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1 to safeguard public health and ensure that Food is safe, unadulterated, and
2 honestly presented for consumption.

3 **§ 9-6-3 DEFINITIONS.** For the purpose of this ordinance, the following
4 definitions shall apply unless the context clearly indicates or requires a
5 different meaning. Terms include either the singular or the plural as the case
6 may be.

7 **APPLICANT.** A Person applying for a Permit.

8 **CITY.** The City of Albuquerque.

9 **COMPLIANCE PLAN.** A written agreement between the Permit Holder and the
10 Enforcement Authority that outlines conditions and corrective actions that
11 must be met to prevent suspension or revocation of a Food Establishment
12 Permit.

13 **CLOSED SIGN.** The placard, sticker, or sign placed on a Food Establishment
14 by the Enforcement Authority after issuing a Grade of Closed as defined in the
15 Rules.

16 **ENFORCEMENT AUTHORITY.** The Mayor or the Mayor’s designated agent(s).

17 **ENFORCEMENT AUTHORITY.** Includes references to “Regulatory Authority” in
18 the U.S. Food and Drug Administration Food Code.

19 **EXPIRATION DATE.** The date listed on a Permit marking the end of the Permit
20 term.

21 **FOOD.** Any raw, cooked, or processed edible substance, ice, beverage, or
22 ingredient used or intended for use or for sale in whole or in part for human
23 consumption, or chewing gum.

24 **FOOD CODE.** Food Code as adopted by the Rules.

25 **FOOD ESTABLISHMENT.** Any place where Food is stored, processed,
26 packaged, repackaged, or prepared and intended for human consumption.

27 **FOOD ESTABLISHMENT.** Includes any such place regardless of whether the
28 consumption is on or off the premises, regardless of its permanence, and
29 regardless of whether there is a charge for the Food.

30 **FOOD ESTABLISHMENT.** Does not include:

31 (A) Any place where Food is produced, sold, distributed, or prepared
32 and exempt from regulation pursuant to the Homemade Food Act, Chapter 25,
33 Article 12 NMSA 1978;

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- 1 (B) A kitchen in a private home, except the Enforcement Authority may
- 2 pursue a warrant for inspection of a kitchen in a private home pursuant to § 9-
- 3 6-10(C) of This Ordinance when a private home kitchen is being used as a food
- 4 establishment in violation of This Ordinance;
- 5 (C) Home-delivery vehicle and service including but not limited to pizza
- 6 delivery, third party ordering and delivery services, or grocery delivery
- 7 services; and
- 8 (D) A private home that receives catered or home-delivered Food.
- 9 **GRADE.** The score showing the degree of compliance with This Ordinance,
- 10 and the Rules, that a Food Establishment receives at the time of the most
- 11 recent inspection.
- 12 **IHO ORDINANCE.** Independent Office of Hearings Ordinance, Chapter 2,
- 13 Article 7, Part 8 ROA 1994.
- 14 **IMMINENT HEALTH HAZARD.** Any condition or circumstance which, in the
- 15 judgment of the Enforcement Authority, could be immediately injurious to life,
- 16 health, or safety; or as defined in the Food Code.
- 17 **PERMIT.** The document issued by the Enforcement Authority that authorizes a
- 18 Person to operate a Food Establishment.
- 19 **PERMIT HOLDER.** The legal entity responsible for the operation of the Food
- 20 Establishment such as the owner, owner's agent, or other Person; or as
- 21 defined in the Food Code.
- 22 **PERSON.** An individual, partnership, corporation, association, or any other
- 23 legal entity.
- 24 **PERSON IN CHARGE.** The individual present in a Food Establishment who is
- 25 the apparent supervisor of the Food Establishment at the time of inspection. If
- 26 no individual is the apparent supervisor, then any employee present is the
- 27 Person In Charge.
- 28 **RULE.** The Rules promulgated by the Enforcement Authority pursuant to This
- 29 Ordinance.
- 30 **TERM.** The period of time during which a Food Establishment is authorized to
- 31 operate under a Permit.
- 32 **THIS ORDINANCE.** The Albuquerque Food Service and Retail Ordinance.
- 33 **VALID.** Unexpired, not suspended, and not revoked.

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1 § 9-6-4 APPLICABILITY. The Albuquerque Retail and Food Service Ordinance
2 applies to all Food Establishments operating for any period of time within the
3 City. Food Establishment employees and applicants are required to comply
4 with This Ordinance.

5 § 9-6-5 ENFORCEMENT AUTHORITY PROMULGATION OF RULES. The
6 Enforcement Authority shall promulgate reasonable rules to carry out the
7 intent and purpose of This Ordinance. Any such rules shall be adopted under
8 the procedures of Chapter 2, Article 15 ROA 1994 and at minimum shall:

9 (A) Adopt relevant Food safety requirements and equipment standards;

10 (B) Establish processes for the condemnation of Food and equipment by
11 the Enforcement Authority;

12 (C) Establish procedures for the application, issuance, renewal,
13 suspension, reinstatement, and revocation of Permits which regulations shall
14 provide for prior notice to and a hearing for any applicant or Permit Holder
15 when the Enforcement Authority's proposed action is to deny an application,
16 or suspend or revoke a Permit;

17 (D) Establish procedures for the administration of fees, provisions for
18 fee proration, and the assessment of secondary permit fees;

19 (E) Establish requirements for inspections of Food Establishments, and
20 include provisions for inspections at a frequency based on prescribed risk
21 categories with inspections occurring at least once every eighteen months;

22 (F) Establish a system of grading Food Establishments, utilizing scoring
23 rubrics by which each violation of This Ordinance or the Food Code deducts a
24 predetermined percentage from the overall total score and requiring Food
25 Establishments to display the Grade as notice of compliance to the public;

26 (G) Establish requirements for Food Establishment employees to be
27 properly trained in Food safety; and

28 (H) Place additional requirements or exempting requirements for each
29 type of Food Establishment Permit to ensure reasonable public safety.

30 § 9-6-6 AVAILABILITY OF ORDINANCE AND FOOD CODE. A copy of This
31 Ordinance and any Rules shall be kept on file in the Office of the City Clerk,
32 and be available for inspection by the public during regular business hours. A
33 copy of the following shall be available to any individual upon request and the

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1 payment of a reasonable charge as set by the Chief Administrative Officer, to
2 be not less than the actual cost per copy. The Rules shall be made available
3 on the Enforcement Authority’s publicly available website.

4 **§ 9-6-7 PERMIT REQUIRED FOR FOOD ESTABLISHMENTS; APPLICATION.**

5 **(A) Permit Required.**

6 (1) No Person shall operate a Food Establishment in the City without a
7 Valid Permit issued by the Enforcement Authority for that Food Establishment.

8 (2) The Permit Holder shall be responsible for ensuring that the Food
9 Establishment complies with This Ordinance, the Rules, and other laws.

10 (3) Permit Holders shall not be responsible for the operations of other
11 Permit Holders and their Food Establishments when they are located on the
12 same premises.

13 (4) Each Permit Holder shall be responsible for ensuring shared
14 facilities or equipment on the premises complies with This Ordinance, the
15 Rules, and other laws.

16 (5) The Permit shall be posted in a conspicuous place on the premises
17 of the Food Establishment and made available immediately upon request, for
18 examination by the Enforcement Authority.

19 (6) No property owner shall knowingly allow a Food Establishment to
20 operate on the premises of their property without a Valid Permit.

21 **(B) Pre-inspection Application.**

22 (1) All Applicants shall submit a pre-inspection application within a
23 reasonable amount of time prior to the anticipated opening date of the Food
24 Establishment to the Enforcement Authority in a manner consistent with the
25 Rules.

26 (2) The pre-inspection application shall include all required information
27 and supporting documentation as detailed in the Rules and be on a paper or
28 electronic form approved by the Enforcement Authority.

29 **(C) Pre-Opening Inspection of Food Establishment.** Upon receipt of a
30 complete pre-inspection application, the Enforcement Authority shall contact
31 the applicant to schedule a pre-opening inspection, if applicable, within five
32 (5) working days, to determine compliance with the provisions of This
33 Ordinance.

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1 (D) Issuance of Permits. The Enforcement Authority shall issue a Permit
2 to any Applicant that demonstrates compliance with This Ordinance and
3 other laws.

4 (E) Term of Permits. Permits are Valid until the Expiration Date.

5 (F) Renewal of Permits. Permits shall be renewed by the Permit Holder
6 on or before the Expiration Date.

7 (1) Temporary Food Establishment and Market Food Establishment
8 Permits, as defined in the Rules, are not renewable and a new pre-inspection
9 application shall be submitted.

10 (G) Non-Transferrable. Permit Holders may not transfer Permits from one
11 Person to another Person or from one location to another location. When a
12 change in location or ownership of a Food Establishment occurs, a new pre-
13 inspection application shall be submitted to and a new Permit shall be issued
14 by the Enforcement Authority prior to operating as a Food Establishment.

15 (1) If after a change of location or ownership, a Food Establishment
16 does not submit a new pre-inspection application prior to operating as a Food
17 Establishment, a civil penalty may be assessed in addition to the first year
18 Permit fee.

19 (H) Denial of Permit Issuance. The Enforcement Authority shall refuse to
20 issue a Permit to any applicant who fails to comply with This Ordinance, the
21 Rules, or other laws.

22 (1) Notice. Notice of Permit denial shall be provided in accordance with
23 § 9-6-17 of This Ordinance.

24 (2) Hearing. A Permit Holder may appeal the notice of Permit denial by
25 filing written notice of appeal and requesting a hearing with the City Clerk's
26 office within fifteen (15) business days of notice in accordance with § 9-6-18 of
27 This Ordinance.

28 § 9-6-8 SUSPENSION, REVOCATION, REINSTATEMENT OF PERMITS, AND
29 COMPLIANCE PLANS.

30 (A) The Enforcement Authority may immediately suspend a Permit when
31 the Enforcement Authority finds:

32 (1) The Food Establishment fails to comply with the requirements of
33 This Ordinance, the Rules, or other laws;

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- 1 (2) The Food Establishment is violating a condition of any Permit;
- 2 (3) An Imminent Health Hazard at the Food Establishment;
- 3 (4) A Food Establishment has failed to follow any corrective actions
- 4 within the timeframe prescribed by the Enforcement Authority;
- 5 (5) A Food Establishment has violated a Safety Plan associated with a
- 6 Special Process as they are defined in the Rules;
- 7 (6) A Food Establishment has violated a Compliance Plan;
- 8 (7) A Food Establishment employee has refused to allow the
- 9 Enforcement Authority to enter the Food Establishment after proper
- 10 identification has been tendered;
- 11 (8) The Enforcement Authority has issued a third notice of civil penalty
- 12 to the Food Establishment for the same offense;
- 13 (9) The Enforcement Authority has issued a third Grade of
- 14 Unsatisfactory, as defined in the Rules, to a Food Establishment during any
- 15 36-month period under the same Permit;
- 16 (10) A commissary is allowing any Person to operate a Food
- 17 Establishment on its premises that is not in possession of a Valid Permit; or
- 18 (11) A Food Establishment that was issued a Permit, with a Variance,
- 19 while seeking a liquor license from the State of New Mexico in accordance
- 20 with the Liquor Control Act, § 60-3A-1 et seq. NMSA 1978, is found to be in
- 21 operation without first notifying the Enforcement Authority and passing a pre-
- 22 opening inspection with a Grade of Approved or Conditional Approved.
- 23 (B) Suspension Procedure.
- 24 (1) The Enforcement Authority shall notify the Permit Holder of the
- 25 suspension and associated Grade of Closure in writing.
- 26 (2) When a Permit is suspended, the Enforcement Authority shall close
- 27 the Food Establishment and post the Closed Sign in a conspicuous location,
- 28 visible to the public.
- 29 (3) Upon suspension, the Permit Holder for the Food Establishment
- 30 shall maintain or cause to be maintained the Closed Sign in an unobstructed
- 31 manner in the location where the sign was originally posted by the
- 32 Enforcement Authority.

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1 (4) The Food Establishment shall not operate while the Food
2 Establishment Permit is suspended.

3 (5) The Food Establishment shall remain closed and the Closed Sign
4 shall remain in place until the suspension is modified in accordance with the
5 IHO Ordinance, the suspension is vacated by the Enforcement Authority when
6 the conditions leading to the suspension no longer exist, or the Permit is
7 revoked.

8 (6) Notice. Notice of Permit suspension shall be provided in accordance
9 with § 9-6-1 of This Ordinance.

10 (7) Hearing. The Permit Holder may appeal the Permit suspension by
11 filing written notice of appeal and requesting a hearing with the City Clerk's
12 office within fifteen (15) business days of notice in accordance with § 9-6-18 of
13 This Ordinance.

14 (C) Reinstatement of Suspended Permits. Any Person whose Permit has
15 been suspended may at any time request a reinspection for the purpose of
16 reinstatement of the Permit. The Enforcement Authority shall reinstate the
17 Permit if, after performing a reinspection, the Enforcement Authority finds that
18 the Permit Holder complies with the requirements of This Ordinance, the
19 Rules, and other laws.

20 (D) Revocation of Permits.

21 (1) Permits may be revoked by the Enforcement Authority when:

22 (a) A Food Establishment Permit has been suspended and not
23 reinstated; or

24 (b) A Food Establishment receives the fourth Grade of
25 Unsatisfactory, as defined in the Rules, within any thirty-six (36) month period
26 under the same Permit; or

27 (c) A Food Establishment receives the third Grade of Closure, as
28 defined in the Rules, within any thirty-six (36) month period under the same
29 Permit.

30 (E) Revocation Procedure.

31 (1) The Enforcement Authority shall notify the Permit Holder of the
32 revocation and closure in writing.

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1 (2) When a Permit is revoked, the Enforcement Authority shall order the
2 closure of the Food Establishment and post the Closed Sign in a conspicuous
3 location, visible to the public. The Food Establishment shall not operate while
4 the Food Establishment Permit is revoked.

5 (3) The Permit Holder for the Food Establishment shall maintain or
6 cause to be maintained the Closed Sign in an unobstructed manner in the
7 location where the sign was originally posted by the Enforcement Authority.

