

## ORDINANCE NO. 2025-4-2

**An Ordinance of the City of Plano, Texas, repealing Ordinance No. 2018-4-6 and 2019-9-16, codified as Chapter 9, Food Code, of the City of Plano Code of Ordinances, and replacing it with a new Chapter 9, Food Code; establishing a new Plano Food Code based on the U.S. Food and Drug Administration 2022 Food Code, as amended, and the 2022 Texas Food Establishment Rules; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause, and an effective date.**

**WHEREAS**, on April 23, 2018, the City Council of the City of Plano passed Ordinance No. 2018-4-6 and adopted certain revisions per Ordinance No. 2019-9-16 on September 23, 2019, codified as Chapter 9, Food Code, of the City of Plano Code of Ordinances; and

**WHEREAS**, upon review of the existing ordinance, as well as the U.S. Food and Drug Administration (FDA) 2022 Food Code, as amended, and the Texas Food Establishment Rules (TFER) based on the FDA code, and following meetings with citizens interested in matters of food safety and food establishments, staff recommends repealing the existing food code and replacing it with a new ordinance consistent with current state and federal laws in order to protect the public health, safety, and welfare; and

**WHEREAS**, after consideration of the recommendation of staff and all matters attendant and related thereto, the City Council is of the opinion that it is in the best interest of the City and its citizens to repeal Ordinance Nos. 2018-4-6 and 2019-9-16 codified as Chapter 9, Food Code, of the City of Plano Code of Ordinances and replace it with a new Chapter 9, Food Code, of the City of Plano Code of Ordinances.

**NOW THEREFORE, BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Ordinance Nos. 2018-4-6 and 2019-9-16 codified as Chapter 9, Food Code, of the City of Plano Code of Ordinances, are hereby repealed and replaced with a new Chapter 9, Food Code, of the City of Plano Code of Ordinances, to read as follows:

### **“Chapter 9 FOOD CODE**

#### ***ARTICLE I. GENERAL PROVISIONS***

##### **Sec. 9-1. -Title.**

This chapter shall be known and cited as the Food Code for the City of Plano, Texas.

##### **Sec. 9-2. -Construction; governing law; venue.**

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This chapter shall be construed under and in accordance with the laws of the State of Texas and the City Charter and City Code to the extent that such Charter and City Code are not in conflict with or in violation of the Constitution and laws of the United States or the State of Texas. All obligations of the parties hereunder are performable in Collin County and/or Denton County, Texas.

### **Sec. 9-3. -Scope.**

This chapter shall be effective within the geographical limits of the city, including any areas subsequently annexed by the city.

### **Sec. 9-4. -Purpose; objectives; applicability.**

(a) *Purpose.* The provisions of this chapter safeguard the public health, provide food to consumers that is safe, unadulterated, and honestly presented, and establish uniform requirements for food service operations.

(b) *Objectives.* The objectives of this chapter are to provide one set of uniform regulations establishing a system of prevention and overlapping safeguards to minimize foodborne illness; ensure employee health, industry manager knowledge, safe food, nontoxic and cleanable equipment, and acceptable levels of sanitation on food establishment premises; and promote fair dealings with the public.

(c) *Applicability.* The requirements of this chapter apply to any food establishment as defined in 9-5 of this code and operating within the City of Plano.

### **Sec. 9-5. -Definitions.**

*Accredited Program* means a food manager certification program that has been evaluated and listed by the Texas Department of State Health Services ("State") and conforms to standards set by the State.

*Additive* has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(s) and 21 CFR 170.3(e)(1) for "Food Additive" and in the Federal Food, Drug, and Cosmetic Act, § 201(t) and 21 CFR 70.3(f) for "Color Additive."

*Administrative fee* means the permit processing and inspection fee(s).

*Adulterated food* means a food deemed to be adulterated as specified in the Texas Health and Safety Code, §431.081.

*Approved* means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect

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public health and documented in writing if not otherwise stated in this Code or State or Federal law.

*Arm's length transaction* means a sale of a business for consideration that reflects the fair market value of such business or its assets between two informed and willing parties that are not made, wholly or in part, for the purpose of enabling the seller to avoid liability for violations issued by the Department. A sale shall be presumed not to be an arm's length transaction if it is:

(1) A sale to an individual, or to a corporation or other business that is owned by the spouse, domestic partner, parent, grandparent, child, or stepchild of any of any of the sellers, or is the direct descendent of a grandparent, the spouse or domestic partner of any of the sellers;

(2) A sale to an individual or entity that has a business or financial interest in the seller; or

(3) A sale to an entity in which any of the sellers has a business or financial relationship in the entity.

*Asymptomatic* means without obvious symptoms; not showing or producing indications of a disease or other medical condition, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice. This includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

$a_w$  means water activity which is a measure of the free moisture in a FOOD, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol  $a_w$ .

*Balut* means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

*Bed and breakfast extended* means an establishment with more than seven rooms for rent or an establishment that provides food service other than breakfast to overnight guests.

*Bed and breakfast food establishment* means a bed and breakfast that provides food service to customers in addition to its overnight guests.

*Bed and breakfast limited* means an establishment that has seven or fewer rooms for rent, serves breakfast to overnight guests, and is not a retail food establishment.

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*Beverage* means a liquid for drinking, including water.

*Bottled drinking water* means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

*Casing* means a tubular container for sausage products made of either natural or artificial (synthetic) material.

*Central preparation facility* means an approved and permitted facility or space where food is prepared, stored, and packaged.

*Certification number* means the unique identification number issued by the Shellfish Control Authority to each dealer for each location. Each certification number shall consist to a one-to-five-digit Arabic number preceded by the two letter State abbreviation and followed by a two-letter abbreviation for the type of activity or activities the dealer is qualified to perform in accordance with this provision of the National Shellfish Sanitation Program using the terms in the following tables:

**Table A. Certifications**

Acronym	Term
SP	Shucker Packer
RP	Repacker
SS	Shellstock Shipper
RS	Reshipper
DP	Depuration

**Table B. Permits**

Acronym	Term
PHP	Post-Harvest Processing
AQ	Aquaculture
WS	Wet Storage

*CIP* means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and SANITIZING solution onto or over EQUIPMENT surfaces that require cleaning, such as the method used, in part, to clean and SANITIZE a frozen dessert machine. It does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

*Code* means Chapter 9, the Food Code, of the Code of Ordinances of the City of Plano, Texas.

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*Code of Federal Regulations (CFR)* means any citation to the CFR sequentially to Title, Part, and Section numbers, such as 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

*Commingle* means the act of combining different lots of shellfish.

*Comminuted* means reduced in size by methods including chopping, flaking, grinding, or mincing, including fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage, and a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

*Common carrier* means an individual or business that advertises to the public that it is available for hire to transport people or property, including food, in exchange for a fee.

*Compliance inspection* means a required additional inspection as a result of non-compliance observed during an initial or routine inspection.

*Conditional employee* means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.

*Confirmed disease outbreak* means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

*Consumer* means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

*Core item* means a provision in this Code that is not designated as a priority item or a priority foundation item, including an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

*Corrosion-resistant material* means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

*Cottage food production* means an individual, operating out of the individual's home, who:

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(1) produces at the individual's home:

(a) a baked good that is not a time and temperature control for safety food (TCS food), as defined in §229.661(b)(13) of Chapter 229, of Title 25, of the Texas Administrative Code (relating to Cottage Food Production Operations);

(b) candy;

(c) coated and uncoated nuts;

(d) unroasted nut butters;

(e) fruit butters;

(f) a canned jam or jelly;

(g) a fruit pie;

(h) dehydrated fruit or vegetables, including dried beans;

(i) popcorn and popcorn snacks;

(j) cereal, including granola;

(k) dry mix;

(l) vinegar;

(m) pickled fruit or vegetables, including beets and carrots, that are preserved in vinegar, brine, or a similar solution at an equilibrium pH value of 4.6 or less;

(n) mustard;

(o) roasted coffee or dry tea;

(p) a dried herb or dried-herb mix;

(q) plant-based acidified canned goods;

(r) fermented vegetable products, including products that are refrigerated to preserve quality;

(s) frozen raw and uncut fruit or vegetables; or

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(t) any other food that is not a TCS food, as defined in §229.661(b)(13) of Chapter 229, Title 25, of the Texas Administrative Code; and

(2) has an annual gross income of \$50,000 or less from the sale of food described by paragraph (1) of this definition;

(3) sells foods produced under paragraph (1) of this definition only directly to consumers; and

(4) delivers products to the consumer at the point of sale or another location designated by the consumer.

*Counter-mounted equipment* means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

*Critical control point* means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

*Critical limit* means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

*Cut leafy greens* means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn, including iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term does not include herbs such as cilantro or parsley.

*Dealer* means a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the national shellfish sanitation program.

*Demonstration* means the preparation of food as an example, sample, instruction, or for marketing purposes at an event including, but not limited to, a farmer's market, fair, restaurant food show, or other similar event.

*Department* means the City of Plano Environmental Health & Sustainability Department.

*Disclosure* means a written statement that clearly identifies the animal-derived foods which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

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*Drinking water* means water traditionally known as “potable water” and meets the standards set forth in 30 TAC Chapter 290, Subchapter F (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems). It includes the term “water” except where the term used connotes that the water is not potable, such as “boiler water,” “mop water,” “rainwater,” “wastewater,” and “non-drinking water.”

*Dry storage area* means a room or area designated for the storage of packaged or containerized bulk food that is not time/temperature control for safety food and dry goods such as single-service items.

*Easily Cleanable* means a characteristic of a surface that allows effective removal of soil by normal cleaning methods, is dependent on the material, design, construction, and installation of the surface, and varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use. This includes a tiered application of the criteria that qualify the surface as easily cleanable to different situations in which varying degrees of cleanability are required such as the appropriateness of stainless steel for a food preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for consumer dining, or the need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

*Easily movable* means:

(1) portable, mounted on casters, gliders, or rollers, or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and

(2) having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

*Egg* means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey. The term does not include a balut, the egg of reptile species such as alligator, or an egg product.

*Egg Product* means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs. The term does not include food which contains eggs only in a relatively small proportion such as cake mixes.

*Electric Code* means the Electric Code as adopted and amended by the City of Plano.

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*Employee* means the permit holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

*EPA* means the U.S. Environmental Protection Agency.

*Equipment* means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine. Equipment does not include apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

*Event* means a unique public gathering at which food products are served and for which the Department grants permission, whether by permit, license, or another official written document.

*Exclude* means to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.

*Exotic animal* means a member of a species of game animals not indigenous to the State of Texas, including axis deer, nilgai antelope, red sheep, or other cloven-hoofed ruminant animals.

*Farmer's market* means a farmer's market as defined in Texas Administrative Code §229.702.

*FDA* means the U.S. Food and Drug Administration.

*Fire Code* means the Fire Code as adopted and amended by the City of Plano.

*Fish* means fresh or saltwater finfish, crustaceans, and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. This includes an edible human food product derived in whole or in part from fish, including fish that has been processed in any manner.

*Food* means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

*Foodborne disease outbreak* means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

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*Food-contact surface* means anyone of the following:

- (1) A surface of equipment or a utensil with which food normally comes into contact.
- (2) A surface of equipment or a utensil from which food may drain, drip, or splash into a food, or onto a surface normally in contact with food.

*Food employee* means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

*Food establishment* means an operation that:

- (1) Stores, prepares, packages, serves, or vends food directly to the consumer, or otherwise provides food for human consumption, such as a restaurant, retail food store, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending machine location, self-service food market, conveyance used to transport people, institution, or food bank; and
- (2) Relinquishes possession of food to a consumer directly, or indirectly through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

A food establishment includes an element of the operation, such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the City, and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location and where consumption is on or off the premises regardless if there is a charge for the food. A food establishment does not include an establishment that offers only prepackaged foods that are not TCS foods, a produce stand that only offers whole, uncut fresh fruits and vegetables, a food processing plant (including one that is located on the premises of a food establishment), a cottage food production operation, a bed and breakfast limited as defined in this code, or a private home that receives catered or home-delivered food.

*Food processing plant* means a commercial operation that manufactures, packages, labels, or stores food for human consumption, and provides food for sale or distribution to other business entities such as food processing plants or food establishments. Food processing plant does not include a food establishment.

*Game animals* means wild animals that are indigenous to Texas and not amenable to the Texas Meat and Poultry Inspection Act, Texas Health and Safety Code, Chapter 433, for which the hunter must obtain a hunting license from the Texas Parks and Wildlife Department before hunting animals, such as white-tailed deer, mule deer, prong-horn antelope, and big horn sheep.

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*General use pesticide* means a pesticide that is not classified by the U.S. Environmental Protection Agency for restricted use such as specified in 40 CFR §152.175 or is not limited to use by or under the direct supervision of a certified applicator licensed by the Texas Department of Agriculture or by the Texas Structural Pest Control Service as applicable.

*Grade A standards* means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" with which certain fluid and dry milk and milk products comply.

*Grease trap* means a grease trap or interceptor as defined in the City's Plumbing Code, as amended.

*Group residence* means a private or public housing corporation or institutional facility that provides living quarters and meals. The term includes a domicile for unrelated persons, such as a retirement home, correctional facility, or a long-term care facility.

*HACCP plan* means a written document that delineates the formal procedures for following the hazard analysis and critical control point principles developed by the national advisory committee on microbiological criteria for foods.

*Handwashing Sink* means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands, including an automatic handwashing facility.

*Hazard* means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

*Health practitioner* means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

*Hermetically sealed container* means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

*Highly susceptible population* means persons who are more likely than other people in the general population to experience foodborne disease because they are:

- (1) immunocompromised; preschool age children, or older adults; and
- (2) obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

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*Imminent health hazard* means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

*Injected* means manipulating meat to which a solution has been introduced into its interior by processes that are referred to as "injecting," "pump marinating," or "stitch pumping".

*In-Shell Product* means non-living, processed shellfish with one or both shells present.

*Intact meat* means a cut of whole muscle(s) meat that has not undergone comminution, mechanical tenderization, vacuum tumbling with solutions, reconstruction, cubing or pounding.

*Juice* means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée. The term does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

*Kitchenware* means food preparation and storage utensils.

*Law* means applicable local, state, and federal statutes, regulations, and ordinances.

*Light in color* means a surface which has a light reflective value (LRV) of 60 to 100.

*Linens* means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

*Livestock* means cattle, bison, sheep, swine, goats, horses, mules, other equine, poultry, domesticated rabbits, exotic animals, or domesticated game birds.

*Major food allergen* means (1) milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, soybeans, and sesame, or (2) a food ingredient that contains protein derived from a food, as specified in this definition. This term does not include any highly refined oil derived from a food specified in this definition and any ingredient derived from such highly refined oil, or any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282).

*Meat* means the flesh of animals used as food including the dressed flesh of cattle,

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swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified under Sections 9-14(g)(1)(C) and 9-14(g)(1)(D).

*Mechanical Code* means the Mechanical Code, as adopted and amended by the City of Plano.

*Mechanically tenderized* means manipulating meat by piercing with a set of needles, pins, blades or any mechanical device, which breaks up muscle fiber and tough connective tissue, to increase tenderness. This includes injection, scoring, and processes which may be referred to as “blade tenderizing,” “jaccarding,” “pinning,” or “needling.”

*mg/L* means milligrams per liter which is the metric equivalent of parts per million (ppm).

*Mobile food establishment (MFE)* means a vehicle-mounted, self or otherwise propelled, self-contained food service operation designed to be readily movable (including catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve, or sell food. An MFE must completely retain its mobility at all times. This term does not include a stand or booth. A roadside food vendor is classified as an MFE.

*Molluscan shellfish* means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle. Molluscan shellfish includes shellstock, shucked shellfish and in-shell products.

*Non-continuous cooking* means the cooking of food in a food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service. This term does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

*Outfitter operation* means any operation, such as trail rides, bus tours, harbor cruises, or river raft trips, in which food is offered to patrons and which operates out of a central preparation location or food establishment.

*Packaged* means bottled, canned, cartoned, bagged, or wrapped, whether packaged in a food establishment or a food processing plant. This term does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer, by a food employee, upon consumer request.

*Permit* means the document issued by the City of Plano authorizing a person to operate a food establishment.

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*Permit holder* means the entity that is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person, and possesses a valid permit to operate a food establishment.

*Person* means an individual, association, corporation, partnership, or other entity with ownership, care, custody, or control over a food establishment, including, but not limited to the permit or license holder, employee, food employee, or person-in-charge.

*Person in charge* means the individual present at a food establishment who is responsible for the operation at the time of inspection.

*Personal care items* mean items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance, including items such as medicines, first aid supplies, and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

*pH* means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

*Physical facilities* means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

*Plumbing Code* means the Plumbing Code, as adopted and amended by the City of Plano.

*Plumbing fixture* means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system or receptacle or device that discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

*Plumbing system* means the water supply and distribution pipes, plumbing fixtures and traps, soil, waste, and vent pipes, sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises, and water-treating equipment.

*Poisonous or toxic materials* means substances that are not intended for ingestion and are included in 5 categories:

- (1) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals.
- (2) Pesticides, except sanitizers, which include substances such as

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insecticides and rodenticides.

(3) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health.

(4) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

(5) Restricted use pesticide means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.

*Poultry* means any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 cfr 381.1 poultry products inspection regulations definitions, poultry, and any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 cfr 362.1 voluntary poultry inspection regulations, definitions.

*Potable* means water suitable or safe for human consumption.

*Premises* means:

(1) the physical facility, its contents, and the contiguous land or property under the control of the permit holder; or

(2) the physical facility, its contents, and the land or property not described in subparagraph (1) of this definition if its facilities and contents are under the control of the permit holder and may impact food establishment personnel, facilities, or operations, and a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

*Primal cut* means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

*Priority item* means a provision in this Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard, including items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing, and an item that is denoted in this Code with a superscript P-<sup>P</sup>.

