consumer order, [cutting of fresh fruits or vegetables that become TCS once cut, for same day use,] portioning and hot or cold holding of commercially packaged bulk or single service food.

(B) [~~Limited Preparation does not include cooling of cooked TCS Food, cutting of fresh fruits or vegetables that become TCS once cut, for same day use, or on-premise cooking and hot holding of TCS food[s] for later use.~~]

g. Change:

~~[MICROBUSINESS. A company that employs no more than five (5) employees at any time during the calendar year. Employees include part-time, temporary, or limited service workers. For startup businesses, the responsible company official shall certify that the business does not expect to employ more than five (5) employees in the first year of operations. For existing businesses seeking certification as a Microbusiness, the responsible company official shall submit the business's Form ES-903A, Quarterly Wage and Contribution Report, submitted to the New Mexico Department of Workforce Solutions, or Form TRD-31109, Quarterly Wage, Income Withholding and Workers' Compensation Fee Report submitted to the New Mexico Taxation and Revenue Department as proof of meeting the definition of Microbusiness.]~~

h. Change:

[MICRO-MARKET. A specific, limited type of Retail Food Establishment, where the sale or distribution of Food is the primary function of the Food Establishment, the square footage of the Food Establishment operation is no greater than 5,000 sq. ft., and there are no sales of tobacco, tobacco products, smoking or vaping paraphernalia, Cannabis, Cannabis Products, hemp, hemp finished products, or alcoholic beverages.]

i. Change:

MOBILE FOOD ESTABLISHMENT. A specific type of Food Establishment that is vehicle mounted, fully enclosed, and designed to be readily movable from location to location. MOBILE FOOD ESTABLISHMENT includes push carts, trailers, and smokers. [MOBILE FOOD ESTABLISHMENT does not include vendors offering only uncut raw produce and/or other Food produced under the Homemade Food Act, Chapter 25, Article 12 NMSA 1978.]

j. Change:

PACKAGED. Bottled and capped, canned, cartoned, or securely wrapped. PACKAGED does not include wrapped or placed in a carry-out container to protect Food during service or delivery to the consumer [by a Food employee by consumer request].

k. Change:

[PREPACKAGED FOOD. Food that is delivered to a Food Establishment that has already been packaged by another Food Establishment in a manner that prevents contamination of the Food and is not opened, portioned, or otherwise modified by the receiving Food Establishment.]

l. Change:

[REPACKAGED FOOD. Food that has been removed from its original Packaging or whose original Packaging has been opened, broken, or otherwise compromised by a Food Establishment, and is subsequently placed into new or different packaging, regardless of whether the food is altered.]

m. Change:

REQUESTED INSPECTION. An inspection conducted in response to a Permit Holder's request[, including but not limited to changes in Commissary location or Permit class reassessments,] which may be accompanied by a fee.

n. Change:

SECONDARY PERMIT. Any [renewable] Food Permit issued as an addition to a Food Establishment with a Primary Permit.

o. Change:

TAMPER-EVIDENT PACKAGING. A package having one or more indicators or barriers to entry which, if bre[a][e]ched or missing, can reasonably be expected to provide visible evidence to consumers that tampering has occurred.

p. Change:

VENDING MACHINE CLASS A REGISTRATION. A Vending Machine restricted to non-TCS[, Hermetically Sealed], Prepackaged Food.

VENDING MACHINE CLASS B PERMIT. A Vending Machine Permit that includes the provision of TCS [, Hermetically Sealed], Prepackaged Food.

5. Part 3. Administrative Codes and Regulations Adoption

a. Change:

(C) The [~~2022~~] United States Food and Drug Administration Model Food Code[, currently the 2022 edition dated] January 18, 2023 [~~Version~~] as published by the U.S. Department of Health and Human Services is hereby adopted and incorporated in its entirety.

(1) The Enforcement Authority may implement any subsequent edition, amendment, revision, or supplement by issuing a public notice identifying the specific edition being adopted and its effective date. Unless otherwise stated in the public notice, the effective date shall be not less than ninety (90) days after publication to allow affected Permit Holders a reasonable opportunity to comply.]