8 (4) The Food Establishment shall remain closed and the Closed Sign
9 shall remain in place until the revocation is modified in accordance with the
10 IHO Ordinance, or the revocation is vacated by the Enforcement Authority
11 when the conditions leading to the suspension no longer exist.

12 (5) Notice. Notice of revocation shall be provided in accordance with §
13 9-6-17 of This Ordinance.

14 (6) Hearing. The Permit Holder may appeal the Permit revocation by
15 filing written notice of appeal and requesting a hearing with the City Clerk's
16 office within fifteen (15) business days of notice in accordance with § 9-6-18 of
17 This Ordinance.

18 (F) Compliance Plan. In lieu of suspension or revocation of a Permit, the
19 Enforcement Authority may allow a Food Establishment to follow a
20 Compliance Plan for current or past failure of the Food Establishment or
21 Permit Holder to meet the requirements of This Ordinance.

22 (1) A Compliance Plan may be issued to a Food Establishment that
23 receives a second Grade of Unsatisfactory or Closure, as defined in the Rules,
24 from the Enforcement Authority, within a thirty-six (36) month period under the
25 same Permit.

26 (2) A Compliance Plan shall be on a form approved by the Enforcement
27 Authority and include all written requirements for operation of the Food
28 Establishment, and be signed by the Enforcement Authority and the Permit
29 Holder.

30 (a) The Enforcement Authority may amend a Compliance Plan when
31 a Food Establishment submits a written request to the Enforcement Authority
32 and the Enforcement Authority determines that the amendment will not pose a
33 risk to public health.

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1 (3) Each Compliance Plan shall remain in place until the Food
2 Establishment has received three consecutive Grades of Approved or all
3 applicable fees have been paid in full.

4 (G) Application for a New Permit After Revocation. After a Permit is
5 revoked, a former Permit Holder may submit a pre-inspection application
6 consistent with This Ordinance for a new Permit only after ninety (90) days
7 have passed after the revocation date, any outstanding fees from the revoked
8 Permit are paid, and the former Permit Holder demonstrates to the
9 Enforcement Authority that all previously issued corrective actions have been
10 completed.

11 § 9-6-9 PERMIT RENEWAL.

12 (A) Permit Renewal. To renew a permit, A Food Establishment shall pay
13 to the Enforcement Authority the annual fee in full prior to the Expiration Date.
14 At the time of Permit renewal, the Permit Holder shall update information as
15 required by the Rules.

16 (B) Notice. Notice of fees due shall be provided in accordance with § 9-6-
17 17 of This Ordinance.

18 (C) Hearing. A Permit Holder may appeal the notice of Permit fees due by
19 filing written notice of appeal and requesting a hearing with the City Clerk's
20 office within fifteen (15) business days of notice in accordance with § 9-6-18 of
21 This Ordinance.

22 § 9-6-10 PERMIT AND ADMINISTRATIVE FEES.

23 (A) Permit and administrative fees shall be paid by the Food
24 Establishments in accordance with the type of Food Establishment, Class, and
25 Risk Category, as defined in the Rules at the rates in the following Appendices
26 attached to this Article:

- 27 (1) Appendix C. Primary Permits
- 28 (2) Appendix D. Secondary Permits
- 29 (3) Appendix E. Standalone Permits
- 30 (4) Appendix F. Administrative Fees

31 § 9-6-11 INSPECTION OF FOOD ESTABLISHMENTS; INVESTIGATION OF
32 FOODBORNE ILLNESS.

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1 (A) Right of Inspection. The Enforcement Authority shall make such
2 inspections of Food Establishments as necessary to assure compliance with
3 This Ordinance and the Rules. Inspection frequency shall be based on the risk
4 category of each Food Establishment.

5 (1) The Enforcement Authority may make more frequent inspections of
6 Food Establishments in response to citizen complaints regarding unsafe
7 conditions or foodborne illness.

8 (2) At the conclusion of each inspection, a copy of the inspection report
9 shall immediately be furnished to the Permit Holder or Person In Charge of the
10 Food Establishment indicating the degree of compliance or noncompliance
11 with the provisions of the Food Code, This Ordinance, and other laws.

12 (3) The Permit Holder or Person In Charge of the Food Establishment
13 may accompany the Enforcement Authority during the inspection.

14 (4) The Enforcement Authority shall be permitted to examine and obtain
15 copies of the records of the Food Establishment, pertinent information related
16 to Food source and supplies received, pest control records, and a list of Food
17 Establishment employees and their training records.

18 (5) It is a civil penalty pursuant to § 9-6-20 of This Ordinance for any
19 Person to molest or resist the Enforcement Authority in the discharge of its
20 duties.

21 (B) Investigation of Foodborne Illness. The Enforcement Authority is
22 authorized to make such inspections of buildings, premises, and documents
23 as deemed necessary to investigate and abate foodborne illness or any
24 violation of This Ordinance which poses a threat to human health. For the
25 purpose of making such inspections, the Enforcement Authority is authorized
26 to enter, examine, or survey at all reasonable times and take samples of Food
27 for testing. Such entry shall be made in a manner as to minimize
28 inconvenience to the Person In Charge. In the event entry is denied or resisted
29 the Enforcement Authority shall seek an order for this purpose from a court of
30 competent jurisdiction.

31 (C) Refusal of Entry. If entry of the Enforcement Authority is refused,
32 after presentation of proper identification, to fully inspect any and all premises
33 or facilities at any reasonable time, the Enforcement Authority may:

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1 (1) Issue a Civil Penalty pursuant to § 9-6-20 of This Ordinance; and
2 (2) Proceed to obtain a search warrant by filing a complaint made before
3 the Metropolitan Court or District Court upon oath or affirmation. The
4 complaint shall:

- 5 (a) Set forth the particular building, premises, or portion thereof
6 sought to be inspected;
- 7 (b) State that the owner or occupant of the building, premises, or
8 portion thereof, has refused entry;
- 9 (c) State that inspection of the building, premises, or portion thereof
10 is necessary to determine whether it complies with the requirements of § 9-6-1
11 et seq.;
- 12 (d) Set forth the particular provisions of § 9-6-1 et seq. sought to be
13 enforced;
- 14 (e) Set forth any other reason necessitating the inspection, including
15 knowledge or belief that a particular condition exists in the food establishment
16 which constitutes a violation of § 9-6-1 et seq. or creates a hazard to human
17 health;
- 18 (f) State that the complainant is authorized by the City to make the
19 inspection.

20 (D) Grading of Food Establishments. The Enforcement Authority shall
21 issue an appropriate score and associated Grade to each Food Establishment
22 at the conclusion of each inspection.

23 (1) Every Food Establishment shall display, in a conspicuous location,
24 which is readily visible to the public, a placard stating the Grade received at
25 the time of the most recent inspection of the Food Establishment.

26 (E) Corrective Actions. Upon inspection, the Enforcement Authority
27 shall provide the Permit Holder or Person In Charge with a written description
28 of any corrective actions to be taken, outlining the timeframe in which
29 corrective actions must be completed for any violation of This Ordinance or
30 other laws.

31 (F) It is a civil penalty pursuant to § 9-6-20 of This Ordinance for any
32 Person to threaten, intimidate, use violence, or use physical force to

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1 intentionally obstruct, impede, or interfere with any City employee while in the
2 performance of the employee’s duties as authorized by This Ordinance.

3 **§ 9-6-12 CONDEMNATION OF FOOD AND EQUIPMENT.**

4 (A) It shall be unlawful for any Person within the City to sell, offer, or
5 expose for sale, or to have in possession with intent to sell, any Food which is
6 adulterated or misbranded. Samples of Food may be taken and examined by
7 the Enforcement Authority as often as may be necessary to determine
8 freedom from adulteration or misbranding. Food determined to be misbranded
9 or adulterated may be condemned, and Food reasonably suspected to be
10 misbranded or adulterated may be embargoed in a manner consistent with the
11 Rules.

12 (B) Notice. Notice of the condemnation of Food or equipment, or
13 embargo of Food or equipment, shall be provided in accordance with § 9-6-17
14 of This Ordinance.

15 (C) Hearing. A Permit Holder may appeal the notice of the condemnation
16 of Food or equipment, or embargo of Food or equipment by filing written
17 notice of appeal and requesting a hearing with the City Clerk’s office within
18 fifteen (15) business days of notice in accordance with § 9-6-18 of This
19 Ordinance.

20 **§ 9-6-13 FOOD SAFETY TRAINING REQUIREMENTS.** All Food Establishment
21 employees shall be adequately trained in Food safety in a manner consistent
22 with the Rules.

23 **§ 9-6-14 FOOD ESTABLISHMENTS OUTSIDE OF THE JURISDICTION OF THE**
24 **ENFORCEMENT AUTHORITY.**

25 (A) Food Establishments outside of the jurisdiction of the Enforcement
26 Authority may vend food within the City if such Food Establishments conform
27 to the provisions of This Ordinance or to substantially equivalent provisions.
28 To determine the extent of compliance with such provisions, the Enforcement
29 Authority may accept reports from responsible authorities in other
30 jurisdictions where such Food Establishments are located.

31 (1) Food Establishments from other jurisdictions shall submit a signed
32 Temporary Food Establishment Permit application or Market Food
33 Establishment Permit application, City of Albuquerque business registration,

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1 and Food Establishment Permit from their home jurisdiction to the
2 Enforcement Authority and the Temporary Food Establishment must pass an
3 inspection performed by the Enforcement Authority with a Grade of Approved
4 prior to acting as a Temporary Food Establishment or Market Food
5 Establishment, as defined in the Rules, within the City.

6 § 9-6-15 ADMINISTRATION AND INTERPRETATION. The Enforcement
7 Authority shall be responsible for the administration and enforcement of This
8 Ordinance.

9 § 9-6-16 VARIANCES.

10 (A) A variance may be granted to a Food Establishment when it is
11 presented with adequate proof that a provision of This Ordinance or the Rules
12 creates an undue burden on the Food Establishment and granting of the
13 variance will not result in a condition injurious to health or safety.

14 (1) Any Permit Holder seeking a variance shall submit a request to the
15 Enforcement Authority, in writing, setting forth their reasons for the variance
16 and stating the length of time for which they seek the variance.

17 (2) The Enforcement Authority shall review the request for variance and
18 provide a written decision within a reasonable amount of time. The variance
19 must be approved by the Enforcement Authority prior to commencement of
20 the operation requiring the variance.

21 (B) Notice. Notice of the Variance approval or denial shall be provided in
22 accordance with § 9-6-17 of This Ordinance.

23 (C) Hearing. A Permit Holder may appeal the notice of the Variance
24 approval or denial, or embargo of Food or equipment by filing written notice of
25 appeal and requesting a hearing with the City Clerk's office within fifteen (15)
26 business days of notice in accordance with § 9-6-18 of This Ordinance.

27 § 9-6-17 SERVICE OF NOTICE.

28 (A) Notice shall be deemed properly served when a true copy of the
29 inspection report or other notice has been provided to the Person In Charge or
30 sent to the Permit Holder at the Address Of Record via certified mail
31 whichever occurs first. A copy of such notice shall be filed with the records of
32 the Enforcement Authority.

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1 (B) The notice shall state the specific reasons for the Enforcement
2 Authority's actions, specify the corrective actions to be taken, and specify the
3 time period within which action shall be taken. The notice shall include a
4 provision that the Enforcement Authority will take action unless the Permit
5 Holder files a written request with the City Clerk for hearing within fifteen (15)
6 days pursuant to the provisions in the IHO Ordinance.

7 § 9-6-18 HEARINGS.

8 (A) A hearing provided for in This Ordinance shall be conducted by an
9 Independent Hearing Officer in accordance with the provisions in the IHO
10 Ordinance.

11 (B) Any action of the Enforcement Authority for which a hearing is not
12 otherwise provided for in This Ordinance, which action adversely impacts the
13 Permit Holder, is subject to review under this section if a hearing request is
14 filed within fifteen (15) business days of the action and in accordance with the
15 provisions in the IHO Ordinance.

16 (C) A nonrefundable hearing fee of \$50.00 shall accompany each
17 application for hearing conducted by the Independent Hearing Officer
18 requested pursuant to this section.

19 § 9-6-19 JUDICIAL REVIEW. The exclusive remedy of any party dissatisfied
20 with any final decision of the Independent Hearing Officer is to file a petition
21 with the District Court within thirty (30) days after service receipt of written
22 notice of the decision of the concerned party. The petition for review shall be
23 limited to the record.

24 § 9-6-20 CIVIL VIOLATIONS; CRIMINAL VIOLATIONS; ADDITIONAL REMEDIES;
25 INJUNCTIVE RELIEF.

26 (A) Civil Violations. The Enforcement Authority may impose a civil
27 penalty for any failure to correct a violation of This Ordinance or the Rules
28 after proper notice has been given.

29 (1) Civil violations of this article shall subject the Permit Holder of the
30 Food Establishment to the following penalties for offenses during any thirty-
31 six (36) consecutive-month period:

- 32 (a) a civil fine of \$250.00 for the first offense;
- 33 (b) a civil fine of \$500.00 for the second offense; and

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1 (c) a civil fine of \$1,000.00 for the third and subsequent offenses.

2 (2) Each calendar day during which the civil violation occurs shall
3 constitute a separate and distinct offense.

4 (3) Upon determination by the Enforcement Authority that a violation of
5 This Ordinance has occurred, the Enforcement Authority shall serve a notice
6 of civil penalty in accordance with § 9-6-17 of This Ordinance. The notice shall
7 contain the following information:

8 (a) The address where the violation occurred;

9 (b) The approximate time the violation occurred;

10 (c) A brief narrative of the circumstances surrounding the violation;

11 (d) A statement regarding whether this is the first, second, third or
12 subsequent offense within a consecutive 36-month period;

13 (e) A name and phone number or title of City employee from whom
14 the Permit Holder can obtain further information;

15 (f) The address where payment for the violation may be made;

16 (g) A statement that the Permit Holder has the right to contest the
17 validity of the civil violation by filing a written request for hearing with the City
18 Clerk's office within fifteen (15) days of the date of mailing of the notice of civil
19 penalty. A hearing shall be granted in accordance with the provisions in the
20 IHO Ordinance, Chapter 2, Article 7, Part 8 ROA 1994; and

21 (h) The ordinance section or rule violated.