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*Priority foundation item* means a provision in this Code whose application supports, facilitates, or enables one or more priority items, including an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling, and an item that is denoted in this Code with a superscript Pf - <sup>Pf</sup>.

*Private event* means an event at which food and/or beverages are offered to participants, and where entry to the event is limited to private invitation from the event organization, group, club, association, or institution.

*Private water system* means a drinking water system that is not connected to a public water system and not regulated by the Texas Commission on Environmental Quality.

*Produce* means farm-produced crops intended for human consumption, including, but not limited to, whole vegetables, plants, nuts in the shell, honey and fruit.

*Production kitchen* means a facility that engages in the production of edible food products that are given or sold to the public either on-site or at another location(s). It may be operated by the owner, or rented, leased, or contracted by another individual(s), organization(s), or corporation(s) who will actually produce the food products.

*Public event* means an event at which food and/or beverages are offered and that is advertised to the general public by any means, or which requires a special event permit as defined in Chapter 11 of City of Plano Code of Ordinances, as amended.

*Public water system* means a drinking water system that complies with 30 TAC §§290.101 – 290.122 (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems).

*Pushcart* means a non-self-propelled MFU limited to serving foods requiring a limited amount of preparation as authorized by the City of Plano and readily movable by one or two persons and requiring the support of a central preparation facility. A pushcart is classified as an MFU. This term does not include non-self-propelled units owned and operated within a retail food store.

*Ratite* means a flightless bird such as an emu, ostrich, or rhea.

*Ready-to-Eat food* means food that (1) is in a form that is edible without additional preparation to achieve food safety, as specified under one of the following: Sections 9-25(a)(1) or (2), Section 9-25(b), or Section 9-26(a), or as specified in Section 9-25(a)(3); (2) is a raw or partially cooked animal food and the consumer is advised as specified in Sections 9-25(a)(4)(A) and (C); or (3) is prepared in accordance with a variance that is granted as specified in Section 9-25(a)(4)(D) and may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes. This term includes:

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- (1) Raw animal food that is cooked as specified under Sections 9-25(a) or (b), or frozen as specified under Section 9-26(a).
- (2) Raw fruits and vegetables that are washed as specified Section 9-19(e).
- (3) Plant Foods that are cooked for hot holding, as specified under 9-25(c).
- (4) All time/temperature control for safety food that is cooked to the temperature and time required for the specific food under Section 9-25 and cooled as specified under Section 9-29(d).
- (5) Plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present are removed.
- (6) Substances derived from plants such as spices, seasonings, and sugar.
- (7) A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety.
- (8) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and parma ham; and dried meat and poultry products, such as jerky or beef sticks.
- (9) Foods manufactured as specified in 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

Ready-to-eat food does not include commercially packaged food that bears a manufacturer's cooking instruction or food for which the manufacturer has provided information that it has not been processed to control pathogens.

*Reduced oxygen packaging* means the reduction of the amount of oxygen in a package by removing oxygen, displacing oxygen and replacing it with another gas or combination of gases, or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level), and a process as specified in this definition that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form. This term includes the following:

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(1) Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package.

(2) Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen.

(3) Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, non-respiring food, and impermeable packaging material.

(4) Cook chill packaging, in which cooked food is hot filled into impermeable bags that are then sealed or crimped closed. the bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

(5) Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

*Refuse* means solid waste not carried by water through the sewage system.

*Regulatory authority* means the Department unless the content specifies otherwise.

*Reminder* means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

*Re-service* means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.

*Restrict* means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

*Restricted egg* means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR 590.

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*Restricted use pesticide* means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.

*Risk* means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

*Roadside Food Vendor* means a person who operates a mobile retail food store from a temporary location adjacent to a public road or highway. Food is not prepared or processed by a roadside food vendor. A roadside food vendor is classified as an MFE.

*Safe material* means an article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in article becoming a component of or otherwise affecting the characteristics of any food, an additive that is used as specified in the Texas Health and Safety Code, Chapter 431, or other materials that are not additives and that are used in conformity with applicable regulations of the U.S. Food and Drug Administration.

*Sampling* means the preparation of food as an example, instruction, or for marketing purposes at an event including, but not limited to, a farmer's market, fair, restaurant food show, or other similar event that is served, sold, or otherwise offered for human consumption.

*Sanitization* means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

*Sealed* means free of cracks or other openings that allow the entry or passage of moisture.

*Self-service food market* means a market that is unstaffed and offers prepackaged non-TCS food and prepackaged refrigerated or frozen TCS food that is stored in equipment that complies with Section 9-62 (relating to Self-Service Food Markets).

*Service animal* means a canine that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability as specified in Texas Health and Safety Code, §437.023.

*Servicing area* means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

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*Sewage* means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

*Shellfish control authority* means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

*Shellstock* means live, in-shell molluscan shellfish in the shell.

*Shiga toxin-producing Escherichia coli (STEC)* means any *E. coli* capable of producing Shiga toxins (also called verocytotoxins). STEC infections can be asymptomatic or may result in a spectrum of illness ranging from mild non-bloody diarrhea, to hemorrhagic colitis (i.e., bloody diarrhea), to hemolytic uremic syndrome (HUS -a type of kidney failure). Examples of serotypes of STEC include: *E. coli* O157:H7; *E. coli* O157:NM; *E. coli* O26:H11; *E. coli* O145:NM; *E. coli* O103:H2; and *E. coli* O111:NM. STEC are sometimes referred to as VTEC (verocytotoxigenic *E. coli*) or as EHEC (Enterohemorrhagic *E. coli*). EHEC are a subset of STEC which can cause hemorrhagic colitis or HUS.

*Shucked shellfish* means molluscan shellfish that have both shells removed.

*Single-service articles* means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time-one person use, after which they are intended for discard.

*Single-use articles* means utensils and bulk food containers designed and constructed to be used once and discarded. This term includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications Sections 9-113, 9-123, and 9-125 for multiuse utensils.

*Slacking* means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -23°C (-10°F) to -4°C (25°F) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as shrimp.

*Smooth* means a food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel, a non-food-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale, and a floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

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*Tableware* means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.

*Temperature measuring device* means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

*Temporary food establishment* means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

*Time/Temperature Control for Safety Food (formerly “potentially hazardous food” (PHF))* means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation, including an animal food that is raw or heat-treated, a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, and except as specified in this definition, a food that because of the interaction of its AW and PH values is designated as Product Assessment Required (PA) in Table A or B of this definition below. This term does not include:

- (1) An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable salmonellae.
- (2) a food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution.
- (3) A food that because of its pH or Aw value, or interaction of Aw and pH values, is designated as a non-TCS food in Table A or B of this definition.
- (4) A food that is designated as Product Assessment Required (PA) in Table A or B of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to (a) intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients, (b) extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use, or (c) A combination of intrinsic and extrinsic factors.

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(5) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the paragraphs (1) - (4) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

**Table A. Interaction of pH and AW for control of spores in FOOD heat-treated to destroy vegetative cells and subsequently PACKAGED**

A <sub>w</sub> Values	pH 4.6 or LESS	pH: > 4.6-5.6	pH: > 5.6
≤0.92	non-TCS food*	non-TCS food	non-TCS food
> 0.92 – 0.95	non-TCS	non-TCS food	PA**
> 0.95	non-TCS food	PA	PA

\* TCS food means Time/Temperature Control for Safety Food

\*\* PA means Product Assessment required

**Table B. Interaction of PH and AW for control of vegetative cells and spores in FOOD not heat-treated or heat-treated but not PACKAGED**

A <sub>w</sub> VALUES	pH: < 4.2	pH: 4.2 – 4.6	pH: > 4.6 – 5.0	pH: > 5.0
< 0.88	non-TCS food*	non-TCS food	non-TCS food	non-TCS food
0.88 – 0.90	non-TCS food	non-TCS food	non-TCS food	PA**
> 0.90 – 0.92	non-TCS food	non-TCS food	PA	PA
> 0.92	non-TCS food	PA	PA	PA

\* TCS food means Time/Temperature Control for Safety Food

\*\* PA means Product Assessment required

*Tobacco Product means a tobacco product as defined in the Federal Food, Drug and Cosmetic Act §201(rr) (21 U.S.C. 321(rr)).*

*USDA means the U.S. Department of Agriculture.*

*Utensil means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.*

*Variance means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this Code if, in the opinion of the Department, a health hazard or nuisance will not result from the modification or waiver.*

*Vending machine means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by electronic transaction or optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.*

*Vending machine location* means the room, enclosure, space, or area where one or more vending machines are installed and operated and that includes the storage areas and areas on the premises that are used to service and maintain the vending machines. This term does not include a self-service food market.

*Warewashing* means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

*Whole-muscle, intact beef* means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

## **ARTICLE II. MANAGEMENT AND PERSONNEL**

### **Sec. 9-6. -Supervision.**

#### **(a) Responsibility.**

(1) Except as specified in Paragraphs (2) or (3) below, the permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation. <sup>Pf</sup>

(2) In a food establishment with two or more separately permitted departments that are the legal responsibility of the same permit holder and that are located on the same premises, the permit holder may, during specific time periods when food is not being prepared, packaged, or served, designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each separately permitted food establishment on the premises. <sup>Pf</sup>

(3) This subsection does not apply to certain types of food establishments deemed by the Department to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of the food preparation. <sup>Pf</sup>

#### **(b) Knowledge.**

(1) General knowledge. Based on the risks inherent to the food operation, during inspections and upon request, the person in charge shall demonstrate to the Department knowledge of foodborne disease prevention, application of the hazard analysis and critical control point principles, and the requirements of this Code. the person in charge shall demonstrate this knowledge by:

(A) Complying with this Code by having no violations of priority items during the current inspection; <sup>Pf</sup>

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(B) Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program; <sup>Pf</sup> or

(C) Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:

(i) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee. <sup>Pf</sup>

(ii) Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease. <sup>Pf</sup>

(iii) Describing the symptoms associated with the diseases that are transmissible through food. <sup>Pf</sup>

(iv) Explaining the significance of the relationship between maintaining the time and temperature of time/temperature control for safety food and the prevention of foodborne illness. <sup>Pf</sup>

(v) Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish. <sup>Pf</sup>

(vi) Stating the required food temperatures and times for safe cooking of time/temperature control for safety food including meat, poultry, eggs, and fish. <sup>Pf</sup>

(vii) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of time/temperature control for safety food. <sup>Pf</sup>

(viii) Describing the relationship between the prevention of foodborne illness and the management and control of the following:

(aa) Cross contamination, <sup>Pf</sup>

(bb) Hand contact with ready-to-eat foods, <sup>Pf</sup>

(cc) Handwashing, <sup>Pf</sup> and

(dd) Maintaining the food establishment in a clean condition and in good repair. <sup>Pf</sup>

(ix) Describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction. <sup>Pf</sup>

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(x) Explaining the relationship between food safety and providing equipment that is sufficient in number and capacity, and properly designed, constructed, located, installed, operated, maintained, and cleaned. <sup>Pf</sup>

(xi) Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment. <sup>Pf</sup>

(xii) Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections. <sup>Pf</sup>

(xiii) Identifying poisonous or toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law. <sup>Pf</sup>

(xiv) Identifying critical control points in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this Code. <sup>Pf</sup>

(xv) Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, this Code, or an agreement between the regulatory authority and the food establishment. <sup>Pf</sup>

(xvi) Explaining the responsibilities, rights, and authorities assigned by this code to the food employee, conditional employee, person in charge, and regulatory authority. <sup>Pf</sup>

(xvii) Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employee. <sup>Pf</sup>

(2) Certified food protection manager. Except as provided in this paragraph, the person in charge shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program and shall be present at the food establishment during all hours of operation. <sup>Pf</sup> This section does not apply to certain types of food establishments deemed by the Department to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of food preparation, including but not limited to:

(A) Establishments that handle only prepackaged food and do not package food.

(B) Establishments that do not prepare or handle exposed Time/Temperature Control for Safety (TCS).

(C) Temporary food establishments.

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(3) Food handlers training. All food employees, except for the certified food protection manager, shall successfully complete an accredited food handler training course within 30 days of employment.<sup>Pf</sup> This requirement does not apply to temporary food establishments.

(4) Posting of certificates. The original food protection manager certificate must be posted in the food establishment using a location conspicuous to consumers. The food establishment must maintain, on the premises, a certificate of completion of the food handler training course for each food employee. Copies of certificates must be made available to the Department upon request.

(c) Duties.

(1) Person in charge. The person in charge shall ensure that:

(A) food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under Section 9-51(b)(11);<sup>Pf</sup>

(B) persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;<sup>Pf</sup>

(C) employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this Code;<sup>Pf</sup>

(D) employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;<sup>Pf</sup>

(E) employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;<sup>Pf</sup>

(F) employees are verifying that foods delivered to the food establishment during non-operating hours are from approved sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unadulterated, and accurately presented;<sup>Pf</sup>

(G) employees are properly cooking time/temperature control for safety food, being particularly careful in cooking those foods known to cause severe

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foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under Sections 9-37(c)(1) and 9-40(b)(1)(B);<sup>Pf</sup>

(H) employees are using proper methods to rapidly cool time/temperature control for safety foods that are not held hot or are not for consumption within four hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;<sup>Pf</sup>

(I) employees are properly maintaining the temperatures of time/temperature control for safety foods during hot and cold holding through daily oversight of the employees' routine monitoring of food temperatures;<sup>Pf</sup>

(J) employees are properly maintaining the temperature of time/temperature control for safety foods during thawing through daily oversight of the employee's routine monitoring of food temperatures;<sup>Pf</sup>

(K) consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed as specified under Section 9-33(a) that the food is not cooked sufficiently to ensure its safety;<sup>Pf</sup>

(L) employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;<sup>Pf</sup>

(M) consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified under Section 9-21(f);<sup>Pf</sup>

(N) except when approval is obtained from the regulatory authority as specified in Section 9-18(a)(5), employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;<sup>Pf</sup>

(O) employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties. Food allergy awareness includes describing foods identified as major allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction;<sup>Pf</sup>

(P) food employees and conditional employees are informed in a verifiable manner of their responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under Section 9-7(a);<sup>Pf</sup> and

(Q) written procedures and plans, where specified by this Code and as developed by the food establishment, are maintained and implemented as required.<sup>Pf</sup>

**Sec. 9-7. -Employee health.**

(a) Responsibility of permit holder, person in charge, and conditional employees.

(1) The permit holder shall require food employees and conditional employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee or conditional employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

(A) Has any of the following symptoms (*reportable symptoms*):

- (i) Vomiting.<sup>P</sup>
- (ii) Diarrhea.<sup>P</sup>
- (iii) Jaundice.<sup>P</sup>
- (iv) Sore throat with fever.<sup>P</sup>

(v) A lesion containing pus such as a boil or infected wound that is open or draining and is on the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover, on exposed portions of the arms, unless the lesion is protected by an impermeable cover, or on other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.<sup>P</sup>

(B) Has an illness diagnosed by a health practitioner (*reportable diagnosis*) due to:

- (i) Norovirus.<sup>P</sup>
- (ii) Hepatitis A virus.<sup>P</sup>
- (iii) *Shigella* spp.<sup>P</sup>
- (iv) SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI*.<sup>P</sup>
- (v) Typhoid fever (caused by *Salmonella Typhi*).<sup>P</sup>

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(vi) *Salmonella* (nontyphoidal).<sup>P</sup>

(C) Had Typhoid fever, diagnosed by a health practitioner, within the past three (3) months, without having received antibiotic therapy, as determined by a health practitioner (*reportable past illness*).<sup>P</sup>

(D) Has been exposed to, or is the suspected source of, a confirmed disease outbreak (*reportable history of exposure*), because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:

(i) Norovirus within the past 48 hours of the last exposure.<sup>P</sup>

(ii) SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI* or *Shigella* spp. within the past 3 days of the last exposure.<sup>P</sup>

(iii) Typhoid fever within the past 14 days of the last exposure.<sup>P</sup>

(iv) Hepatitis A virus within the past 30 days of the last exposure.<sup>P</sup>

(E) Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual who works or attends a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness (*reportable history of exposure*) caused by:

(i) Norovirus within the past 48 hours of the last exposure.<sup>P</sup>

(ii) SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI* or *Shigella* spp. within the past 3 days of the last exposure.<sup>P</sup>

(iii) Typhoid fever (caused by *Salmonella* Typhi) within the past 14 days of the last exposure.<sup>P</sup>

(iv) Hepatitis A virus within the past 30 days of the last exposure.<sup>P</sup>

(2) The person in charge shall notify the regulatory authority when a food employee is:

(A) jaundiced,<sup>Pf</sup> or

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(B) diagnosed with an illness due to a pathogen as follows <sup>Pf</sup>:

- (i) Norovirus.
- (ii) Hepatitis A virus.
- (iii) *Shigella* spp.
- (iv) SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI*.
- (v) Typhoid fever (caused by *Salmonella* Typhi).
- (vi) *Salmonella* (nontyphoidal).