6. Part 4. Pre-inspection Application Information.

a. Change:

(A) An Applicant seeking a Permit shall submit a signed pre-inspection application, a copy of the Food Establishment's City of Albuquerque business [license][~~registration~~], [and] a copy of the Food Establishment's State of New Mexico Taxation and Revenue Department registration certificate[, and a copy of the Certified Food Protection Manager certificate, belonging to an employee of the Food Establishment,] to the Enforcement Authority. The pre-inspection application shall be submitted to the Enforcement Authority at least five [~~working~~] [business] days prior to the commencement of operations.

(1) In the case of an application for a Food Establishment who is also applying for a license pursuant to the Liquor Control Act, Chapter 60, Article 3A NMSA 1978 or the Cannabis Regulation Act, Chapter 26, Article 2C NMSA 1978, a pre-inspection application is required. The Enforcement Authority may issue a Permit while the application for a State issued liquor or cannabis license pursuant to the Liquor Control Act or the Cannabis Regulation Act, Chapter 26, Article 2C NMSA 1978 is pending. The Applicant shall contact

the Enforcement Authority at least five (5) [working] [business] days prior to the anticipated commencement of Food operations to schedule a pre-opening inspection of the Food Establishment.

(a) [Food Establishments found to be in operation without having notified the Enforcement Authority and having not completed a pre-opening inspection with a Grade of Approved or Conditional Approved may be issued a Civil Citation.]

b. Change:

(D) [When an Applicant has a known history of non-compliance with the FSO, these Rules, or the Food Code; the Enforcement Authority may require that the Applicant enter into a written agreement that outlines conditions of Permit retention which may include, but are not limited to an increase in inspection frequency, provision of pest control documentation, or temperature logs; agreements shall have expiration dates.]

7. Part 5. Pre-Opening Inspection of Food Establishments.

a. Change:

(b) [A Food Establishment that is applying for a Secondary Permit and the Primary Permit has been inspected within the last six (6) months and the Enforcement Authority finds that waiver of the pre-opening inspection will not result in a condition injurious to health or safety.]

b. Change:

(B) [When a Food Establishment ceases operations for a temporary period of time, the Enforcement Authority may require the Food Establishment to pass a pre-opening inspection with a grade of Conditional Approved or Approved prior to resuming operations.]

8. Part 6. Issuance of Permits; Payment of Permit Fees.

a. Change:

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

(1) A provisional Permit Holder has thirty (30) [calendar] days from the date of issuance of the provisional Permit[, the provisional Permit Expiration Date,] to pay all applicable fees.

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

(a) [When a provisional Permit is issued after the fifteenth (15th) of the month, the Permit will have an Anniversary Date of the first day of the following month.

(3) When payment is not made prior to the Expiration Date of the provisional Permit a Reinspection fee will be assessed for every thirty (30) days of non-payment, not to exceed the assessment of two (2) Reinspection fees; the Reinspection fee(s) shall be paid prior to the issuance of the Permit.

(a) The Reinspection fee may be waived by the Enforcement Authority when the Permit Holder has demonstrated a good-faith effort to submit timely payment.

(b) If, after the assessment of two (2) Reinspection fees, or ninety (90) days, payment has not been received, the Enforcement Authority shall void the application and issue a cease and desist to the Food Establishment, and the Person must reapply for a Permit as outlined in Part 3 of these Rules.

(i) When reapplying for a Permit, the Applicant shall pay any outstanding fees associated with the original application and the new application prior to being issued a Permit and approved to operate; no provisional Permit shall be issued.]

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

(a) ~~When reapplying for a Permit after expiration of a provisional thirty (30) day Permit, the Applicant shall make payment in full before being issued a permit and approved to operate~~.]

(B) When an Applicant does not receive a Grade of Approved or Conditional Approved during the pre-opening inspection, the Enforcement Authority shall provide a written list of Corrective Actions to be taken. The

Applicant may have up to thirty (30) [calendar] days to request a Reinspection and receive a Grade of Approved or Conditional Approved.

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

(a) [When reapplying for a Permit, the Applicant shall pay any outstanding fees associated with the original application and the new application prior to being issued a Permit and Approved to operate; no provisional Permit shall be issued.]

9. Part 8. Permit Renewal.

a. Change:

(3) [Microbusinesses may be required to recertify their status through presentation of the appropriate documentation.]