22 (B) Criminal Penalties. Any Person convicted of a violation of any
23 provision of this article is guilty of a petty misdemeanor and upon conviction
24 thereof, shall be punished by a fine of not less than \$250.00 nor more than
25 \$500.00 and up to thirty (30) days in jail for each violation. Each day in which
26 any violation occurs shall constitute a separate offense. Prosecution or
27 conviction under this section shall not preclude any civil remedy or relief for a
28 violation of This Ordinance. Once cited for an offense, an additional citation
29 may be issued for each day the violation continues.

30 (C) Enforcement. The Enforcement Authority is hereby authorized to
31 undertake the enforcement activities authorized by This Ordinance.

1 (D) Injunctive Relief. As an additional remedy, if any Food Establishment
2 violates the provisions of This Ordinance, the Enforcement Authority may
3 seek injunctive relief in a court of competent jurisdiction.”

4 SECTION 3. Severability Clause. If any section, paragraph, sentence,
5 clause, phrase or word of This Ordinance is for any reason held to be invalid
6 or unenforceable by a court of competent jurisdiction, such decision shall not
7 affect the validity of the remaining provisions of This Ordinance. The Council
8 hereby declares that it would have passed This Ordinance and each section,
9 paragraph, sentence, clause, word or phrase thereof irrespective of any
10 provision being declared unconstitutional or otherwise invalid.

11 SECTION 4. Compilation. Section 2 of This Ordinance shall amend, be
12 incorporated in and made part of the Revised Ordinances of Albuquerque,
13 New Mexico, 1994.

14 SECTION 5. Effective Date. This ordinance shall take effect on August 1,
15 2024 after publication by title and general summary.

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1 PASSED AND ADOPTED THIS 6th DAY OF May, 2024
2 BY A VOTE OF: 8 FOR 1 AGAINST.

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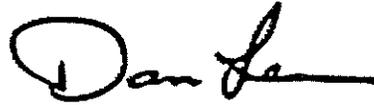
4 For: Baca, Bassan, Champine, Grout, Fiebelkorn, Peña, Rogers, Sanchez
5 Against: Lewis

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Dan Lewis, President

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City Council

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16 APPROVED THIS 17 DAY OF May, 2024

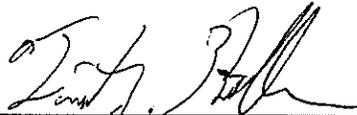
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20 Bill No. F/S O-24-15

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Timothy M. Keller, Mayor

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City of Albuquerque

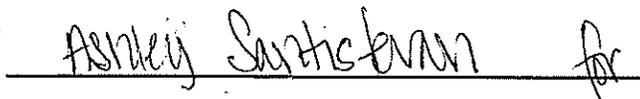
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27 ATTEST:

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Ethan Watson, City Clerk

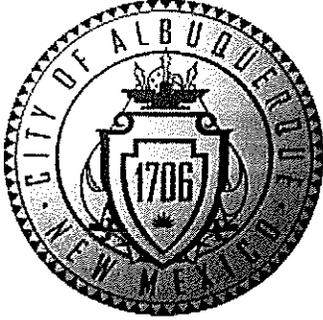
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CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

March 4, 2024

TO: Dan Lewis, President, City Council

FROM: Timothy M. Keller, Mayor 

SUBJECT: Proposed Repeal and Replace of Food Ordinance Suite

The attached legislation is a proposed ordinance, the Food Service and Retail Ordinance. The legislation would repeal the existing suite of food ordinances 9-6-1 through 9-6-8 and replace them with this unified and updated comprehensive ordinance. This legislation will also provide a foundation for adoption of the most current FDA Food Code.

Currently, the Environmental Health Department permits food producers and food service vendors under a set of ordinances that cover different types of food businesses with different permit types and permit requirements. This arrangement is confusing to the regulated community and leads to inconsistent and inefficient regulation for EHD personnel. In addition to streamlining the ordinance language, several revisions are included that would strengthen EHD's ability to provide enforcement of ordinance requirements, ensuring a fair and equitable playing field for regulated businesses.

This ordinance would further clarify what permit types are needed for different situations and would align inspection frequency with the relative risk of each food preparation method and consumer group associated with a business.

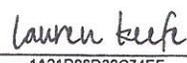
The following improvements are anticipated:

- Adoption of current FDA Food Code and risk-based inspection frequency
- Enhanced enforcement language and mechanisms to ensure consistent and equitable compliance enforcement for all businesses
- Simplification and fee structure and refinement of inspection grading

Approved:


Samantha Sengel, EdD Date
Chief Administrative Officer

Approved as to Legal Form:

DocuSigned by:
 3/8/2024 | 10:47 AM MST
Lauren Keefe Date
City Attorney

Recommended:

DocuSigned by:
 3/8/2024 | 8:41 AM MST
Paul J. Rogers Date
Interim Director, EHD

Cover Analysis

1. What is it?

A proposed new ordinance intended as a repeal-and-replace for existing food safety ordinances 9-6-1 through 9-6-8, to be known as the Food Service & Retail Ordinance

2. What will this piece of legislation do?

This legislation would repeal the existing disparate suite of food safety ordinances, 9-6-1 through 9-6-8, and replace them with a single unified and comprehensive ordinance that would cover all aspects of the repealed sections. The new ordinance would simplify permitting and enforcement and provide a foundation for adoption of the current FDA Food Code. It will also simplify the permit structure and align inspection frequency with the risk-based approach that EHD has adopted

3. Why is this project needed?

This project is needed to adopt a newer Food Code (The City of Albuquerque currently follows the 2009 FDA Food Code; the current version is 2022). It is also needed to unify and simplify the existing ordinances to provide more consistent and equitable enforcement, and to align the ordinance with current best practices followed by EHD

4. How much will it cost and what is the funding source?

No new costs are anticipated as a direct result of this legislation, as it is a replacement of existing ordinances

5. Is there a revenue source associated with this contract? If so, what level of income is projected?

A variety of permit fees, which vary with the permit type, will provide revenue. This is consistent with the current ordinance, and revenue will continue to be derived from fees as in the past

6. What will happen if the project is not approved?

The food permitting and inspection would remain as it is currently. This would mean that food safety regulation will be inconsistent in Albuquerque compared to Bernalillo County and the rest of the state. Enforcement pitfalls in the current ordinance would continue to exist, and inspection frequency would not be aligned with best practices followed by EHD

7. Is this service already provided by another entity?

Food safety regulation is already provided by EHD, this will simply update and enhance the ordinance language the Department relies on

Appendix A

2024 Rules of the Albuquerque Food Service and Retail Ordinance



Environmental Health Department

1 Civic Plaza NW Room 3023

Albuquerque, NM 87102

4/11/2024

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5 **Part 1. Authority**

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

9 (B) In the event that these rules are in conflict with the provisions of the FSO,
10 the provisions of the FSO shall prevail.
11

12 **Part 2. Definitions**

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

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

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

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

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

24 ADULTERATED. The condition of a Food if:

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

1 (B) If it bears or contains any added poisonous or deleterious substance, for
2 which no safe tolerance has been established by regulations, or in excess
3 of such tolerance if one has been established, except that an Edible
4 Cannabis Product manufactured, labeled, and distributed by a cannabis
5 Food Establishment in compliance with the Cannabis Regulation Act,
6 Chapter 26, Article 2C NMSA 1978 shall not be considered Adulterated
7 solely on the basis of its cannabis content;

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

10 (D) If it has been produced, processed, prepared, packed or held under
11 unsanitary conditions, whereby it may have become contaminated with
12 filth, or whereby it may have been rendered diseased, unwholesome or
13 injurious to health;

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

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

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

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

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

1 BED AND BREAKFAST. An overnight lodging facility with no more than eight
2 (8) guest rooms that are rented at market rates and breakfast is served, or
3 as defined in Chapter 14, Article 16 section 7-1 of the Integrated Development
4 Ordinance.

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

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

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

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

22 CITY. The City of Albuquerque.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (B) FOOD ESTABLISHMENT does not include:

24 (1) Any place where Food is produced, sold, distributed, or prepared and
25 exempt from regulation pursuant to the Homemade Food Act, Chapter
26 25, Article 12 NMSA 1978;

27 (2) A kitchen in a private home;

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

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

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

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

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

16 FOOD ESTABLISHMENT CLASS C PERMIT. A Permit that includes the provision
17 of prePackaged Foods, Food requiring Limited Preparation, and Food requiring
18 Advanced Preparation.

19 FOOD ESTABLISHMENT CLASS D PERMIT. A Permit that includes the provision
20 of prePackaged Foods, Food requiring Limited Preparation, Food requiring
21 Advanced Preparation, and Food requiring Special Processes during
22 preparation.

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

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

1 FOOD PROCESSING ESTABLISHMENT. A Food Establishment that
2 manufactures, packages, repackages, or labels Food for human consumption,
3 including storage of Food manufactured by the Food Establishment and
4 distribution of Food for wholesale.

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

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

14 FOOD PROCESSING ESTABLISHMENT CLASS B PERMIT. A Permit issued to a
15 Food Processing Establishment that manufactures Food using Limited
16 Preparation only.

17 FOOD PROCESSING ESTABLISHMENT CLASS C PERMIT. A Permit issued to a
18 Food Processing Establishment that manufactures Food using Advanced
19 Preparation.

20 FOOD PROCESSING ESTABLISHMENT CLASS D PERMIT. A Permit issued to a
21 Food Processing Establishment that manufactures Food using Special
22 Processes.

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

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

4 INFESTATION. The presence of any insects, rodents, or other pests which is
5 indicated by the observation of living or dead pests, rodent or other pest
6 nesting materials, fecal material, insect casings, eggs, or egg casings on Food
7 contact surfaces, Food storage or preparation area, to such extent that it
8 indicates an active presence of pests and constitutes an Imminent Health
9 Hazard.

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

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

15 MARKET COORDINATOR. Any Person responsible for the organization and
16 supervision of a Market.

17 MARKET FOOD ESTABLISHMENT. A specific type of Food Establishment that
18 operates at a Market.

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

21 MOBILE FOOD ESTABLISHMENT. A specific type of Food Establishment that is
22 vehicle mounted, self-contained, and designed to be readily movable from
23 location to location. MOBILE FOOD ESTABLISHMENT includes push carts,
24 trailers, and smokers.

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

- 1 PRIMARY PERMIT. The Permit issued that represents the main function of the
2 Food Establishment.
- 3 PRIORITY VIOLATION. A violation of a priority item as defined in the Food
4 Code or as otherwise prescribed in these rules.
- 5 PRIORITY FOUNDATION VIOLATION. A violation of a priority foundation item
6 as defined in the Food Code or as otherwise prescribed in these rules.
- 7 PRIVATE EVENT. An event where Food is distributed and whose participants
8 are limited to invited guests.
- 9 PULL DATE. The end of the last day on which a product is to be sold or offered
10 for human consumption.
- 11 RAW MILK. Any milk which is not pasteurized or has not been treated or
12 manipulated in any manner to destroy pathogens.
- 13 RAW MILK PRODUCT. Any of the following products which have been derived
14 from Raw Milk and have not been treated or manipulated in any manner to
15 destroy pathogens: cream, flavored milk, and half and half.
- 16 RAW MILK PERMIT. A Valid Permit issued by the Enforcement Authority which
17 allows a Person to Vend Raw Milk or a Raw Milk Product and includes the
18 following types of permits:
- 19 (A) Retail Food Establishment Raw Milk Permit: allows the Permit Holder of a
20 Retail Food Establishment Permit Class 4, 5, or 6 to Vend and distribute
21 Raw Milk and Raw Milk Product from the Retail Food Establishment Permit
22 Class 4, 5, or 6 location.
- 23 (B) Market Food Establishment Raw Milk Permit: a specific type of Market
24 Food Establishment Permit that allows a Person to Vend Raw Milk and
25 Raw Milk Product at any Market.

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

4 REINSPECTION. One or more inspections conducted subsequent to an
5 inspection that resulted in a Grade of Unsatisfactory or Closed due to
6 noncompliance with the Food Code, the FSO, or other laws, specifically to
7 determine whether compliance with such regulations has been achieved.

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

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

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

20 RETAIL FOOD ESTABLISHMENT CANNABIS PLUS. A type of Retail Food
21 Establishment, which is also a cannabis establishment with a cannabis
22 consumption area, both licensed under the Cannabis Regulation Act, Chapter
23 26, Article 2C NMSA 1978, where Edible Cannabis Finished Products are
24 offered for sale, donated, or distributed for either off-the-premise
25 consumption or in a cannabis consumption area. The term also includes the
26 place where Edible Cannabis Finished products are stored.

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

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

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

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

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

18 RETAIL FOOD ESTABLISHMENT CLASS 6 PERMIT. A Retail Food Establishment
19 Permit that includes the provision of prePackaged Foods, raw produce, Food
20 requiring Limited Preparation, Food requiring Advanced Preparation, and Food
21 requiring Special Processes during preparation.

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

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

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

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

5 SAFETY PLAN. The primary document in a preventive Food safety system that
6 provides a systematic approach to the identification of Food safety hazards
7 that must be controlled to prevent or minimize the likelihood of foodborne
8 illness or injury during storage, processing, Packaging, rePackaging, or
9 preparation of Food for human consumption.

10 SEALED. Free of cracks or other openings that may allow the entry or passage
11 of moisture.

12 SECONDARY PERMIT. Any Food Permit issued as an addition to a Food
13 Establishment with a Primary Permit.

14 SELF-SERVICE FOOD ESTABLISHMENT. A specific and limited type of
15 unattended Food Establishment that offers prePackaged Food for customer
16 self-service.

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

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

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

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

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

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

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

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

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

19 VENDING MACHINE CLASS A REGISTRATION. A Vending Machine restricted to
20 non-TCS prePackaged Food.

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

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

25 WAREHOUSE CANNABIS. A specific, limited type of Food Establishment which
26 is a cannabis establishment licensed under the Cannabis Regulation Act,

1 Chapter 26, Article 2C NMSA 1978, where Edible Cannabis Product is stored
2 and distributed to other Food Establishments Cannabis.