(3) The person in charge shall ensure that a conditional employee (1) who exhibits or reports a symptom, or who reports a diagnosed illness as specified under paragraphs (1)(A) - (C) of this subsection, is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified under Section 9-9,<sup>P</sup> and (2) who will work as a food employee in a food establishment that serves as a highly susceptible population and reports a history of exposure as specified under paragraphs (1)(D) - (E), is prohibited from becoming a food employee until the conditional employee meets the criteria as specified under Section 9-9(10).<sup>P</sup>

(4) The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified under paragraphs (A)(i) - (v) of this subsection is excluded as specified under Section 9-8(1) through (3) and paragraphs (4)(A), (5)(A), (6)(A), or (8)(A) and in compliance with the provisions specified under Sections 9-9(1) - (8),<sup>P</sup> or restricted as specified under Sections 9-8(4)(B), (5)(B), (6)(B), (7), (8)(B), or Section 9-8(9) or (10) and in compliance with the provisions specified under Sections 9-9(e) - (k).<sup>P</sup>

(5) A food employee or conditional employee shall report to the person in charge the information as specified under paragraph (a) of this subsection. <sup>Pf</sup>

(6) A food employee shall comply with an exclusion as specified under Sections 9-8(1) - (3) and Sections 9-8(4)(A), (5)(A), (6)(A), (7), or (8)(A) and with the provisions specified under Sections 9-9(b) - (i),<sup>P</sup> or comply with a restriction as specified under Sections 9-8(4)(B), (5)(B), (6)(B), (7), (8)(B), or Sections 9-8(8), (9), or (10) and comply with the provisions specified under 9-9(e) - (k).<sup>P</sup>

(b) Signage. A food establishment must post a sign or poster, clearly visible to food employees, by all handwashing sinks. The sign or poster must notify food employees to report symptoms and diagnosis information about their health as it related to diseases that are transmissible through food.

**Sec. 9-8. -Employee exclusions and restrictions.**

The person in charge shall exclude or restrict a food employee from a food establishment in accordance with the following:

(1) Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:

(A) Symptomatic with vomiting or diarrhea;<sup>P</sup> or

(B) Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, *Shigella* spp., *Salmonella* (nontyphoidal), or SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI*.<sup>P</sup>

(2) Exclude a food employee who is:

(A) Jaundiced and the onset of jaundice occurred within the last seven (7) calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection;<sup>P</sup>

(B) Diagnosed with an infection from hepatitis A virus within 14 calendar days from the onset of any illness symptoms, or within seven (7) calendar days of the onset of jaundice;<sup>P</sup> or

(C) Diagnosed with an infection from hepatitis A virus without developing symptoms.<sup>P</sup>

(3) Exclude a food employee who is diagnosed with Typhoid fever, or reports having had Typhoid fever within the past three (3) months as specified under Section 9.7 (a)(1)(D).<sup>P</sup>

(4) If a food employee is diagnosed with an infection from norovirus and is asymptomatic:

(A) Exclude the food employee who works in a food establishment serving a highly susceptible population;<sup>P</sup> or

(B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.<sup>P</sup>

(5) If a food employee is diagnosed with an infection from *Shigella* spp. and is asymptomatic:

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(A) Exclude the food employee who works in a food establishment serving a highly susceptible population; <sup>P</sup> or

(B) Restrict the food employee who works in a food establishment not serving a highly susceptible population. <sup>P</sup>

(6) If a food employee is diagnosed with an infection from SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI* and is asymptomatic:

(A) Exclude the food employee who works in a food establishment serving a highly susceptible population; <sup>P</sup> or

(B) Restrict the food employee who works in a food establishment not serving a highly susceptible population. <sup>P</sup>

(7) If a food employee is diagnosed with an infection from *Salmonella* (nontyphoidal) and is asymptomatic, restrict the food employee who works in a food establishment serving a highly susceptible population or in a food establishment not serving a highly susceptible population. <sup>P</sup>

(8) If a food employee is ill with symptoms of acute onset of sore throat with fever:

(A) Exclude the food employee who works in a food establishment serving a highly susceptible population; <sup>P</sup> or

(B) Restrict the food employee who works in a food establishment not serving a highly susceptible population. <sup>P</sup>

(9) If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under Section 9-7(a)(1)(A)(v), restrict the food employee. <sup>P</sup>

(10) If a food employee is exposed to a foodborne pathogen as specified under Section 9-7(a)(1)(D)(i) through (iv) or Section (a)(1)(E)(i) through (iv), restrict the food employee who works in a food establishment serving a highly susceptible population. <sup>P</sup>

### **Sec. 9-9. -Employee Removal, adjustments, or retention of exclusions and restrictions.**

(a) The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee.

(b) Except when a food employee is diagnosed with Typhoid fever or an infection from hepatitis A virus:

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(1) Reinstate a food employee who was excluded as specified under Section 9-8(1)(A) if the food employee is asymptomatic for at least 24 hours, <sup>P</sup> or provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition. <sup>P</sup>

(2) If a food employee was diagnosed with an infection from Norovirus and excluded as specified under Section 9-8(1)(B):

(A) restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified under Subsections (e)(1) or (e)(2) of this section are met; <sup>P</sup> or

(B) retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified under Subsections (e)(1) or (e)(2) of this section are met. <sup>P</sup>

(3) If a food employee was diagnosed with an infection from *Shigella* spp. and excluded as specified under Section 9-8(1)(B):

(A) restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified under Subsections (e)(1) or (e)(2) are met; <sup>P</sup> or

(B) retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified under Subsections (e)(1) or (e)(2), or (e)(1) and (b)(3)(a) of this section are met. <sup>P</sup>

(4) If a food employee was diagnosed with an infection from SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI* and excluded as specified Section 9-8(1)(B):

(A) for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified under Subsections (6)(A) or (6)(B) of this section are met; <sup>P</sup> or

(B) retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified under Subsections (6)(A) or (6)(B) of this section are met. <sup>P</sup>

(5) If a food employee was diagnosed with an infection from *Salmonella* (nontyphoidal) and excluded as specified under Section 9-8(1)(B):

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(A) restrict the food employee, who is asymptomatic for at least 30 days until conditions for reinstatement as specified under Subsections (h)(1) or (h)(2) of this section are met; <sup>P</sup> or

(B) retain the exclusion for the food employee who is symptomatic, until conditions for reinstatement as specified under Subsections (h)(1) or (h)(2) of this section are met. <sup>P</sup>

(c) If a food employee is diagnosed with Typhoid fever or an infection from hepatitis A virus:

(1) Reinstatement of a food employee who was excluded as specified under Section 9-8(2) if the person in charge obtains approval from the Department and one of the following conditions is met:

(A) The food employee has been jaundiced for more than seven (7) calendar days. <sup>P</sup>

(B) The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 calendar days. <sup>P</sup>

(C) The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a hepatitis A virus infection. <sup>P</sup>

(d) If the food employee is diagnosed with Typhoid fever and excluded as specified Section 9-8(3), reinstate the food employee if the person in charge obtains approval from the regulatory authority, <sup>P</sup> and the food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from Typhoid fever. <sup>P</sup>

(e) If the food employee is diagnosed with Norovirus and excluded as specified under Sections 9-8(1)(B) or 9-8(4)(A) who was restricted under Section 9-8(4)(B), reinstate if the person in charge obtains approval from the Department and one of the following conditions is met:

(1) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a norovirus infection. <sup>P</sup>

(2) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 48 hours have passed since the food employee became asymptomatic. <sup>P</sup>

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(3) The food employee was excluded or restricted and did not develop symptoms and more than 48 hours have passed since the food employee was diagnosed.<sup>P</sup>

(f) If the food employee is diagnosed with *Shigella* spp. and excluded as specified Subparagraphs 2-201.12(A)(2) or (E)(1) or who was restricted under Subparagraph 2-201.12(E)(2), reinstate if the person in charge obtains approval from the Department and one of the following conditions is met:

(1) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Shigella* spp. infection based on test results showing two (2) consecutive negative stool specimen cultures that are taken not earlier than 48 hours after discontinuance of antibiotics<sup>P</sup> and at least 24 hours apart.<sup>P</sup>

(2) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than seven (7) calendar days have passed since the food employee became asymptomatic.<sup>P</sup>

(3) The food employee was excluded or restricted and did not develop symptoms and more than seven (7) calendar days have passed since the food employee was diagnosed.<sup>P</sup>

(g) If the food employee is diagnosed with SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI* and was excluded or restricted as specified under Sections 9-8(1)(B) and 9-8(6)(A) or who was restricted under section 9-8(6)(B), reinstate if the person in charge obtains approval from the Department and one of the following conditions is met:

(1) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI* based on test results that show two (2) consecutive negative stool specimen cultures that are taken not earlier than 48 hours after discontinuance of antibiotics and at least 24 hours apart.<sup>P</sup>

(2) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than seven (7) calendar days have passed since the food employee became asymptomatic.<sup>P</sup>

(3) The food employee was excluded or restricted and did not develop symptoms and more than seven (7) days have passed since the food employee was diagnosed.

(h) If the food employee is diagnosed with *Salmonella* (nontyphoidal) and was excluded or restricted as specified under Section 9-8(1)(B) or who was restricted as

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specified under Section 9-8(7), reinstate if the person in charge obtains approval from the Department and one of the following conditions is met:

(1) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Salmonella* (nontyphoidal) infection based on test results showing two (2) consecutive negative stool specimen cultures that are taken not earlier than 48 hours after discontinuance of antibiotics and at least 24 hours apart. <sup>P</sup>

(2) The food employee was restricted after symptoms of vomiting or diarrhea resolved, and more than 30 days have passed since the food employee became asymptomatic. <sup>P</sup>

(3) The food employee was excluded or restricted and did not develop symptoms and more than 30 days have passed since the food employee was diagnosed. <sup>P</sup>

(i) If the food employee is diagnosed with a sore throat and fever and was excluded or restricted as specified under Sections 9-8(8)(A) or (B), reinstate if the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:

(1) Has received antibiotic therapy for *Streptococcus pyogenes* infection for more than 24 hours. <sup>P</sup>

(2) Has at least one negative throat specimen culture for *Streptococcus pyogenes* infection. <sup>P</sup>

(3) Is otherwise determined by a health practitioner to be free of a *Streptococcus pyogenes* infection. <sup>P</sup>

(j) If the food employee is diagnosed with an uncovered infected wound or pustular boil and was restricted as specified under Section 9-8(9), reinstate if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

(1) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist. <sup>P</sup>

(2) An impermeable cover on the arm if the infected wound or pustular boil is on the arm. <sup>P</sup>

(3) A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body. <sup>P</sup>

(k) If a food employee is exposed to a one of the foodborne pathogens under Sections 9-7(a)(1)(D)(i) – (iv) or 9-7(a)(1)(E)(i) – (iv) and the employee works in a food

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establishment serving a highly susceptible population, reinstate the employee who was restricted under Section 9-8(10) as follows:

(1) Norovirus – one of the conditions is met:

(A) More than 48 hours have passed since the last day the food employee was potentially exposed.<sup>P</sup>

(D) More than 48 hours have passed since the food employee's household contact became asymptomatic.<sup>P</sup>

(2) *Shigella* spp. or SHIGA TOXIN-PRODUCING *ESCHERICHIA COLI* - one of the following conditions is met:

(A) More than three (3) calendar days have passed since the last day the food employee was potentially exposed.<sup>P</sup>

(B) More than three (3) calendar days have passed since the food employee's household contact became asymptomatic.<sup>P</sup>

(3) Typhoid fever (caused by *Salmonella* Typhi) - one of the following conditions is met:

(A) More than 14 calendar days have passed since the last day the food employee was potentially exposed.<sup>P</sup>

(B) More than 14 calendar days have passed since the food employee's household contact became asymptomatic.<sup>P</sup>

(4) Hepatitis A virus – one of the following conditions is met:

(A) The food employee is immune to hepatitis A virus infection because of a prior illness from hepatitis A.<sup>P</sup>

(B) The food employee is immune to hepatitis A virus infection because of vaccination against hepatitis A.<sup>P</sup>

(C) The food employee is immune to hepatitis A virus infection because of IgG administration.<sup>P</sup>

(D) More than 30 calendar days have passed since the last day the food employee was potentially exposed.<sup>P</sup>

(E) More than 30 calendar days have passed since the food employee's household contact became jaundiced.<sup>P</sup>

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(F) The food employee does not use an alternative procedure that allows bare hand contact with ready-to eat food until at least 30 days after the potential exposure, as specified in Subsections (k)(4)(D) and (E) of this section, and the food employee receives additional training about:

(i) Hepatitis A symptoms and preventing the transmission of infection. <sup>P</sup>

(ii) proper handwashing procedures; <sup>P</sup> and

(iii) protecting ready-to-eat food from contamination introduced by bare hand contact. <sup>P</sup>

### **Sec. 9-10. -Personal cleanliness.**

(a) Hands and arms.

(1) Clean condition. Food employees shall keep their hands and exposed portions of their arms clean. <sup>P</sup>

(2) Cleaning procedure.

(A) Except as specified in Subparagraph (D) of this paragraph, food employees shall clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands or arms, for at least 20 seconds, using a cleaning compound in a handwashing sink that is equipped as specified under Section 9-8 and Section 9-52(a). <sup>P</sup>

(B) Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:

(i) Rinse under clean, running warm water. <sup>P</sup>

(ii) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer.

(iii) Rub together vigorously for at least 10 to 15 seconds while paying particular attention to removing soil from underneath the fingernails during the cleaning procedure, and creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger tips, and areas between the fingers. <sup>P</sup>

(iv) Thoroughly rinse under clean, running warm water. <sup>P</sup>

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(v) Immediately follow the cleaning procedure with thorough drying using a method as specified under Section 9-52(a)(3).<sup>P</sup>

(C) To avoid re-contaminating their hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door.

(D) If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands or surrogate prosthetic devices.

(3) Special handwash procedures. *Reserved.*

(4) When to wash. Food employees shall clean their hands and exposed portions of their arms as specified under paragraph (a)(2) above immediately before engaging in food preparation, including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles<sup>P</sup> and:

(A) after touching bare human body parts other than clean hands and clean, exposed portions of arms;<sup>P</sup>

(B) after using the toilet room;<sup>P</sup>

(C) after caring for or handling service animals or aquatic animals as specified in Section 9-11(c)(2);<sup>P</sup>

(D) except as specified in Section 9-11(a)(1)(B), after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco products, eating, or drinking;<sup>P</sup>

(E) after handling soiled equipment or utensils;<sup>P</sup>

(F) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;<sup>P</sup>

(G) when switching between working with raw food and working with ready-to-eat food;<sup>P</sup>

(H) Before donning gloves to initiate a task that involves working with food;<sup>P</sup> and

(I) After engaging in other activities that contaminate the hands.<sup>P</sup>

(5) Where to wash. Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and may not clean their

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hands in a sink used for food preparation or warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.<sup>Pf</sup>

(6) Hand antiseptics.

(A) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap must:

(i) comply with one of the following:

(aa) Be an approved drug that is listed in the FDA publication *Approved Drug Products with Therapeutic Equivalence Evaluations* as an approved drug based on safety and effectiveness.<sup>Pf</sup>

(bb) Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash;<sup>Pf</sup>

(i) consist only of components which the intended use of each complies with one of the following:

(aa) A threshold of regulation exemption under 21 CFR 170.39 -Threshold of regulation for substances used in food-contact articles.<sup>Pf</sup>

(bb) 21 CFR 178 - Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a food additive with conditions of safe use.<sup>Pf</sup>

(cc) A determination of generally recognized as safe (GRAS). Partial listings of substances with food uses that are GRAS may be found in 21 CFR 182 - Substances Generally Recognized as Safe, 21 CFR 184 - Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food, and in FDA's Inventory of GRAS Notices.<sup>Pf</sup>

(dd) A prior sanction listed under 21 CFR 181 – Prior Sanctioned Food Ingredients.<sup>Pf</sup>

(ee) a Food Contact Notification that is effective;<sup>Pf</sup>  
and

(iii) be applied only to hands that are cleaned as specified under Subsection (a)(2).<sup>Pf</sup>

(B) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under paragraph (6)(A) of this subsection,

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use must be followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves,<sup>Pf</sup> or limited to situations that involve no direct contact with food by the bare hands.<sup>Pf</sup>

(C) A hand antiseptic solution used as a hand dip must be maintained clean and at a strength equivalent to at least 100 MG/L chlorine.<sup>Pf</sup>

(b) Fingernails.

(1) Food employees shall keep their fingernails trimmed, filed, and maintained so that edges and surfaces are cleanable and smooth.<sup>Pf</sup>

(2) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish, nail attachments, or artificial fingernails when working with exposed food.<sup>P</sup>

(c) Jewelry. Except for a plain ring such as a wedding band, while preparing food, food employees may not wear jewelry including medical information jewelry on their arms and hands.

(d) Outer clothing. Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

### **Sec. 9-11. -Hygienic practices.**

(a) Food contamination prevention.

(1) Eating, drinking and using tobacco.

(A) Except as specified in subparagraph (B) of this paragraph, an employee shall only eat, drink, or use any form of tobacco products in designated areas where no contamination of exposed food, clean equipment, utensils, and linens, unwrapped single-service and single-use articles, or other items needing protection may result.

(B) A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:

- (i) the employee's hands;
- (ii) the container; and
- (iii) exposed food, clean equipment, utensils, and linens, and unwrapped single-service and single-use articles.

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(2) Discharges from the eyes, nose, and mouth. No food employee experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may work with exposed food, clean equipment, utensils, and linens, or unwrapped single-service or single-use articles.

(3) Use of bandages, finger cots, or finger stalls. If used, an impermeable cover such as a bandage, finger cot, or finger stall located on the wrist, hand, or finger of a food employee working with exposed food must be covered with a single-use glove.

(b) Hair restraints - effectiveness.

(1) Except as provided in paragraph (2) of this subsection, food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food, clean equipment, utensils and linens, and unwrapped single-service and single-use articles.

(2) This subsection does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food, clean equipment, utensils and linens, and unwrapped single-service and single-use articles.

(c) Animals – handling prohibitions.

(1) Except as specified in paragraph (2) of this subsection, food employees may not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed as specified in Section 9-54(a)(15)(B)(ii) – (v).<sup>Pf</sup>

(2) Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as specified under Sections 9-10(a)(2) and 9-10(a)(4)(C).