10. Part 9. Fees.

a. Change:

(5) [In the case where a Person is applying for a Permit and that Person owes outstanding fees on any other Permit; the outstanding fees must be brought into financial compliance prior to any new Permit being issued.]
Justification: Providing additional mechanisms for gaining financial compliance from permit holders.

b. Change:

(6) [~~Mobile Food Establishments, Non-Profit Organizations designated as a 501(c) under 26 U.S. Code § 501, Adult Daycare Establishments, Child Daycare Establishments, and Microbusinesses shall become eligible for a .25 multiplier variance to the Primary Permit Fees of the FSO when determining the appropriate annual fee for the Permit issued to the establishment by the Enforcement Authority.~~]

c. Change:

(1) [Any Food Establishment utilizing a Commissary that wishes to change Commissary locations may be required to pay a Requested Inspection fee.]

d. Change:

(D) [Civil Penalty Fees.

(1) Civil penalty fees are due within thirty (30) calendar days from the date of penalty issuance.

(2) Non-payment of Civil Penalties within the allotted timeframe shall be considered financial non-compliance and the Enforcement Authority may pursue Enforcement Actions up to and including permit revocation in accordance with §9-6-8 of the FSO.]

(3) [Any outstanding Civil Penalty imposed prior to the effective date of these Rules shall be paid in full prior to renewal of the Food Establishment Permit associated with the violation for which the Civil Penalty was imposed.]

e. Change:

(F) [Payment Plans.

(1) A Permit holder who is unable to remit an amount due in full may request a payment plan from the Enforcement Authority. Approval of a payment plan shall be at the discretion of the Enforcement Authority and subject to the requirements of this Section.

(a) Upon approval of a request, the Enforcement Authority shall prepare a written payment plan agreement specifying the total amount due, payment amounts, payment frequency, due dates, and any other applicable terms. The payment plan shall become effective upon execution by both the Permit holder and the Enforcement Authority. While the Permit holder

remains in compliance with the terms of the payment plan, the outstanding balance subject to the agreement shall not, by itself, constitute a failure to comply with the FSO or these rules.

(b) A payment plan shall not exceed four (4) months. Payments shall be made at least weekly and shall be no less than one hundred dollars ($100.00) per payment, except that the final payment may be less than one hundred dollars ($100.00) when necessary to satisfy the remaining balance.

(c) A Permit holder with an outstanding balance subject to an active payment plan shall not be issued an additional Food Establishment Permit until the payment plan has been satisfied in full.

(d) A payment plan may be amended by written agreement between the Permit holder and the Enforcement Authority; provided, however, that an amendment shall not extend the payment plan beyond the maximum period established in Subsection (b).

(e) Failure to make a required payment or otherwise comply with the terms of an executed payment plan constitutes a default of the payment plan and may be grounds for suspension of the Permit and any other enforcement action authorized by the FSO or these Rules.

11. Part 10. Risk Categories and Inspection Frequency.
    a. **Change:**

    [and is assigned an inspection interval of] [~~and shall receive and pass an inspection at least~~]

    (C) [The Enforcement Authority may allocate inspection resources based on its assessment of public health risk, including the assigned risk category, compliance history, complaint investigations, outbreak response, and other relevant factors. Inspection intervals established by the Enforcement Authority are intended to guide the allocation of inspection resources and do not create a mandatory duty to inspect within a specified timeframe. Failure to inspect a Food Establishment within an established inspection interval does not limit the Enforcement Authority's authority to conduct inspections or take enforcement action under the FSO or these Rules.]

    Justification: These two adjustments provide the Department flexibility in inspection frequencies rather than prescribing a schedule that it cannot meet at current staffing levels.

12. Part 11. Grading of Food Establishments.
    a. **Change: Under each grade category**

    [, have a green Approved Grade sticker affixed to the Food Establishment,]

    [, have a yellow Conditional Grade sticker above a Green Approved Grade sticker affixed to the Food Establishment,]

    [, have a red Unsatisfactory Grade sticker affixed to the Food Establishment, and]

    [, have an orange Closed Grade sticker affixed to the Food Establishment,]

    In addition:

    (B) [Every Food Establishment shall display and cause to be maintained, in a conspicuous location, which is readily visible to the public, a placard stating the Grade received at the time of the most recent inspection of the Food Establishment.]

    (a) [The Enforcement Authority shall ensure the appropriate Grade sticker is posted to each public entrance, and drive through window, of the Food Establishment following each inspection.