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

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

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

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

10 (2) 7.6.2.12 NMAC;

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

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

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

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

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

19 (D) When a conflict exists in a specific requirement between applicable
20 sections of the Food Code and the Albuquerque Food Service and Retail
21 Ordinance or these Rules, the Albuquerque Food Service and Retail
22 Ordinance and the Rules shall control.

23

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

1 (A) An Applicant seeking a Permit shall submit a signed pre-inspection
2 application, a copy of the Food Establishment's business registration, and
3 a copy of the Food Establishment's State of New Mexico Taxation and
4 Revenue Department registration certificate to the Enforcement Authority.
5 The pre-inspection application shall be submitted to the Enforcement
6 Authority at least five working days prior to the commencement of
7 operations.

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

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

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

27 (1) The name, Address Of Record, telephone number, and e-mail address

1 of the proposed Permit Holder, and designated agent if different from
2 the owner.

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

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

7 (c) A list of any Valid Food Establishment Permits held by the
8 Applicant, or a disclosure of any Food Establishment Permits
9 previously held by the Food Establishment owner designated
10 agent or Applicant within the last three years.

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

13 (e) A copy of the current Commissary agreement, when the
14 Commissary is not owned and operated by the Applicant, that
15 includes the following:

16 (i) A list of all services provided to the Applicant by the
17 Commissary;

18 (ii) Identification of the name, title, mailing address, telephone
19 number, and e-mail address of the Commissary and Food
20 Establishment; and

21 (iii) A statement signed by the Applicant and Commissary owner
22 that attests to the accuracy of the information provided and
23 affirms that the Applicant will visit the Commissary on every
24 day of operations.

25 (C) Corrections. Incomplete pre-inspection applications will not be

1 considered. Incomplete pre-inspection applications will be returned to the
2 Applicant with a list of missing information. The Enforcement Authority's
3 determination that an application is incomplete does not constitute a denial
4 of the pre-inspection application.

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

6 (A) The Enforcement Authority shall perform a pre-opening inspection of each
7 Food Establishment seeking a Permit except in the following situations:

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

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

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

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

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

24 (2) Upon receipt of payment for all applicable fees, the Enforcement
25 Authority shall issue a Permit and the Food Establishment's Grade

1 sticker.

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

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

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

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

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

24 (D) An Applicant for a Temporary Food Establishment or Market Food
25 Establishment Permit shall remit payment for the Permit prior to the
26 commencement of operations or within fourteen (14) calendar days of

1 Permit approval, whichever occurs first.

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

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

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

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

9 (1) Market Food Establishment permits issued on or before April 1 are
10 through March 31. Market Food Establishment permits issued after April
11 1 are Valid from the date of issuance through March 31.

12 **Part 8. Permit Renewal.**

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

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

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

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

23 (B) The Enforcement Authority shall provide a notice and invoice for the
24 amount due at least thirty (30) days prior to the Expiration Date. The

1 Permit Holder is required to renew their Permit(s) regardless of whether
2 the Enforcement Authority issues this notice.

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

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

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

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

16 **Part 9. Fees.**

17 (A) Permit fees are non-refundable.

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

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

24 (2) The proration of fees shall be calculated on a monthly basis and
25 permits issued after the 15th of the current month will not be assessed
26 the monthly fee for that month.

- 1 (3) No Temporary Food Establishment Permit or Market Food
2 Establishment Permit is Valid until all Permit fees are received by the
3 Enforcement Authority.
- 4 (4) In the case where there is, under single ownership or management,
5 more than one Food Establishment or more than one place within a
6 Food Establishment where Food is prepared and served within a single
7 building or structure, and separate inspections are required, as
8 determined by the Enforcement Authority based on the Food
9 Establishment's ability to meet the conditions of these Rules and the
10 FSO independent of the Primary Permit, each such Food Establishment
11 or place shall pay a separate annual fee. The Food Establishment or
12 place that represents the main function of the Food Establishment shall
13 be considered the Primary Permit for the purposes of determining fees;
14 all other permits shall be considered Secondary except that:
- 15 (a) A Food Processing Establishment may only be a Primary or
16 Secondary Permit to another Food Processing Establishment Permit;
- 17 (b) A Food Establishment may only be a Primary or Secondary Permit
18 to another Food Establishment Permit;
- 19 (c) A Retail Food Establishment may only be a Primary or Secondary
20 Permit to another Retail Food Establishment Permit;
- 21 (d) In no case shall a Food Processing Establishment Cannabis Permit
22 be considered as a Primary or Secondary Permit for the purposes of
23 calculating inspection fees for a Food Processing Establishment;
- 24 (e) In no case shall a Food Establishment Cannabis Permit be considered
25 as a Primary or Secondary Permit for the purposes of calculating
26 inspection fees for Food Establishment permits;

1 (f) In no case shall a Retail Food Establishment Cannabis be considered
2 as a Primary or Secondary Permit for the purposes of calculating
3 inspection fees for Retail Food Establishments;

4 (g) In no case shall a Warehouse Cannabis be considered as a Primary
5 or Secondary Permit for the purposes of calculating inspection fees
6 for Food Establishments;

7 (h) In no case shall a Retail Food Establishments Cannabis Plus Permit
8 be considered as a Primary or Secondary Permit for the purpose of
9 calculating inspection fees for Food Establishments; and

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

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

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

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

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

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

1 (4) Food Establishments that include Advanced Preparation of Food and
2 where the primary population served is highly susceptible, Self-Service
3 Food Establishments that offer TCS Foods, or Food Establishments that
4 include Special Processes shall be risk category 4 and shall receive and
5 pass an inspection at least once every four (4) months.

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

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

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

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

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

26 (3) UNSATISFACTORY. A Food Establishment that meets minimum
27 standards in the Food Code, the FSO, other industry standards, and

1 other laws by receiving an inspection score between sixty-five (65) and
2 seventy-four (74) points, having any 3 or more priority violations out
3 of compliance during a single inspection, or any Priority Violation,
4 Priority Foundation Violation, or Core Violation being out of compliance
5 on a repeated basis within the last thirty-six (36) months as determined
6 by the Enforcement Authority will receive a Grade of Unsatisfactory but
7 is allowed to continue Food operations while following any Corrective
8 Actions issued by the Enforcement Authority.

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

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

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

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

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

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

4 (1) The Enforcement Authority shall deduct six (6) points from the total
5 score for each Priority Violation;

6 (2) The Enforcement Authority shall deduct three (3) points from the total
7 score for each Priority Foundation Violation; and

8 (3) The Enforcement Authority shall not deduct points from the total score
9 but shall mark each Core Violation as out of compliance.

10 (B) Food Establishments shall be provided a score during each inspection
11 based on the scoring rubric.

12 (C) Scoring Rubric. If multiple violations apply to the same infraction, only the
13 highest violation score will apply.

14 **Part 13. Corrective Actions.**

15 (A) A Food Establishment shall provide evidence of compliance with
16 Corrective Actions through the submission of work orders, photographs,
17 receipts, and/or reinspection. When compliance with Corrective Actions
18 cannot be verified through the presentation of documentary evidence
19 alone, the Enforcement Authority shall perform a reinspection of the Food
20 Establishment within the timeframe provided. When the reinspection does
21 not result in a Grade of Approved or Conditional Approved, any
22 subsequent reinspection required to verify compliance with the Corrective
23 Actions may be assessed a fee as specified in Appendix D. Fees are due
24 at the time the request for reinspection is made.

25 (B) The Enforcement Authority may grant an extension of the Corrective
26 Action timeframe when the Permit Holder can demonstrate reasonable
27 efforts to comply with the Corrective Actions. In order to be granted an

1 extension, the Permit Holder shall request an extension of the Corrective
2 Action timeframe in writing. The Enforcement Authority shall review the
3 request and provide a written determination approving or denying the
4 request. If the request for extension is approved the Enforcement
5 Authority shall provide a written addendum with a new timeframe.

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

9 (D) Infestation Corrective Actions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (a) Upon presentation of sufficient evidence that the condemned Utensil
26 or Food equipment has been brought into compliance with
27 requirements of these rules, the Food Code, or the FSO, the
28 Enforcement Authority shall remove the "condemned" label and

1 allow the Utensil or Food equipment to be used for Food storage,
2 preparation, handling, or serving.

3 (C) Removal of Seal. An "embargoed" or "condemned" label, tag, or seal,
4 having once been affixed by the Enforcement Authority to Food or
5 equipment, shall be removed only by the Enforcement Authority except as
6 otherwise provided by law.

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

8 (A) All Food Establishments shall have at least one Certified Food Protection
9 Manager.

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

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

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

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

1 (5) A Food Establishment that has an employee that is certified by a food
2 protection manager certification program, evaluated and listed by a
3 Conference for Food Protection-recognized accrediting agency as
4 conforming to the conference for food protection standards for
5 accreditation of food protection manager certification programs, is
6 deemed to comply with paragraph 2-102.12 of the FDA Food Code.

Commented [A2]: This is very wordy.

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

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

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

Commented [A3]: Check with Kell if county adopted this portion in line with the State as well.

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

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

26 (C) Food handler cards shall be kept by the Food Employee on their Person
27 while working as a Food Employee or volunteer for a Food operation, or a

1 copy shall be kept on file by the current employer and upon request be
2 immediately made available for inspection by the Enforcement Authority.

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

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

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

20 **Part 17. General Sanitation**

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

26 (B) All parts, equipment, and facilities of every Food Establishment, and all

1 vehicles used in transporting Food, shall be kept in a clean, healthful, and
2 sanitary condition, and in compliance with the FSO.

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

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

10 (E) Food Source.

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

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

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

17 (F) Special Processes.

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

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

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

1 (G) Food Protection.

2 (1) TCS Foods shall be kept at Safe Temperatures at all times and Food
3 Establishments shall maintain adequate and contemporaneous
4 temperature logs of TCS Foods while being stored, thawed, cooled,
5 prepared, displayed, dispensed, or transported.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (2) Food Employees shall:

- 1 (a) Wash hands when inadvertently coming into contact with a pet
2 dog. Food Employees are prohibited from touching, petting, or
3 otherwise handling pet dogs.
- 4 (b) Immediately clean up accidents involving pet waste in a manner
5 consistent with FDA Food Code section 2-501.11 and with
6 equipment designated for the cleaning of pet waste. Pet waste
7 shall be disposed of in outdoor covered receptacles.
- 8 (3) Nothing in this section shall be interpreted to prohibit a Food
9 Establishment from excluding any pet dog from a Food Establishment
10 or impacting the rights of service animals.

11 **Part 18. Permit Specific Requirements.**

12 (A) Cannabis Food Establishments.

13 (1) Applicants and Permit Holders for Food Establishment Cannabis, Food
14 Processing Establishment Cannabis, Retail Food Establishment
15 Cannabis, Retail Food Establishment Cannabis Plus, and Warehouse
16 Cannabis Permits shall provide a copy of any license issued to the Food
17 Establishment under the Cannabis Regulation Act, Chapter 26, Article
18 2C NMSA 1978, as part of the pre-inspection application and Permit
19 renewal.

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

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

1 surfaces, and utensils for Food and Edible Cannabis Products are
2 used;

3 (b) A Person washes their hands in a manner consistent with section
4 2-301.12 of the Food Code when alternating between the
5 preparation of Edible Cannabis Products and Food; and

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

9 (B) Catering Food Establishments.

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

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

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

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

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

24 (4) Catering Food Establishment Class C and D Permits require that
25 applicable standard operating procedures, safety plans, and

1 transportation plans be submitted to and Approved by the Enforcement
2 Authority.

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

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

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

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

16 (C) Charitable Food Providers.

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

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

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

1 (4) When Food is being distributed off the premises of a Commercial
2 Kitchen the Person In Charge must be in possession of a Valid
3 Charitable Food Provider Permit.

4 (D) Commissaries.

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

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

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

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

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

26 (6) Any Person operating a Commissary shall maintain and make available

1 for inspection by the Enforcement Authority:

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

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

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

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

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

15 (F) Mobile Food Establishments.

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

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

25 (3) Mobile Food Establishments may submit a request to modify its

1 Commissary from one location to another location within the City by
2 submitting a written request on a form provided by the Enforcement
3 Authority. The Enforcement Authority shall review the request and
4 make a determination within a reasonable time.

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

8 (4) The following acts are prohibited:

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

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

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

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

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

1 school during school hours or school events, and within one hour
2 before school begins or ends. The 900 feet is to be measured by
3 the most direct traveled route from the nearest boundary of the
4 school grounds to the Mobile Food Establishment;

5 (e) Mobile Food Establishments conducting business with the use of
6 amplified sound within 900 feet of a residential street before
7 10:00 a.m. or after sunset;

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

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

15 (5) Parking.

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

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

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

24 (1) Have open rafters over any area where Food is exposed;

25 (2) Have garage type doors that open directly into an area where Food
26 is exposed;

1 (3) Conduct any step of processing in an area where access is granted
2 to the general public.

3 (H) Raw Milk.

4 (1) General Requirements.

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

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

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

17 (2) Food Safety.

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

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

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

28 (d) Except in a private home, a Person in possession of a Raw Milk
29 Permit shall not allow Raw Milk or Raw Milk Product to be served to

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

- 1 (j) Any Person vending Raw Milk and Raw Milk Product at a Market
2 shall:
- 3 (i) Have a placard displayed at the point of sale and any location
4 offering Raw Milk or Raw Milk Product that is easily visible to
5 the public and that conforms to the labeling requirements as
6 specified in 21.34.2.12(C) NMAC; and
- 7 (ii) Transport and store Raw Milk and Raw Milk Product in an on-
8 site powered refrigeration unit at 41°F or lower;
- 9 (iii) Not display Raw Milk or Raw Milk Product outside of the on-
10 site powered refrigeration unit.
- 11 (3) Suspension of Raw Milk Permits. Raw milk Permits may be suspended
12 whenever the Enforcement Authority finds:
- 13 (a) Raw milk or Raw Milk Product vended were not obtained from a Raw
14 Milk distributor in possession of a Valid Permit from the New Mexico
15 Department of Agriculture pursuant to Title 21, Chapter 34, Part 2
16 of the New Mexico Administrative Code;
- 17 (b) Raw milk or Raw Milk Product are offered for human consumption
18 past the Pull Date;
- 19 (c) Raw milk or Raw Milk Product are offered for sale without the proper
20 markings, labels, or signage;
- 21 (d) The Permit Holder has failed to comply with a recall of Raw Milk or
22 Raw Milk Product;
- 23 (e) The Permit Holder has offered for sale Raw Milk or Raw Milk Product
24 that the Permit Holder knows to contain unsafe levels of coliforms
25 or bacterial colonies; or
- 26 (f) The Raw Milk or Raw Milk Product markings, label, or signage contain
27 any misleading statement(s).