### **Sec. 9-12. -Responding to contamination events.**

A food establishment must have written procedures for employees to follow and equipment listed in the written procedures when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment. The procedures must address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.<sup>Pf</sup>

**ARTICLE III. FOOD**

**DIVISION 1. –CHARACTERISTICS; SOURCES, SPECIFICATIONS, AND ORIGINAL CONTAINERS AND RECORDS.**

**Sec. 9-13. -Characteristics.**

Food must be safe, unadulterated, and, as specified under Section 9-31(b), honestly presented.<sup>P</sup>

**Sec. 9-14. -Sources, specifications, and original containers and records.**

(a) Compliance with food law.

(1) Food must be obtained from sources that comply with law.<sup>P</sup>

(2) Food prepared in a private home may not be used or offered for human consumption in a food establishment unless allowed under Texas cottage food laws<sup>P</sup>

(3) Packaged food must be labeled as specified in law, including 21 CFR 101 Food Labeling, 9 CFR 317 Labeling, Marking Devices, and Containers, and 9 CFR 381 Subpart N Labeling and Containers, and as specified under Sections 9-15(g) and (h).  
<sup>Pf</sup>

(4) fish, other than those specified in Section 9-26(a)(2), that are intended for consumption in raw or undercooked form and allowed as specified in Section 9-25(a)(4), may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified under 9-26(a); or if they are frozen on the premises as specified under Section 9-26(a) and records are retained as specified under Section 9-26(b).

(5) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in Section 9-26(a)(3) shall be:

(A) Obtained from a food processing plant that does not mechanically tenderize, vacuum tumble with solutions, reconstruct, cube or pound these whole-muscle, intact beef steaks,<sup>Pf</sup> or

(B) Deemed acceptable by the Department based on other evidence, such as written buyer specifications or invoices, that indicates that the steaks meet the definition of whole-muscle, intact beef,<sup>Pf</sup> and

(C) If individually cut in a food establishment:

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(i) Cut from whole-muscle intact beef that is received from a food processing plant as specified in Paragraph (5)(A) of this subsection or identified as specified in Paragraph (5)(B) of this subsection; <sup>P</sup> and

(ii) Prepared so they remain intact. <sup>Pf</sup>

(6) Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption, must be labeled to include safe handling instructions as specified in law, including 9 CFR 317.2(l) and 9 CFR 381.125(b).

(7) Eggs that have not been specifically treated to destroy all viable Salmonellae must be labeled to include safe handling instructions as specified in Law, including 21 CFR 101.17(h).

(b) Food in a hermetically sealed container. Food in a hermetically sealed container must be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant. <sup>P</sup>

(c) Fluid milk and milk products. Fluid milk and milk products must be obtained from sources that comply with Grade A standards as specified in law. <sup>P</sup>

(d) Fish.

(1) Fish that are received for sale or service must be commercially and legally caught or harvested, <sup>P</sup> or approved for sale or service. <sup>P</sup>

(2) Molluscan shellfish that are recreationally caught may not be received for sale or service. <sup>P</sup>

(e) Molluscan shellfish.

(1) Molluscan shellfish must be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. <sup>P</sup>

(2) Molluscan shellfish received in interstate commerce must be from sources that are listed in the Interstate Certified Shellfish Shippers List. <sup>P</sup>

(f) Wild mushrooms.

(1) Except as specified in paragraph (2) of this subsection, mushroom species picked in the wild must not be offered for sale or service by a food establishment unless the food establishment has been approved to do so. <sup>P</sup>

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(2) This section does not apply to:

(A) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or

(B) Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

(g) Game animals.

(1) If game animals are received for sale or service, they must be:

(A) Commercially raised for food,<sup>P</sup> and:

(i) Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction,<sup>P</sup> or

(ii) Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction,<sup>P</sup> and

(iii) Raised, slaughtered, and processed according to:

(aa) laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program,<sup>P</sup> and

(bb) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee;<sup>P</sup>

(B) Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR 352 Exotic Animals; Voluntary Inspection or rabbits that are "inspected and certified" in accordance with 9 CFR 354 Voluntary Inspection of Rabbits and Edible Products Thereof;<sup>P</sup>

(C) As allowed by law, for wild game animals that are live-caught:

(i) Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction,<sup>P</sup> and

(ii) Slaughtered and processed according to:

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(aa) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, <sup>P</sup> and

(bb) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; <sup>P</sup> or

(D) As allowed by law, for field-dressed wild game animals under a routine inspection program that ensures the animals:

(i) Receive a postmortem examination by an approved veterinarian or veterinarian's designee, <sup>P</sup> or

(ii) Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program, <sup>P</sup> and

(iii) Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program. <sup>P</sup>

(2) A game animal may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR 17 Endangered and threatened wildlife and plants.

(h) Approved sources for exotic game animals.

(1) Exotic animals. If exotic animals are received for sale or service, they must:

(A) be commercially raised for food; <sup>P</sup> and

(i) raised, slaughtered, processed, and deemed to be "inspected and passed under a meat and poultry inspection program administered by the U.S. Department of Agriculture (USDA) in accordance with 9 CFR 352, Exotic Animals; Voluntary Inspection; <sup>P</sup> or

(ii) raised, slaughtered, processed, and deemed to be "inspected and passed under a meat and poultry inspection program administered by Texas Department of State Health Services or any other state meat inspection program deemed equal to USDA inspection; <sup>P</sup>

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(B) as allowed by law, for exotic animals that are live caught, be slaughtered and processed as required in Subparagraph (A)(i) and (ii) of this paragraph;<sup>P</sup> and

(C) as allowed by law, exotic animals that are field dresses:

(i) receive an antemortem and postmortem examination by the appropriate inspection personnel as described in Subparagraph (A)(i) and (ii) of this paragraph;<sup>P</sup> and

(ii) be transported and processed according to the requirements specified by the appropriate regulatory authority as described in Subparagraph (A)(i) and (ii) of this paragraph.<sup>P</sup>

(2) Cooking. Exotic animals must be cooked to heat all parts of the food to a temperature and for a time that complies with one of the methods for cooking game animals according to Section 9-26(a), and under a voluntary inspection program as specified in Paragraph (1) of this subsection.<sup>P</sup>

### **Sec. 9-15. -Specifications for receiving.**

(a) Temperature.

(1) Except as specified in this subsection, refrigerated, time/temperature control for safety food must be at a temperature of 5°C (41°F) or below when received.<sup>P</sup>

(2) If a temperature other than 5°C (41°F) for a time/temperature control for safety food is specified in law governing its distribution the food may be received at the specified temperature.

(3) Raw eggs must be received in refrigerated equipment that maintains an ambient air temperature of 7°C (45°F) or less.<sup>P</sup>

(4) Time/temperature control for safety food that is cooked to a temperature and for a time specified under Sections 9-26(a) – (c) and received hot must be at a temperature of 57°C (135°F) or above.<sup>P</sup>

(5) Grade A pasteurized milk must be received in refrigerated equipment that maintains an ambient air temperature of 7°C (45°F) or less.<sup>P</sup>

(6) Molluscan shellfish must be received in refrigerated equipment or on ice that maintains a temperature of 7°C (45°F) or less, as required in the Texas Molluscan Shellfish Rules, §241.61(a) of Title 25, Health Services, of the Texas Administrative Code (relating to Molluscan Shell Stock Temperature Control).<sup>P</sup>

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(7) A food that is labeled frozen and shipped frozen by a food processing plant must be received frozen. <sup>Pf</sup>

(8) Upon receipt, time/temperature control for safety food must be free of evidence of previous temperature abuse. <sup>P</sup>

(b) Additives. Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186, substances that exceed amounts specified in 9 CFR Subpart C Section 424.21(b) Food ingredients and sources of radiation, or pesticide residues that exceed provisions specified in 40 CFR 180 Tolerances for pesticides chemicals in food, and exceptions. <sup>P</sup>

(c) Chicken eggs. Chicken eggs must be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in 7 CFR 56, Voluntary Grading of Shell Eggs and United States Standards, Grades, and Weight Classes for Shell Eggs, and 9 CFR 590, Inspection of Eggs and Egg Products. <sup>P</sup>

(d) Eggs and milk products, Pasteurized.

(1) Egg products must be obtained pasteurized. <sup>P</sup>

(2) Fluid and dry milk and milk products must be obtained pasteurized and comply with Grade A standards as specified in law. <sup>P</sup>

(3) Frozen milk products, such as ice cream, must be obtained pasteurized in accordance with the Frozen Desserts Manufacturer Licensing Act, Texas Health and Safety Code, Chapter 440, and 21 CFR 135 Frozen Desserts. <sup>P</sup>

(4) Cheese must be obtained pasteurized unless alternative procedures to pasteurization are specified in the CFR, such as 21 CFR 133 - Cheeses and related cheese products, for curing certain cheese varieties. <sup>P</sup>

(e) Packaging integrity. Food packages must be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants. <sup>Pf</sup>

(f) Ice. Ice for use as a food or a cooling medium must be made from drinking water. <sup>P</sup>

(g) Shellstock, condition. When received by a food establishment, shellstock must be reasonably free of mud, dead shellstock, and shellstock with broken shells. Dead shellstock with badly broken shells must be discarded.

(h) Molluscan Shellfish, Packaging and Identification.

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(1) Except as specified in subparagraph 2(A), molluscan shellfish shall be obtained in nonreturnable packages or containers which bear a legible tag or label that identifies the: <sup>Pf</sup>

(A) Source, and are affixed by a dealer that depurates, packs, ships or reships the molluscan shellfish, as specified in the National Shellfish Sanitation Program (NSSP) Guide for the Control of molluscan shellfish (Model Ordinance); <sup>Pf</sup> and

(B) "Sell by" or "best if used by" date for shucked shellfish packages with a capacity of less than 1.89 L (one-half gallon) or the date shucked for packages with a capacity of 1.89 L (one-half gallon) or more. <sup>Pf</sup>

(2) When a two-tag harvester or dealer system is used, the dealer tag must meet the requirements identified in Paragraph (1)(A) of this subsection. When both the dealer and harvester tags appear on the container, the dealer's tag is not required to duplicate the information on the harvester's tag.

(3) A container of raw shucked shellfish that does not bear a tag or label or which bears a tag or label which does not contain all the information as specified under the Model Ordinance shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D -Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d).

### **9.16. -Commercially processed.**

(a) Pre-packaged juice must:

(1) be obtained from a processor with a HACCP system as specified in 21 CFR Part 120 Hazard Analysis and Critical Control (HACCP) Systems; <sup>Pf</sup> and

(2) be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR Part 120.24 Process Controls. <sup>P</sup>

### **9.17. -Original containers and records.**

(a) Molluscan shellfish, original container.

(1) Except as specified in Paragraphs (2) – (5) of this subsection, molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service.

(2) Molluscan shellfish from one tagged or labeled container shall not be commingled with molluscan shellfish from another container with different certification

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numbers, different harvest dates, or different growing areas identified on the tag or label before being ordered by the consumer. <sup>Pf</sup>

(3) For display purposes, shellstock or in-shell product may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

(A) The source of the shellstock or in-shell product on display is identified as specified under Section 9-15(h) and recorded as specified under Section 9-17(b); and

(B) the shellstock or in-shell product are protected from contamination.

(4) Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

(A) The labeling information for the shellfish on display as specified under Section 9-15(g) is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

(B) The shellfish are protected from contamination.

(5) Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers where allowed by law if:

(A) The labeling information for the shellfish is on each consumer self-service container as specified under Section 9-15(g) and Sections 9-32(a)(1) and 9-32(a)(2)(A) – (E);

(B) The labeling information as specified under Section 9-15(g) is retained and correlated with the date when, or dates during which, the shellfish are sold or served;

(C) The labeling information and dates specified under Subparagraph (B) of this paragraph section are maintained for 90 days; and

(D) The shellfish are protected from contamination.

(b) Molluscan shellfish, maintaining identification.

(1) Except as specified under Paragraph (3)(B) of this subsection, molluscan shellfish tags or labels must remain attached to the container in which the shellstock are received until the container is empty. <sup>Pf</sup>

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(2) The date when the last molluscan shellfish from the container is sold or served must be recorded on the tag, label, or invoice.<sup>Pf</sup>

(3) The identity of the source of molluscan shellfish that are sold or served must be maintained by retaining shellstock tags or labels for 90 calendar days from the date that is recorded on the tag or label, as specified under Subparagraph B of this paragraph, by:<sup>Pf</sup>

(A) Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under Paragraph (3)(B) of this subsection;<sup>Pf</sup> and

(B) If shellstock, shucked shellfish or in-shell product are removed from its tagged or labeled container, the source identification must be preserved by using a record keeping system as specified under Subparagraph (A) of this paragraph.<sup>Pf</sup>

### **9.17.1. -Donation of food.**

(a) In general. Food stored, prepared, packaged, displayed, and labeled in accordance to law and this Code may be offered for donation.

(b) Previous service. Except as specified in Paragraphs (1) and (2) of this subsection, foods which have been previously served to a consumer may not be donated.<sup>P</sup>

(1) Packaged time and temperature control for safety foods, such as unopened milk, may be re-served or donated if immediately stored in a cooling bin maintained at 5°C (41°F) or below.<sup>P</sup>

(2) The following food products may be re-served or donated.

(A) Packaged non- time and temperature control for safety foods.

(B) Whole fruit, such as apples or bananas.

(c) Unpackaged and unserved foods. Unpackaged and unserved time and temperature control for safety food may be donated if:

(1) the temperature of the food is at or below 5°C (41°F), or an ambient temperature of 7°C (45°F) for raw shell eggs, at the time of donation, and is protected from contamination;<sup>P</sup>

(2) the food has been at or above 57°C (135°F) during hot holding and service, and subsequently refrigerated to meet the time and temperature requirements in

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Sections 9-29(d) and 9-29(e), or maintained at proper holding temperatures required in Section 9-29(f).<sup>P</sup>

(3) the donor can substantiate that the food recipient has the facilities to meet the transportation, storage, and reheating requirements of this chapter;<sup>P</sup> and

(4) the food is to be transported by the food recipient directly to a consumer, the recipient only needs to meet the transportation requirements in this chapter, including holding temperatures.<sup>P</sup>

(d) Labeling. Donated foods transported offsite must be labeled with the name of the food, the source of the food, and the date of preparation.<sup>P</sup>

(e) Shelf life. Donated time and temperature control for safety foods may not exceed the shelf life for the leftover foods outlined in this chapter.<sup>P</sup>

(f) Damaged foods. Heavily rim or seam-dented canned foods, or packaged foods without the manufacturer's complete labeling must not be donated.<sup>P</sup>

(g) Distressed foods.

(1) Foods which are considered distressed, such as foods which have been subjected to fire, flooding, excessive heat, smoke, radiation, other environmental contamination, or prolonged storage must not be directly donated for consumption by the consumer.<sup>P</sup>

(2) Such foods in Paragraph (1) of this subsection may be sold or donated to a licensed food salvage establishment if permitted under the provisions of Chapter 432 of the Texas Health and Safety Code.

### **DIVISION 2. -PROTECTION FROM CONTAMINATION AFTER RECEIVING.**

#### **9.18. -Preventing contamination by employees.**

(a) Preventing contamination from hands.

(1) Food employees shall wash their hands as specified under Section 9-10(a)(2).

(2) Except when washing fruits and vegetables as specified under Section 9-19(e) or as specified in Paragraphs (3) and (4) of this subsection, food employees shall not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.<sup>P</sup>

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(3) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form. <sup>Pf</sup>

(4) Paragraph (2) of this subsection does not apply to a food employee that contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that:

(A) contains a raw animal food and is to be cooked in the food establishment to heat all parts of the food to the minimum temperatures specified in Sections 9-25(a)(1) – (2) or 9-25(b); or

(B) does not contain a raw animal food but is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 63°C (145°F).

(5) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if:

(A) the permit holder obtains prior approval from the Department;

(B) written procedures are maintained in the food establishment and made available to the Department upon request that include:

(i) for each bare hand contact procedure, a listing of the specific ready-to-eat foods that are touched by bare hands,

(ii) Diagrams and other information showing that handwashing facilities, installed, located, equipped, and maintained as specified under Sections 9-46(c)(1), 9-46(d)(1), 9-46(e)(1), 9-52(a)(2), 9-52(a)(3), and 9-52(a)(5), are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted;

(C) a written employee health policy that details how the food establishment complies with Sections 9-7(a), 9-8, and 9-9, including:

(i) documentation that food employees and conditional employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified under Section 9-7(a)(1),

(ii) documentation that food employees and conditional employees acknowledge their responsibilities as specified under Sections 9-7(a)(5) and (6), and

(iii) documentation that the person in charge acknowledges the responsibilities as specified under Sections 9-7(a)(2), (3), and (4), and Sections 9-8 and 9-9;

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(D) documentation that food employees acknowledge that they have received training in:

- (i) the risks of contacting the specific ready-to-eat foods with bare hands;
- (ii) proper handwashing as specified under Section 9-10(a)(2);
- (iii) when to wash their hands as specified under Section 9-10(a)(4);
- (iv) where to wash their hands as specified under Section 9-10(a)(5);
- (v) proper fingernail maintenance as specified under Section 9-10(b);
- (vi) prohibition of jewelry as specified under Section 9-11(c); and
- (vii) good hygienic practices as specified under Section 9-11(a)(1) and 9-11(a)(2);

(E) documentation that hands are washed before food preparation and as necessary to prevent cross contamination by food employees as specified under Sections 9-10(a)(1), 9-10(a)(2), 9-10(a)(4), and 9-10(a)(5) during all hours of operation when the specific ready-to-eat foods are prepared; and

(F) documentation that food employees contacting ready-to-eat food with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:

- (i) double handwashing;
  - (ii) nail brushes;
  - (iii) a hand antiseptic after handwashing as specified under Section 9-10(a)(6);
  - (iv) incentive programs such as paid sick leave that assist or encourage food employees not to work when they are ill;
  - (v) other control measures approved by the Department;
- and

(G) documentation that corrective action is taken when Paragraph (4) of this subsection are not followed.