    (i) When the Food Establishment is located in a shared space and does not have a dedicated public entrance, the Grade sticker shall be posted at the point of sale of the Food Establishment.]

    b. **Change:**

    (b) [The Enforcement Authority may issue a Civil Penalty to a Food Establishment found to be operating with an Imminent Health Hazard.]

c. Change:

(e) [When a facility is issued a Grade of Closed due to a score of sixty-four (64) or less, the Food Establishment shall be reopened under the grade of Unsatisfactory and shall be reinspected within the following five (5) business days and while the Food Establishment is in operation.]

13. Part 13. Corrective Actions.

a. Change:

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

(1) [Trainings shall be completed within thirty (30) days of receipt of the Grade of Unsatisfactory or Closed.

(2) The Enforcement Authority may issue a Civil Citation to Food Establishments who fail to complete the training requirement.]

b. Change:

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

(a) [In the case of cockroach infestation, Reinspection shall not occur until two (2) business days following treatment of the infestation by a professional pest control operator.]

c. Change:

(E) [On Site Corrective Actions.

(1) When a Food Establishment can complete sufficient Corrective Actions prior to the conclusion of the inspection, so that the resulting Grade would change, an accompanying Corrective Action compliance inspection report shall be completed by the Enforcement Authority.

(a) A Corrective Action compliance inspection may increase an establishment's Grade by no more than one Grade level.]

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

a. Change:

(B) Following the completion of construction, extensive remodeling, or conversion; the Food Establishment shall pass an inspection conducted by the Enforcement Authority prior to the commencement of operations.

(1) [A preliminary inspection of construction work is required;

(2) A Food safety inspection is required prior to operations and issuance of a Food Establishment Permit.]

b. Change:

(C) [Food Establishments hereafter constructed or extensively remodeled, or when an existing structure is converted for use as a Food Establishment, shall not:

(1) Have a toilet room door that opens directly into an area where open Food is stored, processed, or prepared for human consumption;

(2) Install a service sink within a toilet room.]

c. Change:

(D) [Food Establishments with active construction may be required to cease operations when the Enforcement Authority has reason to believe that the Food cannot be adequately protected from contamination.]

15. Part 15. Condemnation of Food and Equipment.

a. Change:

(A) [The Enforcement Authority may determine that a Food is Adulterated, contaminated, misbranded, unsafe, or otherwise unfit for human consumption when, based upon the totality of the circumstances and available evidence, the Food presents a risk to public health. Such determination may be based upon the Food's ingredients, composition, source, condition, handling, preparation, storage, contamination, labeling, or any other circumstance that may render the Food injurious to health and safety or not in compliance with the FSO, these rules, or other laws. The absence of a specific prohibition, ingredient, contaminant, condition, or circumstance within the FSO, these rules, or other laws shall not preclude such a determination.]

b. Change:

(3) Upon written notice to the Permit Holder or Person In Charge at the time of inspection, the Enforcement Authority may label and seal such Food as "embargoed." …….or may require the Permit Holder or Person In Charge of the Food to denature, remove, or destroy such Food or to bring the Food into compliance with the requirements of the Food Code, the FSO, these rules, or other laws. [If the Permit Holder refuses to denature, remove, or destroy such Food, the Enforcement Authority may seize and denature or destroy the Food.]

(a) [When a Food Establishment is operating without a Valid Food Establishment Permit, the Enforcement Authority may seize, embargo, denature, or require the destruction or disposal of Food when the Enforcement Authority determines that the Food is from an unapproved source; has been prepared, processed, stored, handled, or distributed under conditions that may render the Food unsafe, adulterated, or otherwise unfit for human consumption; or when the source, safety, or condition of the Food cannot be reasonably verified.]

c. Change:

(3) The Enforcement Authority may require the Food Establishment to bring the condemned Utensil or Food equipment into compliance with the requirements of these rules, the Food Code, the FSO, or to remove it from the Food Establishment. [If the Permit Holder refuses to remove such equipment, the Enforcement Authority may seize and dispose of such equipment and recover any cost associated from the Permit Holder.]