1 (I) Self-Service Food Establishments.

2 (1) Self-Service Food Establishments located in a place where no Food
3 Employee is present shall:

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

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

11 (J) Retail Food Establishments.

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

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

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

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

- 1 (2) No Market Coordinator shall allow a Temporary Food Establishment or
2 Market Food Establishment to operate at their Market without a Valid
3 Permit issued by the Enforcement Authority.
- 4 (3) Temporary Food Establishments and Market Food Establishments are
5 subject to inspection each day of operation.
- 6 (4) All Temporary Food Establishments and Market Food Establishments,
7 with the exception of Food Establishments vending only raw, uncut
8 produce, shall operate out of a Commissary and shall report at least
9 once each day of operation to the Commissary for all supplies, cleaning,
10 and servicing operations.
- 11 (5) Temporary Food Establishment Permits are Valid for one location for up
12 to fourteen (14) consecutive days. Temporary Food Establishments
13 shall obtain a Permit for each location, each time the Food
14 Establishment locates or relocates at the same or other location.
- 15 (6) All Temporary Food Establishments and Market Food Establishments,
16 operating on private property shall provide an agreement, signed by
17 the property owner, to the Enforcement Authority when submitting a
18 permit application.
- 19 (7) Market Food Establishment Permits authorize a Market Food Vendor to
20 operate at any Market in the City.
- 21 (8) Food Safety.
- 22 (a) Food must be kept at Safe Temperatures and protected from
23 contamination during transportation of Food from the Commissary
24 to a Temporary Food Establishment or Market Food Establishment.
- 25 (b) Enough potable water shall be available in each Temporary Food
26 Establishment or Market Food Establishment for Food preparation,
27 cleaning and sanitizing utensils and equipment, and handwashing.
- 28 (i) When a conventional handwashing sink is not available or in close

1 proximity to the Temporary Food Establishment or Market Food
2 Establishment, an Approved temporary hand wash station shall
3 be made available and consist of an insulated container that is
4 equipped with a minimum five (5) gallon capacity and a spigot to
5 allow for the continuous flow of water; a wastewater container
6 capable of properly retaining wastewater from the hand wash
7 station; and an adequate supply of hand soap and paper towels.

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

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

21 (d) Food Display and Storage.

22 (i) All Temporary Food Establishment and Market Food
23 Establishment Food displays and preparation areas shall be
24 smooth, durable, and easily cleanable.

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

1 (iii) Temporary Food Establishment and Market Food Establishment
2 Food contact surfaces of equipment shall be protected from
3 contamination by consumers and other contaminating agents.
4 Effective shields for such equipment shall be provided, as
5 necessary, to prevent contamination. Servicing areas shall be
6 provided with overhead protection.

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

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

11 (ii) A Temporary Food Establishment or Market Food Establishment
12 shall not Vend raw animal Food products in any condition other
13 than frozen.

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

19 (f) Prohibited Sales. A Temporary Food Establishment or Market Food
20 Establishment shall not Vend live animals, uncooked seafood,
21 uncooked shellfish, or cannabis products.

22 (L) Vending Machines.

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

26 (a) Each Vending Machine shall display the registration number
27 assigned by the Enforcement Authority and a statement

1 informing the public that the machine is not subject to inspection
2 and include contact information where requests for inspection can
3 be directed.

4 (2) Vending machines located on the premises of a permitted Food
5 Establishment and operated under the control of the Permit Holder are
6 exempt from the requirement to obtain a Permit.

7 (3) Each Applicant and Permit Holder for a Vending Machine Permit or
8 registration shall maintain, and make available for inspection by the
9 Enforcement Authority, a current list of machines by location to be
10 covered by the Permit. The list shall provide the unique identifiers and
11 locations for all machines, frequency of service, type of machine (class
12 A or B), and the permitted Commissary or other Food Establishment
13 from which each machine is serviced.

14 (4) A permanent sign, visible to consumers, showing the Permit number
15 assigned by the Enforcement Authority to the Permit Holder, the Permit
16 Holder's business name, a unique identifier assigned to the machine by
17 the Permit Holder, and a telephone number that consumers may use to
18 contact the Permit Holder, of an Approved size and style, shall be
19 permanently and conspicuously affixed to each Vending Machine.

20 (5) Commissary Required. Every Permit Holder or registrant of a Vending
21 Machine shall designate and use an Approved Commissary for all Food
22 storage. Vending Machine Permit Holders or registrants that operate
23 their own Commissary shall obtain the appropriate Permit for that Food
24 Establishment. Water vending machines do not require a Commissary.

25 (6) Notwithstanding the other provisions of the FSO, a Permit Holder for a
26 Vending Machine may submit a request to modify its Commissary from
27 one location to another location within the City by submitting a written

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

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

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

Appendix B

CITY OF ALBUQUERQUE

Environmental Health Department



2024 FOOD SERVICE & RETAIL ORDINANCE

Personnel and Fee Analysis

CONSUMER HEALTH PROTECTION DIVISION



4/4/2024

Environmental Health - Consumer Health Protection Division

Fiscal Year 2024: Staffing, Fee, and
Revenue Analysis



City of Albuquerque
Environmental Health Department
STRATEGIC SUPPORT DIVISION

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Staffing Analysis

The City of Albuquerque experienced a historically high turnover rate of 18.6 percent in FY 2022, and an elevated turnover rate of 16.0 percent in FY 2023. The turnover rate is calculated as the summation of the termination rate and retirement rate. While the turnover rate remained relatively stable during the pandemic in FY 2020 and FY 2021, turnover increased rapidly in FY 2022 and FY 2023. The average turnover rate during the seven-year period from FY 2017 to FY 2023 was 13.8 percent, and the range varied widely between 11.0 percent and 18.6 percent (Figure 1). This elevated rate can be attributed to a tight labor market in a post-Covid-19 economy, as well as other dynamics such as the work-from-home movement.

The Environmental Health Department (EHD) had a slightly lower Turnover rate of 15.2 percent in FY 2023, but a very high turnover rate of 26.9 percent in FY 2022, when compared to the average for all other city departments (18.6 percent). The average turnover rate during the seven-year period from FY 2019 to FY 2023 was 14.8 percent, and the range varied widely between 7.5 percent and 26.9 percent.

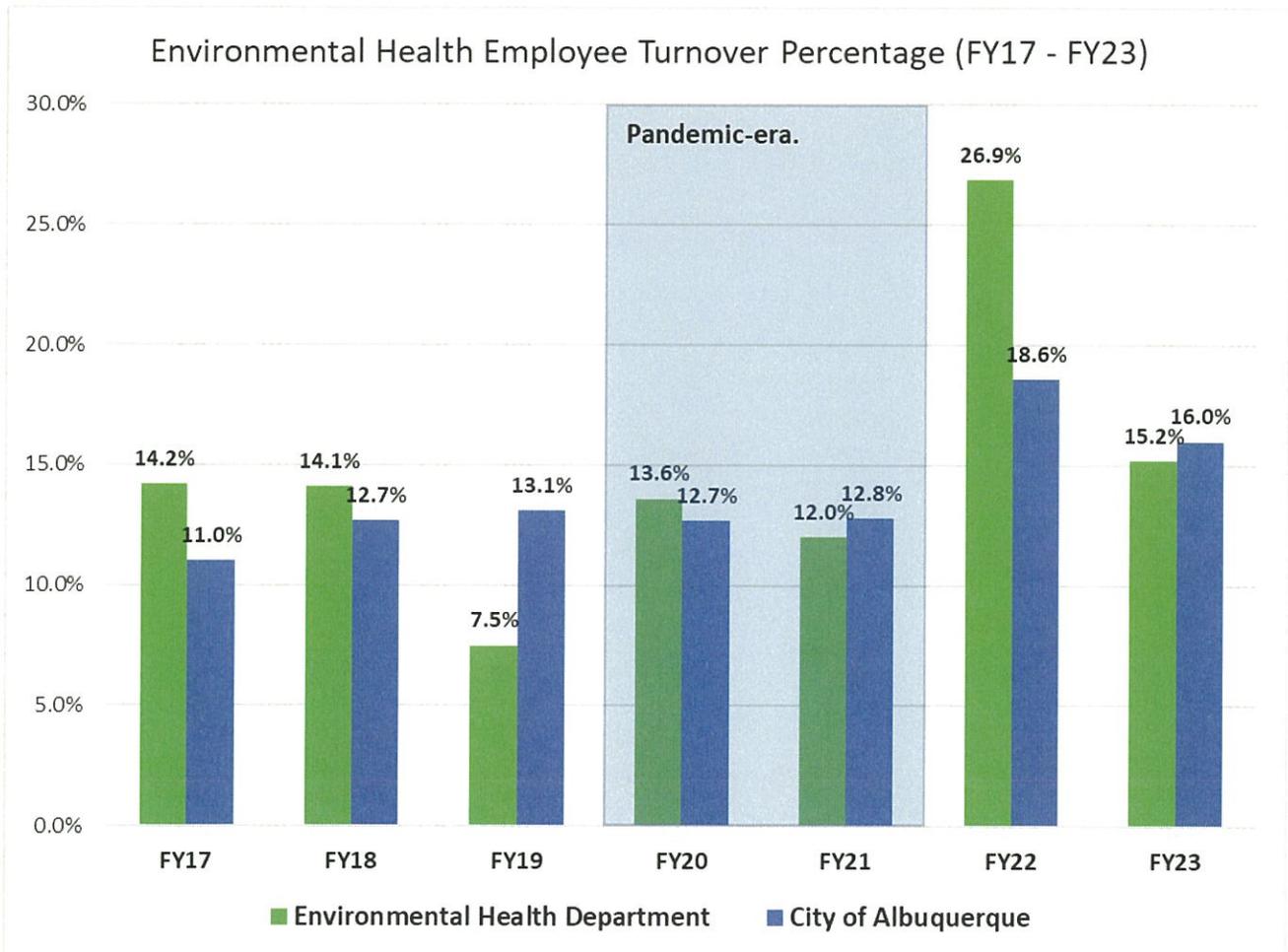


Figure 1: Fiscal Year 2017 – 2023 Employee Turnover percentages at the City of Albuquerque and the Environmental Health Department.

In FY 2023, the City hired 1,030 employees, while there were 704 terminations and 192 retirements. This resulted in a 2.4 percent increase in staffing from 5,545 on July 1st, 2022 to 5,679 on June 30th 2023 (Table 1).

Department	Begin Count	Hires & Rehires	Terminations	Retirements	Transfers In	Transfers Out	End Count	Transfer Rate	Term Rate	Retire Rate	Turnover Rate
City of Albuquerque	5,545	1,030	704	192	518	518	5,679	9.2%	12.5%	3.4%	16.0%

Table 1: Fiscal Year 2023 City of Albuquerque Employee Turnover Statistics.

In FY 2023, EHD hired six employees, while there were eight terminations and two retirements. There were six transfers in and two transfers out of the department. This resulted in no net change in staffing at the beginning and end of the fiscal year, which was 66 (Table 2).

Department	Begin Count	Hires & Rehires	Terminations	Retirements	Transfers In	Transfers Out	End Count	Transfer Rate	Term Rate	Retire Rate	Turnover Rate
Environ. Health	66	6	8	2	6	2	66	3.0%	12.1%	3.0%	15.2%

Table 2: Fiscal Year 2023 Environmental Health Department Employee Turnover Statistics.

Certain divisions within EHD have experienced higher turnover rates; data were analyzed for the five-year period from fiscal year 2019 to 2023, and turnover rates were annualized. During the period, the division with the highest annual average turnover was EPA Title V, at 28.6 percent. Two divisions, Operating Permits (Program 242) and Bio Disease Management, had elevated 20.0 percent turnover rates. The Consumer Health Division had a 15.2 percent turnover rate, on par with the average for EHD (Table 3).

Division	Begin Count	Hires & Rehires	Terminations	Retirements	Transfers In	Transfers Out	End Count	Transfer Rate	Term Rate	Retire Rate	Turnover Rate
EH-Oper Permits Prog 242	6	4	3	1	4	8	2	40.0%	15.0%	5.0%	20.0%
EH-Fugitive Dust Permits	3	-	1	-	1	-	3	0.0%	6.7%	0.0%	6.7%
EH-Veh Pollution Mgmt	8	3	1	1	2	4	7	10.7%	2.7%	2.7%	5.3%
EH-Consumer Health Protect	15	5	8	3	5	-	14	0.0%	11.0%	4.1%	15.2%
EH-EPA Title V	6	6	8	2	6	-	8	0.0%	22.9%	5.7%	28.6%
EH-Bio Disease Mgmt	3	2	3	-	2	1	3	6.7%	20.0%	0.0%	20.0%
EH-Environmental Svcs CIP	5	-	-	1	-	-	4	0.0%	0.0%	4.4%	4.4%
EH-Prog Support	4	3	4	-	5	-	8	0.0%	13.3%	0.0%	13.3%
EH-Sustainability	-	4	-	-	-	-	4	0.0%	0.0%	0.0%	0.0%
EH-Cannabis Services	-	-	-	-	1	-	1	0.0%	0.0%	0.0%	0.0%
EH-Grant Clearing	16	8	8	6	3	1	12	1.4%	11.4%	8.6%	20.0%
Environ. Health	66	35	36	14	29	14	66	4.2%	10.9%	4.2%	15.2%

Table 3: Fiscal Year 2019 – 2023 Environmental Health Division Employee Turnover Statistics. Percentages are annualized.