(b) Preventing contamination when tasting. A food employee shall not use a utensil more than once to taste food that is to be sold or served. <sup>P</sup>

**Sec. 9-19. -Preventing food and ingredient contamination.**

(a) Packaged and unpackaged food: separation, packaging, and segregation.

(1) Food must be protected from cross contamination by:

(A) Except as specified in this subparagraph or when combined as ingredients, separating raw animal foods during storage, preparation, holding, and display from raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables, <sup>P</sup> cooked ready-to-eat food, <sup>P</sup> and fruits and vegetables before they are washed. <sup>P</sup> Frozen, commercially processed and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food;

(B) Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by using separate equipment for each type, <sup>P</sup> or arranging each type of food in equipment so that cross contamination of one type with another is prevented <sup>P</sup> and preparing each type of food at different times or in separate areas; <sup>P</sup>

(C) Cleaning equipment and utensils as specified under Section 9-41(b)(1) and sanitizing as specified under Section 9-42(c);

(D) Except as specified under Section 9-29(e)(2)(B) and in Paragraph (2) of this subsection, storing the food in packages, covered containers, or wrappings;

(E) Cleaning hermetically sealed containers of food of visible soil before opening;

(F) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

(G) Storing damaged, spoiled, or recalled food being held in the food establishment as specified under Section 9-54(d); and

(H) Separating fruits and vegetables, before they are washed as specified under Section 9-19(e) from ready-to-eat food.

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(2) Subparagraph (1)(D) of this subsection does not apply to:

(A) Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;

(B) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;

(C) Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;

(D) Food being cooled as specified undersection 9-29(e)(2)(B; or

(E) Shellstock.

(b) Food storage containers, identified with common name of food. Except for containers holding food that can be readily and unmistakably recognized such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar must be identified with the common name of the food.

(c) Pasteurized eggs, substitute for raw eggs for certain recipes. Pasteurized eggs or egg products must be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not cooked as specified under Section 9-25(a)(1)(A) or (2) included in Section 9-25(a)(4).<sup>P</sup>

(d) Protection from unapproved additives.

(1) Food must be protected from contamination that may result from the addition of, as specified in Subsection (b) of this section:

(A) Unsafe or unapproved food or color additives; and

(B) Unsafe or unapproved levels of approved food and color additives.

(2) A food employee shall not:

(A) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1;<sup>P</sup> or

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(B) Except for grapes, serve or sell food specified under subparagraph (2)(A) of this subsection that is treated with sulfiting agents before receipt by the food establishment. <sup>P</sup>

(e) Washing fruits and vegetables.

(1) Except as specified in Paragraph (2) of this subsection and except for whole, raw fruits and vegetables that are intended for washing by the consumer before consumption, raw fruits and vegetables must be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form.

(2) Fruits and vegetables may be washed by using chemicals as specified under Section 9-56(d)(4). When chemicals are used, a test kit or other device that accurately measures the active ingredient concentration of the fruit and vegetable wash solution must be provided.

(3) Devices used for on-site generation of chemicals meeting the requirements specified in 21 CFR 173.315, chemicals used in the washing or to assist in the peeling of fruits and vegetables, for the washing of raw, whole fruits and vegetables must be used in accordance with the manufacturer's instructions. <sup>Pf</sup>

### **Sec. 9-20. -Preventing the contamination of ice used as a coolant.**

(a) Ice used as exterior coolant, prohibited as ingredient. After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice must not be used as food. <sup>P</sup>

(b) Storage or display of food in contact with water or ice.

(1) Packaged food must not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water

(2) Except as specified in Paragraphs (3) and (4) of this subsection, unpackaged food must not be stored in direct contact with undrained ice.

(3) Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water.

(4) Raw poultry and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

### **Sec. 9-21. -Preventing contamination from equipment, utensils, and linens.**

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of: (a) Food contact with equipment and utensils. Food must only contact surfaces

(1) equipment and utensils that are cleaned as specified under Section 9-41 and sanitized as specified under Section 9-42; <sup>P</sup>

(2) single-service and single-use articles; <sup>P</sup> or

(3) linens, such as cloth napkins, as specified under Section 9-21(d) that are laundered as specified under Section 9-43. <sup>P</sup>

(b) In-use utensils, between-use storage. During pauses in food preparation or dispensing, food preparation and dispensing utensils must be stored:

(1) Except as specified under Paragraph (2) of this subsection, in the food with their handles above the top of the food and the container;

(2) In food that is not time/temperature control for safety food with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;

(3) on a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under Sections 9-41(b) and 9-42(b);

(4) In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;

(5) In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not time/temperature control for safety food; or

(6) In a container of water if the water is maintained at a temperature of at least 57°C (135°F) and the container is cleaned at a frequency specified under Section 9-41(b)(1)(D)(vii).

(c) Linens and napkins, use limitation. Linens, such as cloth napkins, may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

(d) Wiping cloths, use limitation.

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(1) Cloths in-use for wiping food spills from tableware and carry-out containers that occur as food is being served must be maintained dry and used for no other purpose.

(2) Cloths in-use for wiping counters and other equipment surfaces must be held between uses in a chemical sanitizer solution at a concentration specified under Section 9-40(a)(14) and laundered daily as specified under Section 9-43(b)(1).

(3) Cloths in-use for wiping surfaces in contact with raw animal foods must be kept separate from cloths used for other purposes.

(4) Dry wiping cloths and the chemical sanitizing solutions specified in Paragraph (2) of this subsection in which wet wiping cloths are held between uses must be free of food debris and visible soil.

(5) Containers of chemical sanitizing solutions specified in Paragraph (2) of this subsection in which wet wiping cloths are held between uses must be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, single-service, or single-use articles.

(6) Single-use disposable sanitizer wipes must be used in accordance with EPA-approved manufacturer's label use instructions.

(7) When using quaternary ammonia as a sanitizing solution, a microfiber cloth or nonbinding material or approved equivalent must be used.

(e) Gloves, use limitation.

(1) If used, single-use gloves must be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation. <sup>P</sup>

(2) Except as specified in Paragraph (3) of this subsection, slash-resistant gloves that are used to protect the hands during operations requiring cutting must be used in direct contact only with food that is subsequently cooked as specified under Division 4 of Article III such as frozen food or a primal cut of meat.

(3) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

(4) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under Division 3 of Article III such as frozen food or a primal cut of meat.

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### (f) Responsibility of permit for second portions and refills.

(1) Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer, to provide second portions or refills.

(2) Except as specified in Paragraph (3) of this subsection, self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment.

(3) Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as specified under Section 9-37(d)(3)(A), (B), and (D).

### (g) Refilling returnables.

(1) Except as specified in paragraphs (2) through (5) of this subsection, empty containers returned to a food establishment for cleaning and refilling with food must be cleaned and refilled in a regulated food processing plant.<sup>P</sup>

(2) A take-home food container returned to a food establishment may be refilled at a food establishment with food if the food container is:

(A) Designed and constructed for reuse and in accordance with the requirements specified under Sections 9-36 and 9-37;<sup>P</sup>

(B) One that was initially provided by the food establishment to the consumer, either empty or filled with food by the food establishment, for the purpose of being returned for reuse;

(C) Returned to the food establishment by the consumer after use;

(D) Subject to the following steps before being refilled with food:

(i) Cleaned as specified under Section 9-41;

(ii) Sanitized as specified under Section 9-42;<sup>P</sup> and

(iii) Visually inspected by a food employee to verify that the container, as returned, meets the requirements specified under Sections 9-36 and 9-37.<sup>P</sup>

(3) A take-home food container returned to a food establishment may be refilled at a food establishment with beverage if:

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(A) The beverage is not a time/temperature control for safety food;

(B) The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;

(C) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;

(D) The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and

(E) The container is refilled by:

(i) An employee of the food establishment, or

(ii) The owner of the container if the beverage system includes a contamination-free transfer process as specified under Section 9-37(d)(3)(A), (B), and (D) that cannot be bypassed by the container owner.

(4) Consumer-owned, personal take-out beverage containers, such as thermally insulated bottles, non-spill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under Section 9-37(d)(3)(A), (B), and (D).

(5) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

### **Sec. 9-22. -Preventing contamination from the Premises.**

(a) Food storage.

(1) Except as specified in Paragraphs (2) and (3) of this subsection, food must be protected from contamination by storing the food:

(A) In a clean, dry location;

(B) Where it is not exposed to splash, dust, or other contamination; and

(C) At least 15 cm (6 inches) above the floor.

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(2) Food in packages and working containers may be stored less than 15 cm (6 inches) above the floor on case lot handling equipment as specified under Section 9-37(d)(22).

(3) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

(b) Food storage, prohibited areas. Food may not be stored in the following areas:

(1) Locker rooms.

(2) Toilet rooms. <sup>Pf</sup>

(3) Dressing rooms.

(4) Garbage rooms.

(5) Mechanical rooms.

(6) Under sewer lines that are not shielded to intercept potential drips.

(7) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed.

(8) Under open stairwells.

(9) Under other sources of contamination.

(c) Vended time/temperature control for safety food, original container. Time/temperature control for safety food dispensed through a vending machine must be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.

(d) Food preparation. During preparation, unpackaged food must be protected from environmental sources of contamination.

### **Sec. 9-23. -Preventing contamination by consumers.**

(a) Food display. Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display must be protected from contamination by the use of packaging, counter, service line or salad bar food guards that comply with ANSI standards; completely enclosed display cases; or other means approved by the Department. A letter may be required from the fabricator or installer for any food guard

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required by this subparagraph to confirm compliance with ANSI standards if compliance is not evident through the use of labels or listings posted directly on the food guard by the authority approved to affix such label or listing. <sup>P</sup>

### (b) Condiments, protection.

(1) Condiments must be protected from contamination by keeping kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

(2) Condiments at a vending machine location must be in individual packages or provided in dispensers that are filled at an approved location, such as the food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.

### (c) Consumer self-service operations.

(1) Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. <sup>P</sup> This paragraph does not apply to the following:

(A) Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish.

(B) Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue.

(C) Raw, frozen, shell-on shrimp, or lobster.

(2) Consumer self-service operations for ready-to-eat foods must be provided with suitable utensils or effective dispensing methods that protect the food from contamination. <sup>Pf</sup>

(3) Consumer self-service operations such as buffets and salad bars must be monitored by food employees trained in safe operating procedures. <sup>Pf</sup>

### (d) Returned food and re-service of food.

(1) Except as specified in Paragraph (2) of this subsection, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption. <sup>P</sup>

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(2) Except as specified under Section 9-35(b), a container of food that is not time/temperature control for safety food may be reserved from one consumer to another if:

(A) The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine; or

(B) The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

### **Sec. 9-24. -Buffet notification.**

A card, sign, or other effective means of notification must be displayed to notify consumers that clean tableware is to be used upon return to self-service areas, such as salad bars and buffets as specified in Subsection 9-21(f).<sup>Pf</sup>

### **Sec. 9-24.1. -Preventing contamination from other sources.**

Food must be protected from contamination that may result from a factor or source not specified under Sections 9-18 through 9-24.1.

## **DIVISION 3. -DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN.**

### **Sec. 9-25. -Cooking.**

#### **(a) Raw animal foods.**

(1) Except as specified under Paragraph (2) and in Paragraphs (3) and (4) of this subsection, raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods, must be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

(A) 63°C (145°F) or above for 15 seconds for:<sup>P</sup>

(i) Raw eggs that are broken and prepared in response to a consumer's order and for immediate service,<sup>P</sup> and

(ii) Except as specified under Subparagraphs (1)(B) and (1)(C) and Paragraphs (2) and (3) of this subsection, fish and intact meat including game animals commercially raised for food as specified under Section 9-14(g)(1)(A) and game animals under a voluntary inspection program as specified under Section 9-14(g)(1)(B);<sup>P</sup>

(B) 68°C (155°F) for 17 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites, mechanically tenderized, and injected meats; the following if they are comminuted: fish, meat, game

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animals commercially raised for food as specified under Section 9-14(g)(1)(A), and game animals under a voluntary inspection program as specified under Section 9-14(g)(1)(B); and raw eggs that are not prepared as specified under Subparagraph (1)(A)(i) of this subsection: <sup>P</sup>

Minimum Temperature °C (°F)	Minimum Time
63 (145)	3 minutes
66 (150)	1 minute
70 (158)	< 1 second (instantaneous)

; or

(C) 74°C (165°F) or above for < 1 second (instantaneous) for poultry, baluts, wild game animals as specified under Sections 9-14(g)(1)(C) and (D), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites. <sup>P</sup>

(2) Whole meat roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham must be cooked:

(A) As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature: <sup>P</sup>

Temperature °C (°F)	Time <sup>1</sup> in Minutes
54.4 (130)	112
55.0 (131)	89
56.1 (133)	56
57.2 (135)	36
57.8 (136)	28
58.9 (138)	18
60.0 (140)	12
61.1 (142)	8
62.2 (144)	5
62.8 (145)	4

Temperature °C (°F)	Time <sup>1</sup> in Seconds
63.9 (147)	134
65.0 (149)	85
66.1 (151)	54

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67.2 (153)	34
68.3 (155)	22
69.4 (157)	14
70.0 (158)	0

<sup>1</sup> Holding time may include postoven heat rise.

(B) If cooked in an oven, use an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature: <sup>Pf</sup>

### Oven Temperature Based on Roast Weight

Oven Type	Less than 4.5 kg (10 lbs)	4.5 kg (10 lbs) or More
<b>Still Dry</b>	177°C (350°F) or more	121°C (250°F) or more
<b>Convection</b>	163°C (325°F) or more	121°C (250°F) or more
<b>High Humidity<sup>1</sup></b>	121°C (250°F) or less	121°C (250°F) or less

<sup>1</sup> Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity.

(3) A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

(A) The food establishment serves a population that is not a highly susceptible population;

(B) The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified under Section 9-14(a)(5); and

(C) The steak is cooked on both the top and bottom to a surface temperature of 63°C (145°F) or above and a cooked color change is achieved on all external surfaces.

(4) A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare; or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in Paragraph (3) of this subsection, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

(A) As specified under Sections 9-35(a)(3)(A) and (B), the food establishment serves a population that is not a highly susceptible population;

(B) The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat; <sup>Pf</sup> and

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(C) The consumer is informed as specified under Section 9-33(a) that to ensure its safety, the food must be cooked as specified under Paragraphs (1) or (2) of this subsection; or

(D) The Department grants a variance from Paragraphs (1) or (2) of this subsection as specified in Section 9-64(c)(1) based on a HACCP plan that:

(i) Is submitted by the permit holder and approved as specified under Section 9-64(c)(2);

(ii) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food; and

(iii) Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

(b) Microwave cooking. Raw animal foods cooked in a microwave oven must be:

(1) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(2) Covered to retain surface moisture;

(3) Heated to a temperature of at least 74°C (165°F) in all parts of the food; <sup>P</sup> and

(4) Allowed to stand covered for two (2) minutes after cooking to obtain temperature equilibrium.

(c) Plant food cooking for hot holding. Plant foods that are cooked for hot holding must be cooked to a temperature of 57°C (135°F). <sup>Pf</sup>

(d) Non-continuous cooking of raw animal foods. Raw animal foods that are cooked using a non-continuous cooking process must be:

(1) Subject to an initial heating process that is no longer than sixty minutes in duration; <sup>P</sup>

(2) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked time/temperature control for safety food under Section 9-29(d)(1); <sup>P</sup>

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(3) After cooling, held frozen or cold, as specified for time/temperature control for safety food under Section 9-29(f)(1)(B); <sup>P</sup>

(4) Prior to sale or service, cooked using a process that heats all parts of the food to a temperature and for a time as specified under Sections 9-25(a)(1) - (3); <sup>P</sup>

(5) Cooled according to the time and temperature parameters specified for cooked time /temperature control for safety food under Section 9-29(d)(1) if not either hot held as specified under Section 9-29(f)(1), served immediately, or held using time as a public health control as specified under Section 9-29(i) after complete cooking; <sup>P</sup> and

(6) Prepared and stored according to written procedures that:

(A) Have obtained prior approval from the regulatory authority; <sup>Pf</sup>

(B) Are maintained in the food establishment and are available to the Department upon request; <sup>Pf</sup>

(C) Describe how the requirements specified under Paragraphs (1) through (5) of this subsection are to be monitored and documented by the permit holder and the corrective actions to be taken if the requirements are not met; <sup>Pf</sup>

(D) Describe how the foods, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as foods that must be cooked as specified under Paragraph (4) of this subsection prior to being offered for sale or service; <sup>Pf</sup> and

(E) Describe how the foods, after initial heating but prior to cooking as specified under Paragraph (4) of this subsection, are to be separated from ready-to-eat foods as specified under Section 9-19(a)(1). <sup>Pf</sup>

(e) Vertical broiler cooking.

(1) Food cooked in a vertical broiler must be cooked according to the time temperature appropriate for the food. <sup>P</sup>

(2) Food cooked in a vertical broiler must be completely cooked according to a time temperature appropriate for the food within four (4) hours of the start of the cooking process. <sup>P</sup>

(3) A vertical broiler being used to cook food must be continuously on and rotating until four (4) hours have elapsed or the food is fully cooked, whichever is first. <sup>P</sup>

(4) Foods that are shaved and are not used for immediate service must be kept as specified in Section 9-29(f)(1) until the meat is fully cooked. <sup>P</sup>

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(5) Food cooked in a vertical broiler must receive a final cooking step according to the time temperature appropriate for the food type. <sup>P</sup>

(6) Food cooked or heated using a vertical broiler must be discarded at the end of the day on which it was cooked or heated. <sup>P</sup>

(f) Manufacturer cooking instructions.