16. Part 16. Food Safety training Requirements.

a. Change:

(A)(4)(a) ~~[The Certified Food Protection Manager requirements of Part 16 of these rules shall become effective ninety (90) days after the effective date of these rules.]~~

(B)(4)~~[The Food Handler Card requirements of Part 16 of these rules shall become effective ninety (90) days after the effective date of these rules.]~~

17. Part 17. General Sanitation:

a. Change:

(G)(1)(a) [Food that is actively being hot held and found to be below Safe Temperatures may be reheated, prior to continued service, to Safe Temperatures so long as through the presentation of contemporaneous temperature logs, the Food Establishment can demonstrate that the Food has not been below Safe Temperatures for more than two (2) hours and has not dropped below one-hundred- and twenty-five-degrees Fahrenheit (125°F). The reheating process shall not take longer than the difference between the time the Food was below Safe Temperatures and two (2) hours. Food that has been below Safe Temperatures for longer than two (2) hours or has dropped below one-hundred- and twenty-five-degrees Fahrenheit (125°F) shall not be used in the operations of the Food Establishment.

(G)(1)((b) Food that is actively being cold held and found to be above Safe Temperatures may be cooled, prior to continued service, to Safe Temperatures so long as through the presentation of contemporaneous

temperature logs, the Food Establishment can demonstrate that the Food has not been above Safe Temperatures for more than two (2) hours and has not risen above seventy-degrees Fahrenheit (70°F). The cooling process shall not take longer than the difference between the time the Food was above Safe Temperatures and two (2) hours. Food that has been above Safe Temperatures for longer than two (2) hours or has risen above seventy-degrees Fahrenheit (70°F) shall not be used in the operations of the Food Establishment.]

b. Change:

(G)(3) [All ready-to-eat, TCS Foods shall be clearly date marked, in the same manner as prescribed by section 3-501.17 of the Food Code, upon preparation or opening, regardless of the length of time the food is held.]

c. Change:

[(9) The name and address of any person transporting food for retail or wholesale shall be legibly painted or permanently affixed in letters no less than three inches high by one-half inch wide on each side of all transportation vehicles operated by such person. All food transportation shall be in enclosed van-type vehicles.]

d. Change:

(10) [Refrigeration equipment used for the storage of TCS Food shall be commercial food equipment certified to NSF/ANSI 7, or an equivalent Food equipment sanitation standard recognized by the Enforcement Authority.]

e. Change:

(11) Allergen Consumer Advisory.

(a) If a Food Establishment serves Food containing a major allergen, the Permit Holder shall inform consumers of the risk through disclosure and reminder using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

(i) Disclosure shall include:

(1) a description of the allergen derived Food, such as "contains peanuts" or "peanut curry;"

(2) all allergens are listed as an ingredient in the Food item on the menu;

(3) identification of the allergen containing Food by asterisking them to a footnote that states that the items contain a major allergen; or

(4) asterisking the allergen containing Food requiring disclosure to a footnote that states: "Contains a major allergen, written information is available upon request"]

f. Change:

(12) [All Food, Food additives, and Food ingredients processed, prepared, packed, stored, or distributed shall be generally recognized as safe (GRAS), and/or used in a manner consistent with all legal requirements.

(a) Food Establishments shall not process, prepare, pack, store, distribute, or vend any product containing Kratom (Mitragyna speciosa), or any derivative, extract, concentrate, isolate, alkaloid, synthetic analog, or constituent thereof, including but not limited to mitragynine and 7-hydroxymitragynine (7-OH).

(b) Food Establishments shall not process or pack Kava, (Piper methysticum), or any derivative, extract, concentrate, isolate, constituent, synthetic analog, or preparation thereof, including but not limited to kavalactones. Food Establishments distributing, vending, or serving Kava (Piper methysticum), or any derivative, extract, concentrate, isolate, constituent, synthetic analog, or preparation thereof, shall not use such substance as an ingredient in conventional food.

(i) Kava (Piper methysticum) may be steeped in water only and served to a customer; it may be prepared or served in no other fashion and may not be otherwise used as a Food additive or Food ingredient.

18. Part 18. Permit Specific Requirements.

a. Change – (A) Cannabis Food Establishments:

(b) [In the event that both Food and Edible Cannabis Products are processed, prepared, packed, stored, distributed, or prepared and intended for individual portion service in the same Food Establishment, separate permits are required for Food and Edible Cannabis Products.]

b. Change – (B) Catering Food Establishments:

(3) Catering Food Establishments shall operate from a Commissary with a Commissary Type 2 Permit[, when the Commissary is not owned and operated by the Catering Food Establishment,] and shall report each day of operation. All catering activities that occur prior to service must occur at the Approved Commissary.

c. Change – (B) Catering Food Establishments:

(5) (a) Catering Food Establishments shall provide the license plate number[and proof of current vehicle or trailer registration] for their registered transportation vehicle(s),[and photos of the inside and outside of the registered transportation vehicle(s) or trailer(s),] if applicable, with their pre-inspection application.

d. Change - (C) Charitable Food Providers:

(C) Charitable Food Providers. [The designation of Charitable Food Provider can be applied to any permit type under a business meeting the definition.]

e. Change – (D) Commissaries

(7) [Commissaries shall not allow other Food Establishments to operate within the Commissary until such time that Food Establishment has obtained the appropriate Permit(s) issued by the Enforcement Authority.]

f. Change – (G) Mobile Food Establishments

(1) Push Carts are limited to the preparation and serving of [boiled or steamed] hot dogs, or food packaged commercially or at an approved commissary, maintained at Safe Temperatures [and served to the consumer in the original Packaging;] or limited to serving non-TCS food.

(3) Trailers must be fully enclosed or be limited to the preparation and serving of [boiled or steamed] hot dogs, Food Packaged commercially or at an approved Commissary, maintained at Safe Temperatures and served to the consumer in the original Packaging

g. Change – (G) Mobile Food Establishments

(4) Mobile Food Establishments shall provide the license plate number [and proof of current vehicle or trailer registration] for their [Mobile Food Establishment, and photos of the inside and outside of the Mobile Food Establishment] [~~registered vehicle~~], if applicable, with their pre-inspection application.

h. Change – (G) Mobile Food Establishments

(b) [The Mobile Food Establishment may be assessed a Requested Inspection Fee prior to the inspection at the new commissary.]

i. Change – (G) Mobile Food Establishments

(f) Mobile Food Establishments using any sound amplifying equipment[, that causes noise to be heard from outside the Mobile Food Establishment,] before 10:00 a.m. or after [~~sunset~~][10:00 p.m.];

j. Change – (G) Mobile Food Establishments

(7) [Mobile Food Establishments found to be disposing of liquid or solid waste in any manner inconsistent with the Food Code shall be subject to Enforcement Action up to and including permit revocation in accordance with §9-6-8 of the FSO.]

a. Change – (G) Mobile Food Establishments

(8) (f) [~~Mobile Food Establishments shall comply with all applicable noise regulations as a condition of the permit.~~][It is a violation of these rules to violate the City of Albuquerque Noise Control Ordinance §9-9-1 et seq.]

b. Change – (G) Mobile Food Establishments

(8) Mobile Food Establishments utilizing a generator in the Downtown Center, as defined by the IDO, between the hours of 10:00 p.m. to 7:00 a.m., shall be equipped with inverter generators.]

c. Change – (G) Mobile Food Establishments

(9) The following acts are prohibited:

(a) The operation of any Mobile Food Establishment between the hours of 2:[~~3~~][0]0 am and 7:00 am.

d. Change – (G) Mobile Food Establishments

(10) Parking.

(a) Mobile Food Establishments shall comply with all applicable parking and zoning regulations[; and to obtain and maintain any additional permits as required by law,] as a condition of the Permit.

e. Change – (T) Temporary Food Establishments and Market Food Establishments.

(g) [Time as a Public Health Control Prohibition. Temporary Food Establishments shall not utilize time as a public health control for the service of TCS Food.]

f. Change – (T) Temporary Food Establishments and Market Food Establishments.

(2)[Temporary Food Establishment Permits are not required for vendors offering only uncut raw produce and/or other Food produced under the Homemade Food Act, Chapter 25, Article 12 NMSA 1978.]

g. Change:

(7) [Temporary Food Establishment Permits are required when a Food Establishment is preparing food outside of the bounds of its annual Permit including but not limited to temporary outdoor grills, temporary drink stands outside of the Food Establishment, chile roasting, or temporary implementation of a process that would increase the risk category of the Food Establishment.]

h. Change – (U) Vending Machines.

(7) Vending Machines performing Limited Preparation or Advanced Preparation shall be permitted and regulated as a Retail Food Establishment, and the regulations in the FSO, these Rules, and the Food Code related to Vending Machines shall also apply.

(c) Applicants for Vending Machines performing Limited Preparation or Advanced Preparation shall provide:

(i) Documentation showing that all food equipment located within the machine meets NSF, ANSI, or comparable standards; and

(ii) A safety plan that includes how Food contact surfaces and equipment will be sanitized at the appropriate intervals.]