EHD has experienced a high turnover rate among Environmental Health Specialist IIs across its divisions. During the five-year period from fiscal year 2019 to 2023, the department experience an annual average turnover rate of 19.3 percent. Six EH Specialist II positions were filled through hires and rehires, eight

people terminated from the position, and five people retired from the position. Internal City of Albuquerque transfers were a major source of incumbents for the position. During the period, there were 16 transfers in and 10 transfers out. Even so, the begin count on July 1, 2018 was 14 and the end count on June 30th, 2023 was 13, a net loss of one employee. A primary function of the EH Specialist II position in CHPD is to conduct inspections in the field at the business of permit holders; the work-from-home movement has been at play in labor dynamics for this position (Table 4).

Department	Begin Count	Hires & Rehires	Terminations	Retirements	Transfers In	Transfers Out	End Count	Transfer Rate	Term Rate	Retire Rate	Turnover Rate
Environ. Health Specialist II	14	6	8	5	16	10	13	14.8%	11.9%	7.4%	19.3%

Table 4: Table 3: Fiscal Year 2019 – 2023 Environmental Health Division Employee Turnover Statistics. Percentages are annualized.

In February of 2022, the City’s Office of Internal Audit released Audit 22-105, Environmental Health Inspections, which addresses staffing of Inspectors (EH Specialist IIs) in the EHD Consumer Health Protection Division (CHPD). The audit concluded that not all permit holders were receiving the routine inspections required by their health permit. The audit also notes that CHPD was short-staffed by at least 50 percent. According to the audit:

“In fiscal year 2021, CHPD had 3 full-time equivalent (FTE) inspectors due to vacancies and a challenging recruitment landscape and in fiscal year 2022 additional hires brought staffing back to 8 FTE inspectors. However, the Voluntary National Retail Food Regulatory Program Standards recommend a staffing level of 1 FTE employee devoted to food for every 280-320 inspections performed per year. Given CHPD’s workload and the rate of inspections in the sample, this would equate to 16 to 18 FTE inspectors needed. Thus, the current staffing level of 8 FTE inspectors is significantly below the Voluntary National Retail Food Regulatory Program Standards’ recommended levels.”

In early fiscal year 2024, there were six filled EH Specialist II positions and one vacant, accounting for seven total budgeted positions. There were no filled or vacant EH Specialist I positions. There are two Environmental Health Supervisors and one Environmental Health Manager in the Consumer Health division. To ensure that all permit holders receive the routine inspections required by their health permit, the department would need to hire more personnel. Based on FY24 Salaries and benefit rates, the annual cost of an Environmental Health (EH) Specialist II (Grade ME4) in fiscal year 2024 is approximately \$113,000, and could grow to \$120,700 in fiscal year 2028.

Historical Revenue Analysis

Consumer Health Protection Division (CHPD) revenues were analyzed for the period FY 2017 to FY 2023. A major decline in revenue occurred in FY 2020 and FY 2021 as a result of the Covid-19 pandemic. Specifically, permit fees were refunded to food establishments during this period to mitigate negative impacts of pandemic-related health closures on businesses. Excluding those two years, permit revenues have remained relatively stable, in a range between \$1.63 million and \$1.82 million. From FY 2017 to FY 2023, CHPD revenue grew by an annual rate of about 1.0 percent (Figure 2).

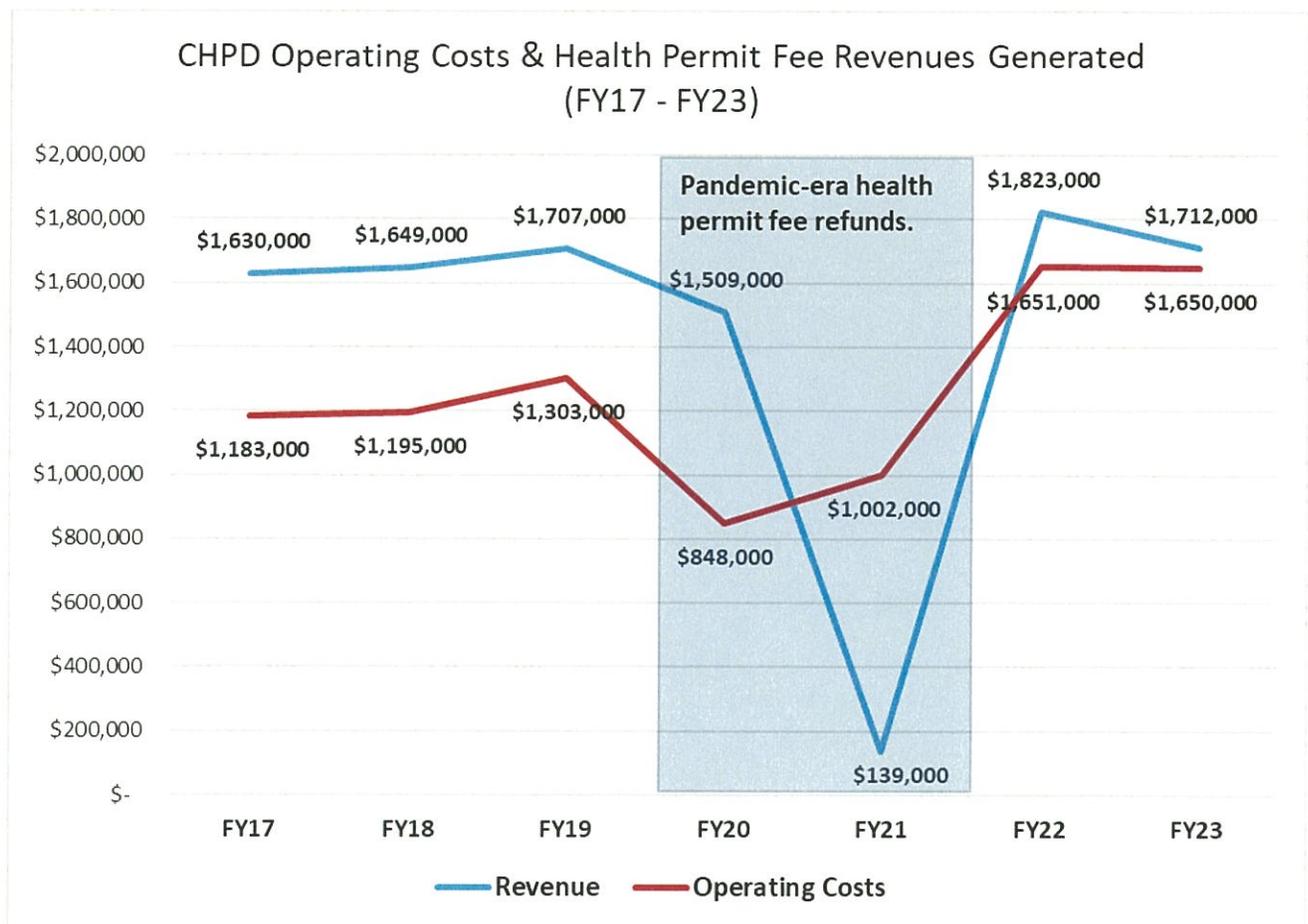


Figure 2: Fiscal Year 2017 – 2023 CHPD Revenue and Operating Costs.

Peer City Fee Comparison

The City of Albuquerque gathered and analyzed consumer health fees from eleven peer cities and counties. Metropolitan Statistical Areas (MSAs) that are approximately the size or larger than Albuquerque were selected. Albuquerque's 2022 City Population of 561,008 was the median for the group of twelve, and slightly smaller than the average of 590,255 for the group. Albuquerque's 2022 MSA population of 919,543 was smaller than both the median of 1,220,819 and average 1,473,898.

Generally, the City's fee structure is less expensive for its permit holders in nearly all categories, when compared to the peer cities group. Average minimum and maximum fees were calculated, and the resulting ranges were compared to the City's ranges. The City currently charges its permit holders a fee, which is calculated as based on the gross sales of the business. In the major categories of Food Service Establishment, Food Processor, and Retail Food, the City's fees ranges are lower. The City of Albuquerque charges \$200 to \$700 for a Food Service Establishment permit, while the average for peer cities is \$382 to \$783. For a Food Processor permit, the City also charges \$200 to \$700, while the peer cities charge \$264 to \$801. The City's fees for Retail Food permits range from \$100 to \$400, compared to an average of \$264 to \$801 in the peer cities group. It is difficult to determine what the actual average fee per permit is for the peer cities, as fee ranges are utilized. Nearly all of the cities and counties in the group utilize a fee calculation based on a multiplier, such as number of seats, square footage, number of employees, or gross sales (gross annual receipts). The conclusion is that the fees ranges charged by the City are somewhat lower, when compared to the peer cities.

The City of Albuquerque charges fixed fees for several of its permits. For these permits, the City's fees are clearly lower, when compared to the average fees charged by its peer cities group. The City's Mobile Unit permit costs \$120, which is significantly lower than the average minimum and maximum range of \$181 to \$360 charged by its peers. The same is true for Commissary/ Institutional Kitchen permits, at \$120, which is much lower than the peer city range of \$307 to \$589. Temporary Food Establishment permits range from \$25 to \$50 at the City, which are much lower than the range of \$75 to \$192 charged by its peers. The same is true for Seasonal Food Establishment permits, which are \$30 to \$50 at the City, but average \$154 to \$196 at the peer cities. Finally, Swimming Pool permits issued by the City are \$180, which is significantly lower than the of range of \$252 to \$496 among the peer cities group (Table 5).

City
County
State

Albuquerque*
Bernalillo
New Mexico

*Bold indicates governing agency (County or City).

City Population (2022) 561,008
MSA Population (2022) 919,543

Average	Median	Minimum	Maximum
590,255	561,008	486,248	694,800
1,473,898	1,220,819	765,424	2,509,489

Fees

		Average	Median	Minimum	Maximum
Application Fee	\$0	\$18	\$0	\$0	\$53
Re-inspection fee**	\$0	\$106	\$110	\$0	\$205
Food Service Establishment [minimum]	\$200	\$382	\$303	\$178	\$730
Food Service Establishment [maximum]	\$700	\$783	\$748	\$425	\$1,160
Food Service Establishment [calculation]	0.003 x GAR***				
Food Processor [minimum]	\$200	\$274	\$213	\$160	\$530
Food Processor [maximum]	\$700	\$849	\$700	\$160	\$2,376
Retail Food [minimum]	\$100	\$264	\$243	\$100	\$585
Retail Food [maximum]	\$400	\$801	\$755	\$200	\$1,328
Retail Food [calculation]	0.002 x GAR***				
Secondary Retail/ Bakery/ Delicatessen, Meat, Seafood [minimum]	\$100	\$296	\$200	\$100	\$530
Secondary Retail/ Bakery/ Delicatessen, Meat, Seafood [maximum]	\$400	\$749	\$400	\$200	\$2,376
Bars/Taverns [minimum]	\$200	\$225	\$200	\$100	\$394
Bars/Taverns [maximum]	\$700	\$325	\$268	\$100	\$700
Mobile Unit -Self Contained [minimum]	\$120	\$254	\$235	\$120	\$540
Mobile Unit -Self Contained [maximum]	\$120	\$360	\$368	\$120	\$608
Mobile Unit (Non-self-contained) or Pushcart [minimum]	\$120	\$181	\$167	\$58	\$405
Mobile Unit (Non-self-contained) or Pushcart [maximum]	\$120	\$224	\$167	\$70	\$540
Raw Food Vending Stand	\$15	\$33	\$33	\$15	\$50
Commissary/ Institutional Kitchen, Limited Menu [minimum]	\$120	\$307	\$288	\$120	\$475
Commissary/ Institutional Kitchen, Limited Menu [maximum]	\$120	\$589	\$540	\$120	\$1,187
New Filtered Water Vendors		\$100	\$100	\$100	\$100
Renewal - Filtered Water Vendors		\$25	\$25	\$25	\$25
Temporary Food Establishment [minimum]	\$25	\$75	\$60	\$25	\$166
Temporary Food Establishment [maximum]	\$50	\$192	\$160	\$30	\$415
Seasonal Food Establishment [minimum]	\$30	\$154	\$143	\$30	\$310
Seasonal Food Establishment [maximum]	\$50	\$196	\$163	\$50	\$415
Charitable, Exempt, County/City-owned, Food Bank, etc. [minimum]	\$0	\$38	\$0	\$0	\$146
Charitable, Exempt, County/City-owned, Food Bank, etc. [maximum]	\$120	\$48	\$30	\$0	\$125
Vending Machine [minimum]	\$15	\$102	\$30	\$15	\$260
Vending Machine [maximum]	\$15	\$190	\$30	\$15	\$525
Pools [minimum]	\$180	\$252	\$239	\$75	\$525
Pools [maximum]	\$180	\$496	\$323	\$75	\$1,380
Noise	\$0	\$88	\$88	\$0	\$175
Variance Application	\$0	\$57	\$50	\$0	\$120

Source I. - Website

Source II. - Fees

Source III. - Pools

Notes:

**Compulsory inspections only, not inspections requested by permit holder.

***GAR (Gross Annual Receipt)

Table 5: City of Albuquerque Consumer Health Peer City Fee Comparison - Medians, Averages, Minimums, and Maximums.