(1) Commercially packaged food that bears a manufacturer's cooking instruction must be cooked according to those instructions before use in ready-to-eat foods or offered in unpackaged form for human consumption, unless the manufacturer's instructions specify that the food may be consumed without cooking. <sup>P</sup>

(2) When used in ready-to-eat foods or offered for human consumption, food for which the manufacturer has provided information that it has not been processed to control pathogens must be cooked according to a time and temperature appropriate for the food. <sup>P</sup>

(g) Outdoor grilling.

(1) Outdoor grilling by all food establishments must comply with food establishment standards of the Food Code. <sup>P</sup>

(2) Outdoor grilling at temporary events must be approved by the Department in accordance with the temporary food establishment guidelines in Section 9-59. <sup>P</sup>

### **Sec. 9-26. -Freezing.**

(a) Parasite destruction.

(1) Except as specified in Paragraph (2) of this subsection, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish must be kept as follows:

(A) frozen and stored at a temperature of -20°C (-4°F) or below for a minimum of 168 hours (7 days) in a freezer; <sup>P</sup>

(B) frozen at -35°C (-31°F) or below until solid and stored at -35°C (-31°F) or below for a minimum of 15 hours; <sup>P</sup> or

(C) frozen at -35°C (-31°F) or below until solid and stored at -20°C (-4°F) or below for a minimum of 24 hours. <sup>P</sup>

(2) Paragraph (1) of this subsection does not apply to:

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- (A) molluscan shellfish;
- (B) a scallop product consisting only of the shucked adductor muscle;
- (C) tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern); or
- (D) aquacultured fish, such as salmon, that:
  - (i) if raised in open water, are raised in net-pens, or
  - (ii) are raised in land-based operations such as ponds or tanks, and
  - (iii) are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish.
- (E) fish eggs that have been removed from the skein and rinsed.

(b) Records, creation and retention.

(1) Except as specified in Subsection (a)(2) and Paragraph (2) of this subsection, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish. <sup>Pf</sup>

(2) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under Subsection (a) may substitute for the records specified under Paragraph (1) of this subsection.

(3) If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in Subparagraph (a)(2)(D), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in Subparagraph (a)(2)(D) must be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish. <sup>Pf</sup>

**Sec. 9-27. -Reheating for hot holding.**

(a) Except as specified under Subsections (b), (c), and (e) of this section, time/temperature control for safety food that is cooked, cooled, and reheated for hot

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holding must be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) for 15 seconds. <sup>P</sup>

(b) Except as specified under Subsection (c) of this section, time/temperature control for safety food reheated in a microwave oven for hot holding must be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) and the food is rotated or stirred, covered, and allowed to stand covered for two (2) minutes after reheating. <sup>P</sup>

(c) Ready-to-eat time/temperature control for safety food that has been commercially processed and packaged in a food processing plant that is inspected by the regulatory authority that has jurisdiction over the plant, must be heated to a temperature of at least 57°C (135°F) when being reheated for hot holding. <sup>P</sup>

(d) Reheating for hot holding as specified under Subsections (a) through (c) of this section must be done rapidly and the time the food is between 5°C (41°F) and the temperatures specified under Subsections (a) through (c) of this section may not exceed two (2) hours. <sup>P</sup>

(e) Remaining unsliced portions of meat roasts that are cooked as specified under Section 9-25(a)(2) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under Section 9-25(a)(2).

### **Sec. 9-28. -Treating juices.**

Juices packaged in a food establishment must be:

(1) treated under a HACCP plan as specified in Section 9-65(a)(3) to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; <sup>P</sup> or

(2) labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance: <sup>Pf</sup>

(A) as specified under Section 9-32(a), and

(B) as specified in 21 CFR 101.17(g) Food Labeling, Warning, Notice, and Safe Handling Statements, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with the following, "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems." <sup>Pf</sup>

### **DIVISION 4. -LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN.**

**Sec. 9-29. -Temperature and time control.**

- (a) Frozen food. Stored frozen foods must be maintained frozen.
- (b) Time/temperature control for safety food, slacking. Frozen time/temperature control for safety food that is slacked to moderate the temperature must be held:
  - (1) under refrigeration that maintains the food temperature at 5°C (41°F) or less; or
  - (2) at any temperature if the food remains frozen.
- (c) Thawing. Except as specified in Paragraph (4) of this subsection, time/temperature control for safety food must be thawed:
  - (1) Under refrigeration that maintains the food temperature at 5°C (41°F) or less; <sup>Pf</sup> or
  - (2) Completely submerged under running water:
    - (A) at a water temperature of 21°C (70°F) or below, <sup>Pf</sup>
    - (B) with sufficient water velocity to agitate and float off loose particles in an overflow, <sup>Pf</sup> and
    - (C) for a period of time that does not allow thawed portions of ready-to-eat food to rise above 5°C (41°F); <sup>Pf</sup> or
    - (D) for a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified under Section 9-25(a)(1) or (2) to be above 5°C (41°F), for more than four (4) hours including:
      - (i) the time the food is exposed to the running water and the time needed for preparation for cooking, <sup>Pf</sup> or
      - (ii) the time it takes under refrigeration to lower the food temperature to 5°C (41°F); <sup>Pf</sup>
  - (3) As part of a cooking process if the food that is frozen is:
    - (A) cooked as specified under Section 9-25(a)(1) or (2) or Section 9-25(b) or (f), <sup>Pf</sup> or
    - (B) thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; <sup>Pf</sup> or

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(4) Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

(5) Reduced oxygen packaged fish that bears a label indicating that it is to be kept frozen until time of use must be removed from the reduced oxygen environment:

(A) prior to its thawing under refrigeration as specified in Paragraph (1) of this subsection; or

(B) prior to, or Immediately upon completion of, its thawing using procedures specified in Paragraph (2) of this subsection.

(d) Cooling.

(1) Cooked time/temperature control for safety food must be cooled:

(A) Within two (2) hours from 57°C (135°F) to 21°C (70°F);<sup>P</sup> and

(B) Within a total of six (6) hours from 57°C (135°F) to 5°C (41°F) or less.<sup>P</sup>

(2) Time/temperature control for safety food must be cooled within four (4) hours to 5°C (41°F) or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.<sup>P</sup>

(3) Except as specified under Paragraph (4) of this subsection, a time/temperature control for safety food received in compliance with laws allowing a temperature above 5°C (41°F) during shipment from the supplier as specified in Section 9-15(a)(2), must be cooled within 4 hours to 5°C (41°F) or less.<sup>P</sup>

(4) Raw eggs must be received as specified under Section 9-15(a)(3) and immediately placed in refrigerated equipment that maintains an ambient air temperature of 7°C (45°F) or less.<sup>P</sup>

(e) Cooling methods.

(1) Cooling must be accomplished in accordance with the time and temperature criteria specified under Subsection (d) of this section by using one or more of the following methods based on the type of food being cooled:

(A) Placing the food in shallow pans.<sup>Pf</sup>

(B) Separating the food into smaller or thinner portions.<sup>Pf</sup>

(C) Using rapid cooling equipment.<sup>Pf</sup>

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- (D) Stirring the food in a container placed in an ice water bath. <sup>Pf</sup>
- (E) Using containers that facilitate heat transfer. <sup>Pf</sup>
- (F) Adding ice as an ingredient. <sup>Pf</sup>
- (G) Other effective methods. <sup>Pf</sup>

(2) When placed in cooling or cold holding equipment, food containers in which food is being cooled must be:

(A) arranged in the equipment to provide maximum heat transfer through the container walls; and

(B) loosely covered, or uncovered if protected from overhead contamination as specified under Section 9-22(a)(1)(B), during the cooling period to facilitate heat transfer from the surface of the food.

(f) Time/temperature control for safety food, hot and cold holding.

(1) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under Section 9-29(i), and except as specified under Paragraphs (2) and (3) of this subsection, time/temperature control for safety food must be maintained:

(A) at 57°C (135°F) or above, except that roasts cooked to a temperature and for a time specified in Section 9-25(a)(2) or reheated as specified in Section 9-27(e) may be held at a temperature of 54°C (130°F) or above; <sup>P</sup> or

(B) at 5°C (41°F) or less. <sup>P</sup>

(2) Eggs that have not been treated to destroy all viable *Salmonellae* must be stored in refrigerated equipment that maintains an ambient air temperature of 7°C (45°F) or less. <sup>P</sup>

(3) Time/temperature control for safety food in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under Paragraph (1) of this subsection, while contained within specially designed equipment that complies with the design and construction requirements as specified under Section 9-37(d)(3)(E).

(g) Ready-to-eat, time/temperature control for safety food, date marking.

(1) In general. Except when packaging food using a reduced oxygen packaging method as specified under Section 9-30(b), and except as specified in

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Paragraphs (2)(E) and (2)(F) of this subsection, refrigerated, ready-to-eat, time/temperature control for safety food prepared and held in a food establishment for more than 24 hours must be clearly marked to indicate the date or day food was prepared and by which date or day the food must be consumed on the premises, sold, or discarded when held at a temperature of 5°C (41°F) or less for a maximum of seven (7) days. The day of preparation must be counted as Day 1.<sup>Pf</sup>

### (2) Commercially processed food.

(A) Except as specified in Subparagraphs (D) - (F) of this paragraph, refrigerated, ready-to-eat time/temperature control for safety food prepared and packaged by a food processing plant must be clearly marked, at the time the original container is opened in a food establishment and if the food is held for more than 24 hours, to indicate the date or day on which the food was opened and the date or day by which the food must be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in Paragraph (1) of this subsection.<sup>Pf</sup> The day the original container is opened in the food establishment must be counted as Day 1.<sup>Pf</sup> The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.<sup>Pf</sup>

(B) A refrigerated, ready-to-eat time/temperature control for safety food ingredient or a portion of a refrigerated, ready-to-eat, time/temperature control for safety food that is subsequently combined with additional ingredients or portions of food must retain the date marking of the earliest- prepared or first-prepared ingredient.<sup>Pf</sup>

(C) A date marking system that meets the criteria stated in Paragraphs (1) and (2)(A) and (B) of this subsection may include:

(i) Using a method approved by the regulatory authority for refrigerated, ready-to-eat time/temperature control for safety food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;

(ii) Marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified under Paragraph (1) of this subsection;

(iii) Marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified under Paragraph (2)(A) of this subsection; or

(iv) Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the regulatory authority upon request.

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(D) Paragraphs (1) and (2)(A) of this subsection do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

(E) Paragraphs (1) and (2)(A) of this subsection do not apply to shellstock.

(F) Paragraph (2)(A) of this subsection does not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:

(i) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR 117 Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food;

(ii) Hard cheeses containing not more than 39% moisture as defined in 21 CFR 133 Cheeses and Related Cheese Products, Such as Cheddar, Gruyere, Parmesan and Reggiano, and Romano;

(iii) Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR 133 Cheeses and Related Cheese Products, such as Blue, Edam, Gorgonzola, Gouda, and Monterey Jack;

(iv) Cultured dairy products as defined in 21 CFR 131 Milk and Cream, such as Yogurt, Sour Cream, and Buttermilk;

(v) Preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products defined in 21 CFR 114 Acidified Foods;

(vi) Shelf stable, dry fermented sausages, such as pepperoni and Genoa; and

(vii) Shelf stable salt-cured products such as prosciutto and Parma (ham).

(h) Ready-to-eat, time/temperature control for safety food, disposition.

(1) A food specified in Subsections (g)(1) and (g)(2)(A) of this section must be discarded if it exceeds the temperature and time combination specified in Subsection (g)(1) except time that the product is frozen, <sup>P</sup> is in a container or package that does not bear a date or day, <sup>P</sup> or is inappropriately marked with a date or day that exceeds a temperature and time combination as specified in Subsection (g)(1). <sup>P</sup>

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(2) Refrigerated, ready-to-eat, time/temperature control for safety food prepared in a food establishment and dispensed through a vending machine with an automatic shutoff control must be discarded if it exceeds a temperature and time combination as specified in Subsection (g)(1) of this section.<sup>P</sup>

(i) Time as a public health control.

(1) Except as specified under Paragraph (4) of this subsection, if time without temperature control is used as the public health control for a working supply of time/temperature control for safety food before cooking, or for ready-to-eat time/temperature control for safety food that is displayed or held for sale or service:

(A) Written procedures must be prepared in advance, maintained in the food establishment and made available to the Department upon request that specify:<sup>Pf</sup>

(i) Methods of compliance with Subparagraphs (2)(A) through (D) or (3)(A) through (E) of this subsection;<sup>Pf</sup> and

(ii) Methods of compliance with Subsection (d) of this section for food that is prepared, cooked, and refrigerated before time is used as a public health control.<sup>Pf</sup>

(2) If time without temperature control is used as the public health control up to a maximum of four (4) hours:

(A) Except as specified in Paragraph (2)(B), the food must have an initial temperature of 5°C (41°F) or less when removed from cold holding temperature control, or 57°C (135°F) or greater when removed from hot holding temperature control;<sup>P</sup>

(B) The food may have an initial temperature of 21°C (70°F) or less if:

(i) it is a ready-to-eat fruit or vegetable that upon cutting is rendered a time/temperature control for safety food as defined in Section 9-5, or

(ii) it is a ready-to-eat hermetically sealed food that upon opening is rendered a time/temperature control for safety food as defined in Section 9-5,

(iii) the food temperature does not exceed 21°C (70°F) within a maximum time period of four (4) hours from the time it was rendered a time/temperature control for safety food; and

(iv) the food is marked or otherwise identified to indicate the time that is four (4) hours past the point in time when the food is rendered a

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time/temperature control for safety food as specified in Subparagraphs (2)(B)(i) and (ii) of this subsection.

(C) The food must be marked or otherwise identified to indicate the initial temperature of the food item when removed from temperature control, the time removed from temperature control, and time that is four (4) hours past the point in time when the food is removed from temperature control; <sup>Pf</sup>

(D) The food must be cooked and served, served at any temperature if ready-to-eat, or discarded, within four (4) hours from the point in time when the food is removed from temperature control; <sup>P</sup> and

(E) The food in unmarked containers or packages, or marked to exceed a four-hour limit must be discarded. <sup>P</sup>

(3) If time without temperature control is used as the public health control up to a maximum of six (6) hours:

(A) The food must have an initial temperature of 5°C (41°F) or less when removed from temperature control, and the food temperature may not exceed 21°C (70°F) within a maximum time period of six (6) hours; <sup>P</sup>

(B) The food must be monitored to ensure the warmest portion of the food does not exceed 21°C (70°F) during the six-hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 21°C (70°F) during the six-hour holding period; <sup>Pf</sup>

(C) The food must be marked or otherwise identified to indicate the time when the food is removed from 5°C (41°F) or less cold holding temperature control, <sup>Pf</sup> and the time that is six (6) hours past the point in time when the food is removed from cold holding temperature control; <sup>Pf</sup>

(D) The food must be discarded if the temperature of the food exceeds 21°C (70°F), <sup>P</sup> or cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six (6) hours from the point in time when the food is removed from 5°C (41°F) or less cold holding temperature control; <sup>P</sup> and

(E) The food in unmarked containers or packages, or marked with a time that exceeds the six-hour limit must be discarded. <sup>P</sup>

(4) A food establishment that serves a highly susceptible population may not use time as specified under Paragraphs (1), (2) or (3) of this subsection as the public health control for raw eggs.

**Sec. 9-30. -Specialized processing methods.**

(a) Variance requirement. A food establishment must obtain a variance from the Department as specified in Section 9-64(c)(1) and under Section 9-64(c)(2) before any of the following <sup>Pf</sup>:

(1) Smoking food as a method of food preservation rather than as a method of flavor enhancement. <sup>Pf</sup>

(2) Curing food. <sup>Pf</sup>

(3) Using food additives or adding components such as vinegar <sup>Pf</sup> as a method of food preservation rather than as a method of flavor enhancement, <sup>Pf</sup> or to render a food so that it is not time/temperature control of safety food. <sup>Pf</sup>

(4) Packaging time/temperature control for safety food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified under Subsection (b) of this section. <sup>Pf</sup>

(5) Operating a molluscan shellfish life-support system display tank used to store or display shellfish that are offered for human consumption. <sup>Pf</sup>

(6) Custom processing animals that are for personal use as food and not for sale or service in a food establishment. <sup>Pf</sup>

(7) Preparing food by another method that is determined by the Department to require a variance. <sup>Pf</sup>

(8) Sprouting seeds or beans. <sup>Pf</sup>

(b) Reduced oxygen packaging without a variance, criteria.

(1) Except for a food establishment that obtains a variance as specified under Subsection (a) of this section, a food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method must control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*. <sup>P</sup>

(2) Except as specified under Paragraph (6) of this subsection, a food establishment that packages time/temperature control for safety food using a reduced oxygen packaging method must implement a HACCP plan that contains the information specified under Sections 9-65(a)(3)(C) and (D) and that: <sup>Pf</sup>

(A) Identifies the food to be packaged; <sup>Pf</sup>

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(B) Except as specified under Paragraphs (3) through (5) of this subsection, requires that the packaged food must be maintained at 5°C (41°F) or less and meet at least one of the following criteria: <sup>Pf</sup>

- (i) has an AW of 0.91 or less, <sup>Pf</sup>
- (ii) has a PH of 4.6 or less, <sup>Pf</sup>
- (iii) is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21, Use of Food Ingredients and Sources of Radiation, and is received in an intact package, <sup>Pf</sup> or
- (iv) is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables; <sup>Pf</sup>

(C) Describes how the package must be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to: <sup>Pf</sup>

- (i) Maintain the FOOD at 5°C (41°F) or below, <sup>Pf</sup> and
- (ii) Discard the food if within 30 calendar days of its packaging if it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption; <sup>Pf</sup>

(D) Limits the refrigerated shelf life to no more than 30 calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first; <sup>P</sup>

(E) Includes operational procedures that:

(i) Prohibit contacting ready-to-eat food with bare hands as specified under Section 9-18(a)(2), <sup>Pf</sup>

(ii) Identify a designated work area and the method by which: <sup>Pf</sup>

(aa) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, <sup>Pf</sup> and

(bb) Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation, <sup>Pf</sup> and

(iii) Delineate cleaning and sanitization procedures for foodcontact surfaces; <sup>Pf</sup> and

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(F) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the: <sup>Pf</sup>

(i) Concepts required for a safe operation, <sup>Pf</sup>

(ii) equipment and facilities, <sup>Pf</sup> and

(iii) Procedures specified under Paragraph (2)(E) of this subsection and Sections 9-65(a)(3)(C) and (D). <sup>Pf</sup>

(G) Is provided to the Department prior to implementation as specified under Section 9-65.

