



## Frozen Dessert (Soft Serve) Program

### Regulation

Any person in a retail food establishment operating a frozen dessert machine is required by Section 20-39 of the Houston Food Ordinance to possess a "frozen desserts retail establishment permit." A frozen dessert machine is any machine that freezes, or partially freezes and dispenses frozen desserts for retail sale and distribution. Examples of frozen dessert mixes normally used in machines include dairy based products, such as ice cream, sherbet, and frozen yogurt. Non-dairy frozen dessert mixes in machines include sorbet, water ices, Italian ice, slush and some frozen coffee beverages.

Retail food establishments are **not** considered frozen dessert retail establishments include those that:

1. Buy bulk solid pack ice cream or yogurt and scoop it from the container, but do not make frozen ice cream or yogurt in a frozen dessert machine.
2. Purchase ice cream or other frozen products in pre-packaged retail containers for re-sale to the public.
3. Provide vending machines that dispense only packaged ice cream, popsicles, and other novelties.
4. Make snow cones or other ice cup novelties from shaved or crushed ice.
5. Freeze or blend alcoholic beverages.

Link to: [Sec. 20-39. - Frozen desserts retail establishments.](#)

### Frozen Dessert Sample Collection

A sanitarian will collect frozen dessert samples from frozen dessert retail establishments and submit the samples for analysis at the Houston Health Department laboratory at a frequency determined by the department. The samples are analyzed for coliforms and standard bacterial count.

The maximum limits for bacteriological standards for frozen desserts and mix set forth in Rule

§217.65 of the Texas Administrative Code, are 40 coliform per milliliter (ml) and 50,000 bacteria per ml (standard plate count.)

Establishments with samples exceeding these limits will receive the laboratory results from the health officer and the unit(s) will be quarantined. This notice will inform management to review cleaning and sanitizing procedures for the machine and to make sure that staff use good hygienic practices when handling the product and cleaning the machine

Results exceeding legal standards will initiate further sampling and enforcement procedures, including the quarantine of the machine and issuance of citations.

## FAQ's

1. Who is required to purchase a frozen desserts retail establishment permit?

- ❖ *If you are an applicant for a food dealer's permit, you must disclose to the health officer during the pre-operational inspection if you plan to use a frozen dessert machine in your food establishment or mobile unit to freeze or partially freeze and dispense frozen desserts for retail sale or distribution. You must make application for a frozen desserts retail establishment permit at the time of inspection.*

2. What if I already have a food dealer's permit and want to install a frozen dessert machine in the near future, how do I apply for a frozen desserts retail establishment permit?

- ❖ *Call 832-393-5100 to request an inspection of the machine. The inspector will issue an invoice and the unit's expiration date will coincide with the Food Dealer's Permit. See the prorated fees below. Pay the indicated fee online at [www.Houstonconsumer.org](http://www.Houstonconsumer.org). The Frozen Dessert Permit will be mailed or you may process the payment in person at the Houston Health Department, 8000 N. Stadium Drive , Environmental Permit Office, 1<sup>st</sup> floor. The offices are open Monday-Friday from 7:30 a.m. to 4:00 p.m. except holidays.*

3. When is a frozen dessert retail establishment permit not required?

- ❖ *If an establishment already has a valid food dealer's permit, no frozen desserts retail establishment permit is needed if the establishment's menu/grocery items include the following:*
  - a) *bulk hard pack ice cream, yogurt or frozen ices that are required to be scooped out of a container.*
  - b) *ice cream or other frozen desserts that are sold in packages.*
  - c) *ice cream or other frozen desserts that sold in packages from vending machines.*
  - d) *snow cones or other ice cup novelties that are made from shaved or crushed ice.*
  - e) *alcoholic beverages that are frozen or blended in machines.*

4. What is the cost of a retail frozen dessert establishment permit?

- ❖ *The fees for a retail frozen dessert's permit for the year 2021 below: ( fees increase annually)*

MONTHS PRORATED	FEE
0-6	\$93.92
7	\$104.62
8	\$115.32
9	\$126.02
10	\$136.72
11	\$147.42
12 (annual)	\$160.51

5. If I lose my retail frozen dessert establishment permit, what is the replacement cost?
  - ❖ *The replacement fee is \$29.32*
6. What is the cost of a nonprofit retail frozen dessert establishment permit?
  - ❖ *The frozen dessert permit fee for a nonprofit organization is \$160.51.*
7. A representative from the Houston Health Department picks up samples from my frozen dessert machine takes them to the laboratory. What is the laboratory testing the samples for ?
  - ❖ *The laboratory is analyzing the samples for coliform and doing a standard plate count for bacteria. The maximum limits for coliform in a sample are 40 coliforms per milliliter. The maximum limits for bacteria are 50,000 bacteria per milliliter.*
8. Will I be informed of the results of the laboratory tests for my frozen dessert samples?
  - ❖ *The health officer will report to the establishment and inform the person-in-charge of the results. At that time the machine(s) will be quarantined.*
9. What should I do if the results exceed the maximum limits for bacteria or coliform?
  - ❖ *Expect that the department sanitarian will quarantine the machine(s). Review the cleaning and sanitizing procedures for your frozen dessert machine. Check the temperature of the mix and the frozen dessert product to insure that internal temperatures are maintained at temperatures below 41°F. Check personnel to make sure that they are washing hands/changing gloves as often as necessary and using other good hygienic practices. Perform disposal/cleaning and sanitizing procedures in accordance to the machine's operational manual. Pay attention to all possible sources of contamination of the product and parts: disassembling/assembling procedures; wash/rinse/sanitizing procedures, utilizing the tools provided specifically for cleaning the machine; transport and product cartons not contaminated, presence of insects on the interior and exterior of the machine. The health officer will return to the establishment when the person-in-charge indicates the procedures are completed. Another sample is taken and submitted to the lab. If the results are negative, the health officer will report to the site and remove the quarantine tag - authorizing use of the machines(s).*

**If you have questions, call 832-393-5100.**



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