Appendix A: Peer City Fees

City	Albuquerque*	*Bold indicates governing agency (County or City).			
County	Bernalillo				
State	New Mexico				
City Population (2022)	561,008	Average	Median	Minimum	Maximum
MSA Population (2022)	919,543	590,255	561,008	486,248	694,800
		1,473,898	1,220,819	765,424	2,509,489

Fees		Average	Median	Minimum	Maximum
Application Fee	\$0	\$18	\$0	\$0	\$53
Re-inspection fee**	\$0	\$106	\$110	\$0	\$205
Food Service Establishment [minimum]	\$200	\$382	\$303	\$178	\$730
Food Service Establishment [maximum]	\$700	\$783	\$748	\$425	\$1,160
Food Service Establishment [calculation]	0.003 x GAR***				
Food Processor [minimum]	\$200	\$274	\$213	\$160	\$530
Food Processor [maximum]	\$700	\$849	\$700	\$160	\$2,376
Retail Food [minimum]	\$100	\$264	\$243	\$100	\$585
Retail Food [maximum]	\$400	\$801	\$755	\$200	\$1,328
Retail Food [calculation]	0.002 x GAR***				
Secondary Retail/ Bakery/ Delicatessen, Meat, Seafood [minimum]	\$100	\$296	\$200	\$100	\$530
Secondary Retail/ Bakery/ Delicatessen, Meat, Seafood [maximum]	\$400	\$749	\$400	\$200	\$2,376
Bars/Taverns [minimum]	\$200	\$225	\$200	\$100	\$394
Bars/Taverns [maximum]	\$700	\$325	\$268	\$100	\$700
Mobile Unit -Self Contained [minimum]	\$120	\$254	\$235	\$120	\$540
Mobile Unit -Self Contained [maximum]	\$120	\$360	\$368	\$120	\$608
Mobile Unit (Non-self-contained) or Pushcart [minimum]	\$120	\$181	\$167	\$58	\$405
Mobile Unit (Non-self-contained) or Pushcart [maximum]	\$120	\$224	\$167	\$70	\$540
Raw Food Vending Stand	\$15	\$33	\$33	\$15	\$50
Commissary/ Institutional Kitchen, Limited Menu [minimum]	\$120	\$307	\$288	\$120	\$475
Commissary/ Institutional Kitchen, Limited Menu [maximum]	\$120	\$589	\$540	\$120	\$1,187
New Filtered Water Vendors		\$100	\$100	\$100	\$100
Renewal - Filtered Water Vendors		\$25	\$25	\$25	\$25
Temporary Food Establishment [minimum]	\$25	\$75	\$60	\$25	\$166
Temporary Food Establishment [maximum]	\$50	\$192	\$160	\$30	\$415
Seasonal Food Establishment [minimum]	\$30	\$154	\$143	\$30	\$310
Seasonal Food Establishment [maximum]	\$50	\$196	\$163	\$50	\$415
Charitable, Exempt, County/City-owned, Food Bank, etc. [minimum]	\$0	\$38	\$0	\$0	\$146
Charitable, Exempt, County/City-owned, Food Bank, etc. [maximum]	\$120	\$48	\$30	\$0	\$125
Vending Machine [minimum]	\$15	\$102	\$30	\$15	\$260
Vending Machine [maximum]	\$15	\$190	\$30	\$15	\$525
Pools [minimum]	\$180	\$252	\$239	\$75	\$525
Pools [maximum]	\$180	\$496	\$323	\$75	\$1,380
Noise	\$0	\$88	\$88	\$0	\$175
Variance Application	\$0	\$57	\$50	\$0	\$120

Source I. - Website
 Source II. - Fees
 Source III. - Pools

Notes:
 **Compulsory inspections only, not inspections requested by permit holder.
 ***GAR (Gross Annual Receipt)

City	Albuquerque*		Las Vegas	Portland
County	Bernalillo	Bernalillo*	Clark*	Multnomah*
State	New Mexico	New Mexico	Nevada	Oregon
City Population (2022)	561,008	N/A	656,274	635,067
MSA Population (2022)	919,543	919,543	2,322,985	2,509,489

Fees

Application Fee	\$0	\$0		
Re-inspection fee**	\$0	\$0		\$205
Food Service Establishment [minimum]	\$200	\$200	\$597	\$730
Food Service Establishment [maximum]	\$700	\$700	\$801	\$1,160
Food Service Establishment [calculation]	0.003 x GAR***	0.003 x GAR***	Sq. Feet	Seats
Food Processor [minimum]	\$200	\$200	\$530	
Food Processor [maximum]	\$700	\$700	\$2,376	
Retail Food [minimum]	\$100	\$200	\$288	
Retail Food [maximum]	\$400	\$200	\$1,187	
Retail Food [calculation]	0.002 x GAR***	0.003 x GAR***	Sq. Feet	N/A
Secondary Retail/ Bakery/ Delicatessen, Meat, Seafood [minimum]	\$100	\$200	\$530	
Secondary Retail/ Bakery/ Delicatessen, Meat, Seafood [maximum]	\$400	\$200	\$2,376	
Bars/Taverns [minimum]	\$200	\$100	\$268	
Bars/Taverns [maximum]	\$700	\$100	\$268	
Mobile Unit -Self Contained [minimum]	\$120	\$120	\$170	\$540
Mobile Unit -Self Contained [maximum]	\$120	\$120	\$608	\$540
Mobile Unit (Non-self-contained) or Pushcart [minimum]	\$120	\$75		\$405
Mobile Unit (Non-self-contained) or Pushcart [maximum]	\$120	\$75		\$540
Raw Food Vending Stand	\$15	\$50		
Commissary/ Institutional Kitchen, Limited Menu [minimum]	\$120	\$120	\$288	\$475
Commissary/ Institutional Kitchen, Limited Menu [maximum]	\$120	\$120	\$1,187	\$540
New Filtered Water Vendors		\$100		
Renewal - Filtered Water Vendors		\$25		
Temporary Food Establishment [minimum]	\$25	\$30	\$166	\$160
Temporary Food Establishment [maximum]	\$50	\$30	\$251	\$160
Seasonal Food Establishment [minimum]	\$30	\$50	\$127	\$160
Seasonal Food Establishment [maximum]	\$50	\$50	\$381	\$160
Charitable, Exempt, County/City-owned, Food Bank, etc. [minimum]	\$0	\$0		
Charitable, Exempt, County/City-owned, Food Bank, etc. [maximum]	\$120	\$0		
Vending Machine [minimum]	\$15			\$260
Vending Machine [maximum]	\$15			\$525
Pools [minimum]	\$180	\$75	\$525	\$310
Pools [maximum]	\$180	\$75	\$1,380	\$880
Noise	\$0			
Variance Application	\$0	\$50		

Source I. - Website

Source II. - Fees

Source III. - Pools

Notes:

**Compulsory inspections only, not inspections requested by permit holder.

***GAR (Gross Annual Receipt)

City	Fresno	Kansas City	Kansas City*	Tucson
County	Fresno*	Jackson*	Jackson	Pima*
State	California	Missouri	Missouri	Arizona
City Population (2022)	545,567	N/A	509,297	546,574
MSA Population (2022)	1,175,446	2,209,494	2,209,494	1,057,597

Fees

	Fresno	Kansas City	Kansas City*	Tucson
Application Fee				
Re-inspection fee**	\$109	\$110	\$129	\$190
Food Service Establishment [minimum]	\$532	\$260	\$354	\$705
Food Service Establishment [maximum]	\$962	\$795	\$618	\$930
Food Service Establishment [calculation]	Sq. Feet/ Seats	None	Employees	Sq. Feet
Food Processor [minimum]		\$160		\$360
Food Processor [maximum]		\$160		\$590
Retail Food [minimum]	\$585	\$260	\$264	\$345
Retail Food [maximum]	\$1,060	\$795	\$1,328	\$480
Retail Food [calculation]	Sq. Feet	None	Sq. Feet	Sq. Feet
Secondary Retail/ Bakery/ Delicatessen, Meat, Seafood [minimum]	\$505			\$144
Secondary Retail/ Bakery/ Delicatessen, Meat, Seafood [maximum]	\$505			\$264
Bars/Taverns [minimum]	\$394			\$162
Bars/Taverns [maximum]	\$394			\$162
Mobile Unit -Self Contained [minimum]	\$316		\$325	\$315
Mobile Unit -Self Contained [maximum]	\$594		\$325	\$390
Mobile Unit (Non-self-contained) or Pushcart [minimum]	\$70	\$215	\$230	\$58
Mobile Unit (Non-self-contained) or Pushcart [maximum]	\$70	\$215	\$230	\$136
Raw Food Vending Stand				
Commissary/ Institutional Kitchen, Limited Menu [minimum]	\$377	\$260	\$444	\$410
Commissary/ Institutional Kitchen, Limited Menu [maximum]	\$1,123	\$795	\$444	\$705
New Filtered Water Vendors				
Renewal - Filtered Water Vendors				
Temporary Food Establishment [minimum]		\$55	\$59	\$60
Temporary Food Establishment [maximum]		\$55	\$306	\$105
Seasonal Food Establishment [minimum]		\$105	\$230	\$120
Seasonal Food Establishment [maximum]		\$105	\$230	\$165
Charitable, Exempt, County/City-owned, Food Bank, etc. [minimum]		\$0	\$146	\$30
Charitable, Exempt, County/City-owned, Food Bank, etc. [maximum]		\$30		\$60
Vending Machine [minimum]		\$30		
Vending Machine [maximum]		\$30		
Pools [minimum]	\$298	\$160		\$140
Pools [maximum]	\$662	\$160		\$320
Noise				
Variance Application				\$120

Source I. - Website

Source II. - Fees

Source III. - Pools

Notes:

**Compulsory inspections only, not inspections requested by permit holder.

***GAR (Gross Annual Receipt)

City	Salt Lake City	El Paso*	Colorado Springs	Oklahoma City
County	Salt Lake*	El Paso	El Paso*	Oklahoma*
State	Utah	Texas	Colorado	Oklahoma
City Population (2022)	204,657	677,456	486,248	694,800
MSA Population (2022)	1,266,191	872,195	765,424	1,459,380

Fees

	Salt Lake City	El Paso*	Colorado Springs	Oklahoma City
Application Fee		\$53		
Re-inspection fee**	\$130	\$85		
Food Service Establishment [minimum]	\$225	\$178	\$270	\$335
Food Service Establishment [maximum]	\$1,140	\$700	\$465	\$425
Food Service Establishment [calculation]	None	Sq. Feet	Sq. Feet	None
Food Processor [minimum]	\$225	\$178		\$335
Food Processor [maximum]	\$1,140	\$700		\$425
Retail Food [minimum]	\$225	\$178	\$195	
Retail Food [maximum]	\$1,140	\$700	\$715	
Retail Food [calculation]	None	Sq. Feet	Sq. Feet	N/A
Secondary Retail/ Bakery/ Delicatessen, Meat, Seafood [minimum]				
Secondary Retail/ Bakery/ Delicatessen, Meat, Seafood [maximum]				
Bars/Taverns [minimum]				
Bars/Taverns [maximum]				
Mobile Unit -Self Contained [minimum]	\$200	\$167	\$270	
Mobile Unit -Self Contained [maximum]	\$350	\$167	\$385	
Mobile Unit (Non-self-contained) or Pushcart [minimum]	\$290	\$167		
Mobile Unit (Non-self-contained) or Pushcart [maximum]	\$460	\$167		
Raw Food Vending Stand				
Commissary/ Institutional Kitchen, Limited Menu [minimum]	\$270			
Commissary/ Institutional Kitchen, Limited Menu [maximum]	\$270			
New Filtered Water Vendors				
Renewal - Filtered Water Vendors				
Temporary Food Establishment [minimum]	\$70	\$79	\$75	\$50
Temporary Food Establishment [maximum]	\$415	\$158	\$330	\$250
Seasonal Food Establishment [minimum]	\$310	\$158		\$250
Seasonal Food Establishment [maximum]	\$415	\$158		\$250
Charitable, Exempt, County/City-owned, Food Bank, etc. [minimum]		\$0	\$0	\$125
Charitable, Exempt, County/City-owned, Food Bank, etc. [maximum]		\$0	\$0	\$125
Vending Machine [minimum]				
Vending Machine [maximum]				
Pools [minimum]	\$405		\$130	\$300
Pools [maximum]	\$775		\$207	\$325
Noise	\$175			
Variance Application				

Source I. - Website

Source II. - Fees

Source III. - Pools

Notes:

**Compulsory inspections only, not inspections requested by permit holder.

***GAR (Gross Annual Receipt)

Environmental Health Department
Consumer Health Protection Division
Proposed Fee Table

Food Establishment Class A	Prepackaged food only where seating is provided. Example: Some gas stations.
Food Establishment Class B	Limited Preparation of Food where seating is provided. Example: Nutrition shake establishments.
Food Establishment Class C	Advanced Preparation of Food where seating is provided. Example: Most restaurants.
Food Establishment Class D	Preparation of Food includes a special process. Example: Restaurants with sushi.
Food Processing Class A	A facility that only repackages non-time and temperature control for safety foods. Example: repackaging coffee beans from bulk to individual packages.
Food Processing Class B	A facility that manufactures food with limited preparation. Example: adding flavorings to popcorn
Food Processing Class C	A facility that manufactures food using advanced preparation. Example: Bakeries with wholesale, General Mills
Food Processing Class D	A facility that manufactures food using a special process. Example: Juice plants, reduced oxygen packaging, beef jerky
Retail Class 1	Prepackaged foods that are non-time and temperature control for safety, and food is not the primary function of the facility. Example: Old Navy, Home Depot, hotel retailers
Retail Class 2	Prepackaged foods that are non-time and temperature control for safety, and food is the primary function of the facility. Example: Small Markets
Retail Class 3	Prepackaged foods including time and temperature for safety, raw produce, limited preparation foods, and food is not the primary function of the establishment. Example: Gas Stations with hot dogs.
Retail Class 4	Prepackaged foods including time and temperature for safety, raw produce, limited preparation foods, and food is the primary function of the establishment. Example: Grocery stores
Retail Class 5	Prepackaged foods including time and temperature for safety, raw produce, and advanced preparation foods. Example: Grocery store bakery.
Retail Class 6	Prepackaged foods including time and temperature for safety, raw produce, advanced preparation foods, and food requiring a special process. Example: Sushi stands.
Concessions	Will have its own separate fees. \$150-300.
Raw Milk Permits	Add on to retail grocery. \$80
Market Permits	Allows temporary vendors access to multiple markets in the City. \$50.
Temporary Permits	Based on risk from pre-packaged to advanced preparation. \$15-\$50.
Processor Plus	Allows retail of products produced by the processor. \$100
Retail Plus	Allows retailers to have seat for up to 10 persons. \$100
Vending Machines	Based on presence of time and temperature control for safety foods. \$15-\$30.