(3) Except for fish that is frozen before, during, and after packaging and bears a label indicating that it is to be kept frozen until time of use, a food establishment may not package fish using a reduced oxygen packaging method. <sup>P</sup>

(4) Except as specified under Paragraphs (3) and (6) of this subsection, a food establishment that packages time/temperature control for safety food using a cook-chill or sous vide process must:

(A) Provide to the Department prior to implementation, a HACCP plan that contains the information as specified under Sections 9-65(a)(3)(C) and (D); <sup>Pf</sup>

(B) Ensure the food is:

(i) Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer, <sup>Pf</sup>

(ii) Cooked to heat all parts of the food to a temperature and for a time as specified under Section 9-25(a)(1), (2), and (3), <sup>P</sup>

(iii) Protected from contamination before and after cooking as specified under Divisions 2 and 3 of Article III, <sup>P</sup>

(iv) Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below 57°C (135°F), <sup>P</sup>

(v) Cooled to 5°C (41°F) in the sealed package or bag as specified under Section 9-22(d) <sup>P</sup> and:

(aa) Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within 30 days after the date of packaging; <sup>P</sup>

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(bb) Held at 5°C (41°F) or less for no more than seven (7) days, at which time the food must be consumed or discarded; <sup>P</sup>

(cc) Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F), removed from refrigeration equipment that maintains a 1°C (34°F) food temperature and then held at 5°C (41°F) or less for no more than 7 days, not to exceed 30 days from its date of packaging, at which time the food must be consumed or discarded; <sup>P</sup> or

(dd) Held frozen with no shelf life restriction while frozen until consumed or used. <sup>P</sup>

(vi) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily, <sup>Pf</sup>

(vii) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation, <sup>Pf</sup> and

(viii) Labeled with the product name and the date packaged; <sup>Pf</sup> and

(C) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan and:

(i) Make such records available to the Department upon request, <sup>Pf</sup> and

(ii) Hold such records for at least six (6) months; <sup>Pf</sup> and

(D) Implement written operational procedures as specified under Paragraph (2)(E) of this subsection and a training program as specified under Paragraph (2)(E) of this subsection. <sup>Pf</sup>

(5) Except as specified under Paragraph (6) of this subsection, a food establishment that packages cheese using a reduced oxygen packaging method must:

(A) Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR 133.150 Hard Cheeses, 21 CFR 133.169 Pasteurized Process Cheese, or 21 CFR 133.187 Semisoft Cheeses; <sup>P</sup>

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(B) Have a HACCP plan that contains the information specified under Section 9-65(a)(3)(C) and (D) and as specified under Paragraphs (2)(A), (2)(C)(i), (2)(E) and (2)(F) of this subsection; <sup>Pf</sup>

(C) Labels the package on the principal display panel with a “use by” date that does not exceed 30 days from its packaging or the original manufacturer’s “sell by” or “use by” date, whichever occurs first; <sup>Pf</sup> and

(D) Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging. <sup>Pf</sup>

(6) A HACCP plan is not required when a food establishment uses a reduced oxygen packaging method to package time/temperature control for safety food that is always:

(A) Labeled with the production time and date,

(B) Held at 5°C (41°F) or less during refrigerated storage, and

(C) Removed from its package in the food establishment within 48 hours after packaging.

### **DIVISION 5. -FOOD IDENTITY, PRESENTATION, AND ON-PREMISES LABELING.**

#### **Sec. 9-31. -Accurate representation.**

(a) Standards of identity. Packaged food must comply with standard of identity requirements in 21 CFR 131-169 and 9 CFR 319 Definitions and standards of identity or composition, and the general requirements in 21 CFR 130 – Food Standards: General and 9 CFR 319 Subpart A – General.

(b) Honestly presented.

(1) Food must be offered for human consumption in a way that does not mislead or misinform the consumer.

(2) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.

#### **Sec. 9-32. -Labeling.**

(a) Food labels.

(1) Food packaged in a food establishment, must be labeled as specified in law, including 21 CFR 101 - Food Labeling, and 9 CFR 317 Labeling, Marking Devices, and Containers.

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(2) Label information must include:

(A) The common name of the food, or absent a common name, an adequately descriptive identity statement;

(B) If made from two or more ingredients, a list of ingredients and sub-ingredients in descending order of predominance by weight, including a declaration of artificial colors, artificial flavors and chemical preservatives, if contained in the food;

(C) An accurate declaration of the net quantity of contents;

(D) The name and place of business of the manufacturer, packer, or distributor; and

(E) The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient. <sup>Pf</sup>

(F) Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(q)(3) - (5), nutrition labeling as specified in 21 CFR 101 - Food Labeling and 9 CFR 317 Subpart B Nutrition Labeling.

(G) For any salmonid fish containing canthaxanthin or astaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin or astaxanthin.

(3) Bulk food that is available for consumer self-dispensing must be prominently labeled with the following information in plain view of the consumer:

(A) The manufacturer's or processor's label that was provided with the food; or

(B) A card, sign, or other method of notification that includes the information specified under Subparagraphs (2)(A), (B), (E) and (F) of this subsection.

(4) Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

(A) A health, nutrient content, or other claim is not made;

(B) There are no state or local laws requiring labeling; and

(C) The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is

owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

(b) Other forms of information.

(1) If required by law, consumer warnings must be provided.

(2) Food establishment or manufacturers' dating information on foods may not be concealed or altered.

**Sec. 9-33. -Consumer advisory.**

(a) Consumption of animal foods that are raw, undercooked, or not otherwise processed to eliminate pathogens.

(1) Except as specified in Section 9-25(a)(3) and Section 9-25(a)(4)(D) and under Section 9-35(a)(3), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in Paragraphs (2) and (3) of this subsection using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means. <sup>Pf</sup>

(2) The disclosure must include:

(A) A description of the animal-derived foods, such as “oysters on the half shell (raw oysters),” “raw-egg Caesar salad,” and “hamburgers (can be cooked to order);” <sup>Pf</sup> or

(B) Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients. <sup>Pf</sup>

(3) A reminder must include asterisking the animal-derived foods requiring disclosure to a footnote that states:

(A) Regarding the safety of these items, written information is available upon request; <sup>Pf</sup>

(B) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness; <sup>Pf</sup> or

(C) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions. <sup>Pf</sup>

**DIVISION 6. -CONTAMINATED FOOD.**

**Sec. 9-34. -Disposition.**

(a) Discarding or reconditioning unsafe, adulterated, or contaminated food.

(1) A food that is unsafe, adulterated, or not honestly presented as specified under Section 9-13 must be discarded or reconditioned according to an approved procedure. <sup>P</sup>

(2) food that is not from an approved source as specified under Sections 9-14(a) – (g) must be discarded. <sup>P</sup>

(3) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under Section 9-8 must be discarded. <sup>P</sup>

(4) Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means must be discarded. <sup>P</sup>

**DIVISION 7. -SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS.**

**Sec. 9-35. -Additional safeguards.**

(a) Pasteurized foods, prohibited re-service, and prohibited food. In a food establishment that serves a highly susceptible population:

(1) The following criteria apply to juice:

(A) For the purposes of this paragraph only, children who are age nine (9) or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;

(B) Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR, 101.17(g) Food Labeling, Warning, Notice, and Safe Handling Statements, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens, or a packaged juice or beverage containing juice, that bears a warning label as specified under Section 9-28(2) may not be served or offered for sale; <sup>P</sup> and

(C) Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form must be processed under a HACCP plan that contains the information specified under Sections 9-65(a)(3)(C) – (E) and as specified in 21 CFR Part

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120 – Hazard Analysis and Critical Control Point (HACCP) Systems, Subpart B Pathogen Reduction, 120.24 Process Controls. <sup>P</sup>

(2) Pasteurized eggs or egg products must be substituted for raw eggs in the preparation of: <sup>P</sup>

(A) Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages, <sup>P</sup> and

(B) Except as specified in Paragraph (6) of this subsection, recipes in which more than one egg is broken and the eggs are combined. <sup>P</sup>

(3) The following foods may not be served or offered for sale in a ready-to-eat form: <sup>P</sup>

(A) Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare, <sup>P</sup>

(B) A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw EGGS, and meringue; <sup>P</sup> and

(C) Raw seed sprouts. <sup>P</sup>

(D) Packaged food as specified under Section 9-25(f).

(4) Food employees may not contact ready-to-eat food as specified under Sections 9-18(a)(2) and (5). <sup>P</sup>

(5) Time only, as the public health control as specified under Section 9-29(i)(4), may not be used for raw eggs. <sup>P</sup>

(6) Subparagraph (2)(b) of this subsection does not apply if:

(A) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under Section 9-25(a)(1)(A), and served immediately, such as an omelet, soufflé, or scrambled eggs;

(B) The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or

(C) The preparation of the food is conducted under a HACCP plan that:

(i) Identifies the food to be prepared,

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(ii) Prohibits contacting ready-to-eat food with bare hands,

(iii) Includes specifications and practices that ensure *Salmonella Enteritidis* growth is controlled before and after cooking, and *Salmonella Enteritidis* is destroyed by cooking the eggs according to the temperature and time specified in Section 9-25(a)(1)(B),

(iv) Contains the information specified under Section 9-65(a)(3)(D), including procedures that control cross contamination of ready-to eat food with raw eggs, and delineate cleaning and sanitization procedures for food-contact surfaces, and

(v) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

(b) Re-service of food. Except as specified in Subsection (c) of this section, food may be re-served as specified under Sections 9-23(d)(2)(A) and (B).

(c) Prohibited re-service of food. Food may not be re-served under the following conditions:

(1) Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside.

(2) Packages of food from any patients, clients, or other consumers should not be re-served to persons in protective environment isolation.

### **ARTICLE IV. EQUIPMENT, UTENSILS, AND LINENS**

#### **Sec. 9-36. -Materials for construction and repair.**

(a) Multiuse.

(1) Characteristics. Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions must be: <sup>P</sup>

(A) Safe; <sup>P</sup>

(B) Durable, corrosion-resistant, and nonabsorbent;

(C) Sufficient in weight and thickness to withstand repeated warewashing;

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(D) Finished to have a smooth, easily cleanable surface; and

(E) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

(2) Cast iron, use limitation.

(A) Except as specified in Subparagraphs (B) and (C) of this paragraph, cast iron may not be used for utensils or food-contact surfaces of equipment.

(B) Cast iron may be used as a surface for cooking.

(C) Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

(3) Lead, use limitation.

(A) Ceramic, china, and crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food must be lead-free or contain levels of lead not exceeding the limits of the following utensil categories: <sup>P</sup>

UTENSIL Category	Ceramic Article Description	Maximum Lead MG/L
Beverage Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls > 1.1 Liter (1.16 Quart)	1
Small Hollowware (excluding cups & mugs)	Bowls < 1.1 Liter (1.16 Quart)	2.0
Flat Tableware	Plates, Saucers	3.0

(B) Pewter alloys containing lead in excess of 0.05% may not be used as a food-contact surface. <sup>P</sup>

(C) Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface.

(4) Copper, use limitation.

(A) Except as specified in Subparagraph (B) of this paragraph, copper and copper alloys such as brass may not be used in contact with a food that has a pH below six (6) such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator. <sup>P</sup>

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(B) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below six (6) in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

(5) Galvanized metal, use limitation. Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food. <sup>P</sup>

(6) Sponges, use limitation. Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

(7) Wood, use limitation.

(A) Except as specified in Subparagraphs (B), (C), and (D) of this paragraph, wood and wood wicker may not be used as a food-contact surface.

(B) Hard maple or an equivalently hard, close-grained wood may be used for:

(i) Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

(ii) Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 110°C (230°F) or above.

(C) Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

(D) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

(i) Untreated wood containers; or

(ii) Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800 Preservatives for Wood.

(8) Nonstick coatings, use limitation. Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating must be used with nonscoring or nonscratching utensils and cleaning aids.

(9) Nonfood-contact surfaces. Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning must be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

(b) Single-service or single-use.

(1) Characteristics. Materials that are used to make single-service and single-use articles:

(A) May not allow the migration of deleterious substances, <sup>P</sup> or impart colors, odors, or tastes to food; and

(B) Must be safe <sup>P</sup> and clean.

**Sec. 9-37. -Design and construction.**

(a) Durability and strength.

(1) Equipment and utensils. Equipment and utensils must be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

(2) Food temperature measuring devices. Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used. <sup>P</sup>

(b) Cleanability.

(1) Food-contact surfaces.

(A) Multiuse food-contact surfaces must be:

(i) Smooth; <sup>Pf</sup>

(ii) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections; <sup>Pf</sup>

(iii) Free of sharp internal angles, corners, and crevices; <sup>Pf</sup>

(iv) Finished to have smooth welds and joints; <sup>Pf</sup> and

(v) Except as specified in Subparagraph (B) of this paragraph, accessible for cleaning and inspection by one of the following methods:

(aa) Without being disassembled, <sup>Pf</sup>

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(bb) By disassembling without the use of tools, <sup>Pf</sup> or

(cc) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches. <sup>Pf</sup>

(B) Subparagraph (A)(v) of this subsection does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

(2) CIP equipment.

(A) CIP equipment must meet the characteristics specified under Section 9-37(b)(1) and must be designed and constructed so that:

(i) Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces, <sup>Pf</sup> and

(ii) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and

(B) CIP equipment that is not designed to be disassembled for cleaning must be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

(3) "V" threads, use limitation. Except for hot oil cooking or filtering equipment, "V" type threads may not be used on food-contact surfaces.

(4) Hot oil filtering equipment. Hot oil filtering equipment must meet the characteristics specified under Sections 9-37(b)(1) and (2) and must be readily accessible for filter replacement and cleaning of the filter.

(5) Can openers. Cutting or piercing parts of can openers must be readily removable for cleaning and for replacement.

(6) Nonfood-contact surfaces. Nonfood-contact surfaces must be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

(7) Kick plates, removable. Kick plates must be designed so that the areas behind them are accessible for inspection and cleaning by being:

(A) Removable by one of the methods specified under Section 9-37(b)(1)(A)(v) or capable of being rotated open; and

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(B) Removable or capable of being rotated open without unlocking equipment doors.

(8) Ventilation hood systems, filters. Filters or other grease extracting equipment must be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

(c) Accuracy.

(1) Temperature measuring devices, food.

(A) Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit must be accurate to  $\pm 1^{\circ}\text{C}$  in the intended range of use. <sup>Pf</sup>

(B) Food temperature measuring devices that are scaled only in Fahrenheit must be accurate to  $\pm 2^{\circ}\text{F}$  in the intended range of use. <sup>Pf</sup>

(2) Temperature measuring devices, ambient air and water.

(A) Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit must be designed to be easily readable and accurate to  $\pm 1.5^{\circ}\text{C}$  in the intended range of use. <sup>Pf</sup>

(B) Ambient air and water temperature measuring devices that are scaled only in Fahrenheit must be accurate to  $\pm 3^{\circ}\text{F}$  in the intended range of use. <sup>Pf</sup>

(3) Pressure measuring devices, mechanical warewashing equipment. Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse must have increments of 7 kilopascals (1 pound per square inch) or smaller and must be accurate to  $\pm 14$  kilopascals ( $\pm 2$  pounds per square inch) in the range indicated on the manufacturer's data plate.

(d) Functionality.

(1) Ventilation hood systems, drip prevention. Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting must be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

(2) Equipment openings, closures and deflectors.

(A) A cover or lid for equipment must overlap the opening and be sloped to drain.

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(B) An opening located within the top of a unit of equipment that is designed for use with a cover or lid must be flanged upward at least five (5) millimeters (two-tenths of an inch).

(C) Except as specified under Subparagraph (D) of this paragraph, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment must be provided with a watertight joint at the point where the item enters the equipment.

(D) If a watertight joint is not provided, the piping, temperature measuring devices, rotary shafts, and other parts extending through the openings must be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food, and the opening must be flanged as specified under Subparagraph (B) of this paragraph.

(3) Dispensing equipment, protection of equipment and food. In equipment that dispenses or vends liquid food or ice in unpackaged form:

(A) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food must be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;

(B) The delivery tube, chute, and orifice must be protected from manual contact such as by being recessed;

(C) The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers must be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

(i) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or

(ii) Available for self-service during hours when it is not under the full-time supervision of a food employee; and

(D) The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment must be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

(E) Dispensing equipment in which time/temperature control for safety food in a homogenous liquid form is maintained outside of the temperature control requirements as specified under Section 9-29(f)(1) must:

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(i) be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment;<sup>P</sup> and

(ii) conform to the requirements for this equipment as specified in NSF/ANSI 18-2006-Manual Food and Beverage Dispensing Equipment.<sup>P</sup>

(4) Vending machine, vending stage closure. The dispensing compartment of a vending machine including a machine that is designed to vend prepackaged snack food that is not time/temperature control for safety food such as chips, party mixes, and pretzels must be equipped with a self-closing door or cover if the machine is:

(A) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

(B) Available for self-service during hours when it is not under the full-time supervision of a food employee.

(5) Bearings and gear boxes, leakproof. equipment containing bearings and gears that require lubricants must be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.