Standalone Permit Fees		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

Administrative Fees		One Time Fee
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

Primary Permit Fee Table

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

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

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

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

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

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

Secondary Permit Fee Table

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Food Establishment		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

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

Food Retail		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

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

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

Total # of Projected Permits for Each Category/Fee

of Primary Permits

Food Establishment	Risk Category		
	1	2	3
A	182	9	
B		295	77
C			1,694
D			237
Class Code			133
Months between Inspections	18	12	6
	4	4	4

Food Retail	Risk Category		
	1	2	3
1	351		
2	219		
3		114	
4		32	
5		1	13
6			29
Class Code			
Months between Inspections	18	12	6
	4	4	4

Food Processing	Risk Category		
	1	2	3
A		6	
B		53	
C			47
D			104
Class Code			
Months between Inspections	18	12	6
	4	4	4

Commissary	Risk Category		
	1	2	3
1			
2			32
Class Code			
Months between Inspections	18	12	6
	4	4	4

Catering	Risk Category		
	1	2	3
A			
B		38	
C			
D			
Class Code			
Months between Inspections	18	12	6
	4	4	4

of Secondary Permits

Food Establishment	Risk Category		
	1	2	3
A	224		
B		18	3
C			95
D			10
Class Code			
Months between Inspections	18	12	6
	4	4	4

Food Retail	Risk Category		
	1	2	3
1	35		
2	78		
3		6	
4		68	
5		0	64
6			2
Class Code			
Months between Inspections	18	12	6
	4	4	4

Food Processing	Risk Category		
	1	2	3
A		0	
B		0	
C		0	0
D			0
Class Code			
Months between Inspections	18	12	6
	4	4	4

Commissary	Risk Category		
	1	2	3
1			
2			100
Class Code			
Months between Inspections	18	12	6
	4	4	4

Catering	Risk Category		
	1	2	3
A			
B			
C			
D			
Class Code			
Months between Inspections	18	12	6
	4	4	4

Projected Revenue from Primary Permits

Food Establishment		Risk Category			
		1	2	3	4
Class Code		A	36,400	5,400	
		B	206,500	61,600	
		C		1,524,600	237,000
		D			146,300
Months between Inspections		18	12	6	4
					135,200

Food Retail		Risk Category			
		1	2	3	4
Class Code		1	70,200		
		2	87,600		
		3		68,400	
		4		22,400	
		5		800	11,700
		6			29,000
Months between Inspections		18	12	6	4

Food Processing		Risk Category			
		1	2	3	4
Class Code		A		4,200	
		B		47,700	
		C		0	51,700
		D			
Months between Inspections		18	12	6	4

Commissary		Risk Category			
		1	2	3	4
Class Code		1			
		2			25,600
Months between Inspections		18	12	6	4

Catering		Risk Category			
		1	2	3	4
Class Code		A			
		B		30,400	
		C			
		D			
Months between Inspections		18	12	6	4

Projected Revenue from Secondary Permits

Food Establishment	Risk Category			
	1	2	3	4
A	44,800	0		
B		6,300	1,200	
C			42,750	5,000
D				3,300
Months between Inspections	18	12	6	4
103,350				

Food Processing	Risk Category			
	1	2	3	4
A		0		
B		0		
C		0	0	
D				0
Months between Inspections	18	12	6	4

Commissary	Risk Category			
	1	2	3	4
1				
2			40,000	
Months between Inspections	18	12	6	4
78000				

Food Retail	Risk Category			
	1	2	3	4
1	7,000			
2	15,600			
3		1,800		
4		23,800		
5		0	28,800	
6				1,000
Months between Inspections	18	12	6	4

Catering	Risk Category			
	1	2	3	4
A				
B				
C				
D				
Months between Inspections	18	12	6	4

WORK CLASS PERMIT TYPE	RISK	Inspections Required	Current Fee	Comparable Jurisdiction Average	Proposed Primary Fee	Proposed Secondary Fee
Adult Day Care Center RISK - 3	3	2	\$120.00	\$307-589	\$800	\$400
Adult Day Care Center RISK - 4	4	3	\$120.00	\$307-589	\$1,000	\$500
Adult Day Care Home RISK - 3	3	2	\$120.00	\$307-589	\$800	\$400
Adult Day Care Home RISK - 4	4	3	\$120.00	\$307-589	\$1,000	\$500
Assisted Living Center RISK - 3	3	2	\$120.00	\$307-589	\$800	\$400
Assisted Living Center RISK - 4	4	3	\$120.00	\$307-589	\$1,000	\$500
Assisted Living Home RISK - 3	3	2	\$120.00	\$307-589	\$800	\$400
Assisted Living Home RISK - 4	4	3	\$120.00	\$307-589	\$1,000	\$500
Childcare Center RISK - 2	2	1	\$120.00	N/A	\$600	\$300
Childcare Center RISK - 3	3	2	\$120.00	N/A	\$800	\$400
Childcare Center RISK - 4	4	3	\$120.00	N/A	\$1,000	\$500
Family Childcare Home RISK - 2	2	1	\$120.00	N/A	\$600	\$300
Family Childcare Home RISK - 3	3	2	\$120.00	N/A	\$800	\$400
Family Childcare Home RISK - 4	4	3	\$120.00	N/A	\$1,000	\$500

Current Annual Revenue	Proposed Annual Revenue
\$480	\$18,800
\$13,200	\$226,500
\$120	\$0
\$1,680	\$0
\$0	\$0
\$0	\$0
\$0	\$0
\$0	\$0
\$0	\$1,800
\$0	\$0
\$0	\$0
\$0	\$0
\$0	\$0
\$0	\$0

TOTAL \$15,480 \$247,100

WORK CLASS/PERMIT TYPE	RISK	Inspections Required	Current Fee	Comparable Jurisdiction Average	Proposed Primary Fee	Proposed Secondary Fee	Current Annual Revenue	Proposed Annual Revenue
School RISK - 2	2	1	\$120.00	N/A	\$600	\$300	\$720	\$3,900
School RISK - 3	3	2	\$120.00	N/A	\$800	\$400	\$6,600	\$43,600
School RISK - 4	4	3	\$120.00	N/A	\$1,000	\$500	\$1,800	\$15,500

WORK CLASS/PERMIT TYPE	RISK	Inspections Required	Current Fee	Comparable Jurisdiction Average	Proposed Primary Fee	Proposed Secondary Fee	Current Annual Revenue	Proposed Annual Revenue
TOTAL								
Cannabis Food Establishment RISK - 2	2	1	\$200-700	N/A	\$700	N/A	\$700	\$0
Cannabis Food Establishment RISK - 3	3	2	\$200-700	N/A	\$900	N/A	\$700	\$0
Cannabis Food Establishment RISK - 4	4	3	\$200-700	N/A	\$1,100	N/A	\$0	\$0
Cannabis Food Processing Establishment RISK - 2	2	1	\$200-700	N/A	\$700	N/A	\$0	\$700
Cannabis Food Processing Establishment RISK - 2	2	1	\$200-700	N/A	\$900	N/A	\$0	\$12,600
Cannabis Food Processing Establishment RISK - 3	3	2	\$200-700	N/A	\$1,100	N/A	\$0	\$22,000
Cannabis Food Processing Establishment RISK - 4	4	3	\$200-700	N/A	\$1,300	N/A	\$0	\$1,300
Cannabis Retail Food Establishment-Plus RISK - 2	2	1	\$100-400	N/A	N/A	\$100	\$0	\$0

Cannabis Retail Food Establishment RISK - 1	1	1	\$100-400	N/A	\$200	N/A	\$39,160	\$17,400
Cannabis Warehouse RISK - 1	1	1	\$100-400	N/A	\$400	N/A	\$100	\$0

		TOTAL					Current Annual Revenue	Proposed Annual Revenue
WORK CLASS/PERMIT TYPE	RISK	Inspections Required	Current Fee	Comparable Jurisdiction Average	Proposed Primary Fee	Proposed Secondary Fee		
Commissary RISK - 1	1	1	N/A	\$307-589	\$400	\$200	\$0	\$0
Commissary RISK - 2	2	1	N/A	\$307-589	\$600	\$300	\$0	\$0
Commissary RISK - 3	3	2	N/A	\$307-589	\$800	\$400	\$0	\$65,600
Commissary RISK - 4	4	3	N/A	\$307-589	\$1,000	\$500	\$0	\$0
Food Processor Plus RISK - 1	1		N/A	N/A	N/A	\$100	\$0	\$0
Food Processor RISK - 2	2	1	\$200-700	\$274-849	\$700	\$150	\$28,700	\$3,500
Food Processor RISK - 2	2	1	\$200-700	\$274-849	\$900	\$200	\$19,600	\$35,100
Food Processor RISK - 3	3	2	\$200-700	\$274-849	\$1,100	\$550	\$0	\$29,700
Food Processor RISK - 4	4	3	\$200-700	\$274-849	\$1,300	N/A	\$74,200	\$133,900

TOTAL **\$122,500** **\$267,800**

WORK CLASS/PERMIT TYPE	RISK	Inspections Required	Current Fee	Comparable Jurisdiction Average	Proposed Primary Fee	Proposed Secondary Fee	Current Annual Revenue	Proposed Annual Revenue
Food Establishment RISK - 1	1	1	\$200-700	\$382-783	\$200	\$200	\$135,800	\$71,600
Food Establishment RISK - 2	2	1	\$200-700	\$382-783	\$700	\$350	\$208,300	\$205,800
Food Establishment RISK - 3	3	2	\$200-700	\$382-783	\$900	\$450	\$956,000	\$1,264,950
Food Establishment RISK - 4	4	3	\$200-700	\$382-783	\$1,100	\$550	\$38,600	\$149,600
Catering			N/A	N/A	\$800	\$400	\$0	\$30,400
Retail Establishment Plus RISK - 2	2		N/A	N/A	N/A	\$100	\$0	\$0
Retail Food Establishment RISK - 1	1	1	\$100-400	\$264-801	\$200	\$200	\$202,800	\$59,800
Retail Food Establishment RISK - 1	1	1	\$100-400	\$264-801	\$400	\$200	\$0	\$86,000
Retail Food Establishment RISK - 2	2	1	\$100-400	\$264-801	\$600	\$300	\$71,800	\$70,200
Retail Food Establishment RISK - 2	2	1	\$100-400	\$264-801	\$700	\$350	\$0	\$44,100
Retail Food Establishment RISK - 3	3	2	\$100-400	\$264-801	\$900	\$450	\$18,000	\$41,400
Retail Food Establishment RISK - 4	4	3	\$100-400	\$264-801	\$1,000	\$500	\$11,200	\$30,000
Warehouse RISK - 2	2	1	\$100-400	N/A	\$400	\$200	\$18,400	\$17,200
Warehouse RISK - 3	3	2	\$100-400	N/A	\$700	\$350	\$1,200	\$2,100

TOTAL \$1,662,100 \$2,073,150

WORK CLASS/PERMIT TYPE	RISK	Inspections Required	Current Fee	Comparable Jurisdiction Average	Proposed Primary Fee	Proposed Secondary Fee	Current Annual Revenue	Proposed Annual Revenue
Market Food Establishment - Annual	N/A		N/A	N/A	\$50	N/A	\$4,850	\$3,850
Market Food Establishment - Annual Raw Milk	N/A		N/A	N/A	\$50	N/A	\$0	\$0
Market Food Establishment - Late Season	N/A		N/A	N/A	\$30	N/A	\$300	\$120
Market Food Establishment - Late Season - Raw Milk	N/A		N/A	N/A	\$30	N/A	\$0	\$0
Mobile Food Establishment RISK - 1	1	1	\$120.00	\$181-224	\$200	N/A	\$5,400	\$9,600
Mobile Food Establishment RISK - 2	2	1	\$120.00	\$181-224	\$700	N/A	\$960	\$7,000
Mobile Food Establishment RISK - 3	3	2	\$120.00	\$254-360	\$900	N/A	\$42,480	\$302,400
Mobile Food Establishment RISK - 4	4	3	\$120.00	\$254-360	\$1,100	N/A	\$480	\$0
Raw Milk Food Establishment RISK - 4	4	3	\$80.00	N/A	N/A	\$80	\$320	\$400
Temporary Food Establishment RISK - 1	1		\$50.00	\$75-192	\$25	N/A	\$33,300	\$3,200
Temporary Food Establishment RISK - 2	2		\$25.00	\$75-192	\$35	N/A	\$0	\$10,920
Temporary Food Establishment RISK - 3	3		\$25.00	\$75-192	\$50	N/A	\$0	
Temporary Mobile Food Establishment RISK - 3	3		N/A	\$75-192	\$100	N/A	\$0	

TOTAL \$88,090 \$337,490

WORK CLASS/PERMIT TYPE	RISK	Inspections Required	Current Fee	Comparable Jurisdiction Average	Proposed Primary Fee	Proposed Secondary Fee	Current Annual Revenue	Proposed Annual Revenue
Charitable Food Provider RISK - 1, 2, 3, OR 4	1, 2, 3, 4	0	\$0.00	N/A	\$0	\$0	\$0	\$0
Concessions RISK - 1	1	1	N/A	\$154-196	\$150	\$75	\$0	\$0
Concessions RISK - 2	2	1	N/A	\$154-196	\$200	\$200	\$0	\$0
Concessions RISK - 3	3	2	N/A	N/A	\$300	\$200	\$0	\$0
Vending Machine RISK - 1	1	0	\$0.00	\$102-190	\$15	N/A	\$0	\$300
Vending Machine RISK - 3	3	2	\$15.00	\$102-190	\$30	N/A	\$225	\$120
Food bank RISK - 1	N/A	1	\$0.00	N/A	\$0	N/A	\$0	\$0

TOTAL \$225 \$420

**Grand
Total of
All Fees \$1,938,175 \$3,042,960**



APPENDIX C 1 of 2: Primary Permit Fees

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

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

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

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

APPENDIX C 2 of 2: Primary Permit Fees

<u>Catering</u>	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

APPENDIX D 1 of 2: Secondary Permit Fees

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

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

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

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

APPENDIX D 2 of 2: Secondary Permit Fees

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

APPENDIX E: 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

APPENDIX F: Administrative Fees

Fee Description	One Time Fee
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