(6) Beverage tubing, separation. Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice.

(7) Ice units, separation of drains. Liquid waste drain lines may not pass through an ice machine or ice storage bin.

(8) Condenser unit, separation. If a condenser unit is an integral component of equipment, the condenser unit must be separated from the food and food storage space by a dustproof barrier.

(9) Can openers on vending machines. Cutting or piercing parts of can openers on vending machines must be protected from manual contact, dust, insects, rodents, and other contamination.

(10) Molluscan shellfish tanks.

(A) Except as specified under Subparagraph (B) of this subsection, molluscan shellfish life support system display tanks may not be used to store or display shellfish that are offered for human consumption and must be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.<sup>P</sup>

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(B) Molluscan shellfish life-support system display tanks that are used to store or display shellfish that are offered for human consumption must be operated and maintained in accordance with a variance granted by the Department as specified in Section 9-64(c)(1) and a HACCP plan that: <sup>Pf</sup>

(i) Is submitted by the permit holder and approved as specified under Section 9-64(c)(2); <sup>Pf</sup> and

(ii) Ensures that:

(aa) Water used with fish other than molluscan shellfish does not flow into the molluscan tank, <sup>Pf</sup>

(bb) The safety and quality of the shellfish as they were received are not compromised by the use of the tank, <sup>Pf</sup> and

(cc) The identity of the source of the shellstock is retained as specified under Section 9-17(b). <sup>Pf</sup>

### (11) Vending machines, automatic shutoff.

(A) A machine vending time/temperature control for safety food must have an automatic control that prevents the machine from vending food:

(i) If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified under Article III. <sup>P</sup>

(ii) If a condition specified under Subparagraph (A)(i) of this paragraph occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under Article III. <sup>P</sup>

(B) When the automatic shutoff within a machine vending time/temperature control for safety food is activated:

(i) In a refrigerated vending machine, the ambient air temperature may not exceed 5°C (41°F) for more than 30 minutes immediately after the machine is filled, serviced, or restocked; <sup>P</sup> or

(ii) In a hot holding vending machine, the ambient air temperature may not be less than 57°C (135°F) for more than 120 minutes immediately after the machine is filled, serviced, or restocked. <sup>P</sup>

### (12) Temperature measuring devices.

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(A) In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device must be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

(B) Except as specified in Subparagraph (C) of this paragraph, cold or hot holding equipment used for time/temperature control for safety food must be designed to include and must be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.

(C) Subparagraph (B) of this paragraph does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars.

(D) Temperature measuring devices must be designed to be easily readable.

(E) Food temperature measuring devices and water temperature measuring devices on warewashing machines must have a numerical scale, printed record, or digital readout in increments no greater than 1°C or 2°F in the intended range of use. <sup>Pf</sup>

(13) Warewashing machine, data plate operating specifications. A warewashing machine must be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications including the:

(A) Temperatures required for washing, rinsing, and sanitizing;

(B) Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and

(C) Conveyor speed for conveyor machines or cycle time for stationary rack machines.

(14) Warewashing machines, internal baffles. Warewashing machine wash and rinse tanks must be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

(15) Warewashing machines, temperature measuring devices. A warewashing machine must be equipped with a temperature measuring device that indicates the temperature of the water:

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(A) In each wash and rinse tank; <sup>Pf</sup> and

(B) As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank. <sup>Pf</sup>

(16) Manual warewashing equipment, heaters and baskets. If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink must be:

(A) Designed with an integral heating device that is capable of maintaining water at a temperature not less than 77°C (171°F); <sup>Pf</sup> and

(B) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water. <sup>Pf</sup>

(17) Warewashing machines, automatic dispensing of detergents and sanitizers. A warewashing machine that is installed after adoption of this Code must be equipped to:

(A) Automatically dispense detergents and sanitizers; <sup>Pf</sup> and

(B) incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles. <sup>Pf</sup>

(18) Warewashing machines, flow pressure device.

(A) Warewashing machines that provide a fresh hot water sanitizing rinse must be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine, and if the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device must be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve.

(B) Subparagraph (A) of this paragraph does not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

(19) Warewashing sinks and drainboards, self-draining. Sinks and drainboards of warewashing sinks and machines must be self-draining.

(20) Equipment compartments, drainage. Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice must be sloped to an outlet that allows complete draining.

(21) Vending machines, liquid waste products.

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(A) Vending machines designed to store beverages that are packaged in containers made from paper products must be equipped with diversion devices and retention pans or drains for container leakage.

(B) Vending machines that dispense liquid food in bulk must be:

(i) Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and

(ii) Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.

(C) Shutoff devices specified under Subparagraph (B)(ii) of this paragraph must prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

(22) Case lot handling apparatuses, moveability. Apparatuses, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, must be designed to be moved by hand or by conveniently available apparatuses such as hand trucks and forklifts.

(23) Vending machine doors and openings.

(A) Vending machine doors and access opening covers to food and container storage spaces must be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than 1.5 millimeters or one-sixteenth inch by:

(i) Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than 1.5 millimeters or one-sixteenth inch. Screening of 12 or more mesh to 2.5 centimeters (12 mesh to 1 inch) meets this requirement;

(ii) Being effectively gasketed;

(iii) Having interface surfaces that are at least 13 millimeters or one-half inch wide; or

(iv) Jambs or surfaces used to form an L-shaped entry path to the interface.

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(B) Vending machine service connection openings through an exterior wall of a machine must be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or one-sixteenth inch.

(e) Acceptability.

(1) Food equipment, certification and classification. Food equipment that is certified or classified for sanitation conformance to a recognized American National Standards Institute (ANSI)-accredited certification program is deemed to comply with Sections 9-36 and 9-37.

(2) ANSI certified utensils and equipment.

(A) Food equipment must be certified or classified to comply with the American National Standard by an American National Standards Institute (ANSI) – accredited certification program for the intended use of the equipment.

(B) Establishments may not use food equipment that is labeled or listed by the manufacturer as “household or residential use.”

### **Sec. 9-38. - Numbers and capacities; equipment, utensils, cleaning agents.**

(a) Equipment.

(1) Cooling, heating, and holding capacities.

(A) Equipment for cooling and heating food, and holding cold and hot food, must be sufficient in number and capacity to provide food temperatures as specified under Article III.<sup>Pf</sup>

(B) Except when time as a public health control is used, mechanical refrigeration, capable of holding food items at an internal temperature of 5°C (41°F), must be provided for all cold holding of time/temperature control for safety foods.<sup>Pf</sup>

(C) A food service establishment must have adequate refrigeration and hot holding and storage facilities for the proper storage, transportation, display, and service of potentially hazardous foods. Specific refrigeration and hot holding and storage needs must be based upon the menu, number of meals, frequency of delivery, and preparation in advance of service.<sup>Pf</sup>

(D) Air circulation within refrigeration units may not be obstructed and must allow for an even and consistent flow of cold air throughout the units. Fans circulating air within refrigeration units must be kept clean, dust free, and in working condition. Gaskets must be kept clean and intact and must be replaced as needed so that refrigeration units may maintain food at required temperatures.

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(E) Refrigeration units, unless specified by the manufacturer and designed for such use, may not be located directly adjacent to cooking equipment or other high heat producing equipment which may cause the cooling system to not operate according to the manufacturer's specification. <sup>Pf</sup>

(F) Refrigerators located outdoors, or in an area that is outside the permit holders designated food preparation area, including but not limited to, a customer self-service area of a store, or other such area that is accessible to persons that are not employed by the permit holder, must be kept clean, locked, secure, and in operating condition, and may not permit entry or harborage of pests.

### (2) Manual warewashing, sink compartment requirements.

(A) Except as provided in this paragraph, a sink with at least three (3) compartments must be provided for manually washing, rinsing, and sanitizing equipment and utensils. <sup>Pf</sup>

(B) An additional sink with at least three (3) compartments must be provided where bar service or counter service is offered, including but not limited to where blender, coffee or tea service is performed. <sup>Pf</sup>

(C) Sink compartments must be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in Subparagraph (D) of this paragraph must be used. <sup>Pf</sup>

(D) Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved by the Department. Alternative manual warewashing equipment may include:

- (i) High-pressure detergent sprayers;
- (ii) Low-or line-pressure spray detergent foamers;
- (iii) Other task-specific cleaning equipment;
- (iv) Brushes or other implements;
- (v) Two-compartment sinks as specified under Subparagraphs (E) and (F) of this Paragraph; or
- (vi) Receptacles that substitute for the compartments of a multicompartment sink.

(E) Before a two-compartment sink is used:

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(i) The permit holder shall have its use approved; and

(ii) The permit holder shall limit the number of kitchenware items cleaned and sanitized in the two-compartment sink, and shall limit warewashing to batch operations for cleaning kitchenware such as between cutting one type of raw MEAT and another or cleanup at the end of a shift, and shall:

(aa) Make up the cleaning and sanitizing solutions immediately before use and drain them immediately after use, and

(bb) Use a detergent-sanitizer to sanitize and apply the detergent-sanitizer in accordance with the manufacturer's label instructions and as specified under Section 9-40(a)(15), or

(cc) Use a hot water sanitization immersion step as specified under Section 9-41(c)(6)(C).

(F) A two-compartment sink may not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of kitchenware or tableware in an ongoing warewashing process.

(3) Drainboards. Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation must be provided for necessary utensil and warewashing rack holding before cleaning and after sanitizing. All items must be stored at least six (6) inches above the floor and protected from environmental contamination.

(4) Ventilation hood systems, adequacy. Ventilation hood systems and devices must be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

(5) Clothes washers and dryers.

(A) Except as specified in Subparagraph (B) of this paragraph, if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer must be provided and used.

(B) If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under Section 9-44(a)(2), a mechanical clothes washer and dryer need not be provided.

(b) Utensils, temperature measuring devices, and testing devices.

(1) Utensils, consumer self-service. A food dispensing utensil must be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.<sup>Pf</sup>

(2) Food temperature measuring devices.

(A) Food temperature measuring devices must be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under Article III. <sup>Pf</sup>

(B) A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses must be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish filets. <sup>Pf</sup>

(3) Temperature measuring devices, manual and mechanical warewashing.

(A) In manual warewashing operations, a temperature measuring device must be provided and readily accessible for frequently measuring the washing and sanitizing temperatures. <sup>Pf</sup>

(B) In hot water mechanical warewashing operations, an irreversible registering temperature indicator must be provided and readily accessible for measuring the utensil surface temperature. <sup>Pf</sup>

(4) Sanitizing solutions, testing devices. A test kit or other device that accurately measures the concentration in MG/L of sanitizing solutions must be provided for each type of sanitizer used and must be used and maintained in accordance with manufacturer instructions. <sup>Pf</sup>

(c) Cleaning agents and sanitizers.

(1) Cleaning agents and sanitizers, availability.

(A) Cleaning agents that are used to clean equipment and utensils as specified under Section 9-41 must be provided and available for use during all hours of operation. <sup>Pf</sup>

(B) Except for those that are generated on-site at the time of use, chemical sanitizers that are used to sanitize equipment and utensils as specified under Section 9-42 must be provided and available for use during all hours of operation. <sup>Pf</sup>

**Sec. 9-39. -Location and installation.**

(a) Location.

(1) Equipment, clothes washers and dryers, and storage cabinets, contamination prevention.

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(A) Except as specified in Subparagraph (B) of this paragraph, equipment, a cabinet used for the storage of food, or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be located in the following areas:

- (i) In locker rooms.
- (ii) In toilet rooms. <sup>Pf</sup>
- (iii) In garbage rooms.
- (iv) In mechanical rooms.
- (v) Under sewer lines that are not shielded to intercept potential drips.
- (vi) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed.
- (vii) Under open stairwells.
- (viii) Under other sources of contamination.

(B) A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.

(C) If a mechanical clothes washer or dryer is provided, it must be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(b) Installation.

(1) Fixed equipment, spacing or sealing.

(A) Equipment that is fixed because it is not easily movable must be installed so that it is:

- (i) Spaced to allow access for cleaning along the sides, behind, and above the equipment;
- (ii) Spaced from adjoining equipment, walls, and ceilings a distance of not more than 1 millimeter or one thirty-second inch; or

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(iii) Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

(B) Counter-mounted equipment that is not easily movable must be installed to allow cleaning of the equipment and areas underneath and around the equipment by being sealed, or elevated on legs as specified under Subparagraph (2)(D) of this.

### (2) Fixed equipment, elevation or sealing.

(A) Except as specified in Subparagraphs (B) and (C) of this paragraph, floor-mounted equipment that is not easily movable must be sealed to the floor or elevated on legs that provide at least a 15 centimeter (6 inch) clearance between the floor and the equipment.

(B) If no part of the floor under the floor-mounted equipment is more than 15 centimeters (6 inches) from the point of cleaning access, the clearance space may be only 10 centimeters (4 inches).

(C) This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

(D) Except as specified in Subparagraph (E) of this paragraph, counter-mounted equipment that is not easily movable must be elevated on legs that provide at least a 10 centimeter (4 inch) clearance between the table and the equipment.

(E) The clearance space between the table and counter-mounted equipment may be:

(i) 7.5 centimeters (3 inches) if the horizontal distance of the table top under the EQUIPMENT is no more than 50 centimeters (20 inches) from the point of access for cleaning; or

(ii) 5 centimeters (2 inches) if the horizontal distance of the table top under the equipment is no more than 7.5 centimeters (3 inches) from the point of access for cleaning.

## **Sec. 9-40. -Maintenance and operation; equipment, utensils and measuring devices.**

### (a) Equipment.

#### (1) Good repair and proper adjustment.

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(A) Equipment must be maintained in a state of repair and condition that meets the requirements specified under Sections 9-36 and 9-37.

(B) Equipment components such as doors, seals, hinges, fasteners, and kick plates must be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

(C) Cutting or piercing parts of can openers must be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

(2) Cutting surfaces. Surfaces such as cutting blocks and boards that are subject to scratching and scoring must be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

(3) Microwave ovens. Microwave ovens must meet the safety standards specified in 21 CFR 1030.10 Microwave Ovens.

(4) Warewashing equipment, cleaning frequency. A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified under Section 9-38(a)(3) must be cleaned as follows:

(i) Before use.

(ii) Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function.

(iii) If used, at least every 24 hours.

(5) Warewashing machines, manufacturers' operating instructions.

(A) A warewashing machine and its auxiliary components must be operated in accordance with the machine's data plate and other manufacturer's instructions.

(B) A warewashing machine's conveyor speed or automatic cycle times must be maintained accurately timed in accordance with manufacturer's specifications.

(6) Warewashing sinks, use limitation.

(A) A warewashing sink may not be used for handwashing as specified under Section 9-10(a)(5).

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(B) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink must be cleaned as specified under Subsection (a)(4) of this section before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food must be sanitized as specified under Section 9-42 before and after using the sink to wash produce or thaw food.

(7) Warewashing equipment, cleaning agents. When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in Section 9-38(a)(2), must contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.<sup>Pf</sup>

(8) Warewashing equipment, clean solutions. The wash, rinse, and sanitize solutions must be maintained clean.

(9) Manual warewashing equipment, wash solution temperature. The temperature of the wash solution in manual warewashing equipment must be maintained at not less than 43°C (110°F) or the temperature specified on the cleaning agent manufacturer's label instructions.<sup>Pf</sup>

(10) Mechanical warewashing equipment, wash solution temperature.

(A) The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

- (i) For a stationary rack, single temperature machine,  
74°C (165°F);<sup>Pf</sup>
- (ii) For a stationary rack, dual temperature machine, 66°C  
(150°F);<sup>Pf</sup>
- (iii) For a single tank, conveyor, dual temperature machine,  
71°C (160°F);<sup>Pf</sup> or
- (iv) For a multitank, conveyor, multitemperature machine,  
66°C (150°F).<sup>Pf</sup>

(B) The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than 49°C (120°F).<sup>Pf</sup>

(11) Manual warewashing equipment, hot water sanitization temperatures. If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water must be maintained at 77°C (171°F) or above.<sup>P</sup>

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(12) Mechanical warewashing equipment, hot water sanitization temperatures.

(A) Except as specified in Subparagraph (B) of this paragraph, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than 90°C (194°F), or less than: <sup>Pf</sup>

(i) For a stationary rack, single temperature machine, 74°C (165°F); <sup>Pf</sup> or

(ii) For all other machines, 82°C (180°F). <sup>Pf</sup>

(B) The maximum temperature specified under Subparagraph (A) of this paragraph, does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws.

(13) Mechanical warewashing equipment, sanitization pressure. The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, must be within the range specified on the machine manufacturer's data plate and may not be less than 35 kilopascals (5 pounds per square inch) or more than 200 kilopascals (30 pounds per square inch).

(14) Manual and mechanical warewashing equipment, chemical sanitization - temperature, pH, concentration, and hardness. A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times specified under Section 9-42(c) must meet the criteria specified under Section 9-56(d)(1), and must be used in accordance with the EPA-registered label use instructions <sup>P</sup> as follows:

(A) A chlorine solution must have a minimum temperature based on the concentration and pH of the solution as listed in the following chart; <sup>P</sup>

<b>Concentration Range</b> (MG/L)	<b>Minimum Temperature</b> pH 10 or less °C (°F)	<b>Minimum Temperature</b> pH 8 or less °C (°F)
25 – 49	49 (120)	49 (120)
50 – 99	38 (100)	24 (75)
100	13 (55)	13 (55)

(B) An iodine solution must have a:

(i) Minimum temperature of 20°C (68°F), <sup>P</sup>

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(ii) pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective,<sup>P</sup> and

(iii) Concentration between 12.5 MG/L and 25 MG/L;<sup>P</sup>

(C) A quaternary ammonium compound solution must:

(i) Have a minimum temperature of 24°C (75°F),<sup>P</sup>

(ii) Have a concentration as specified under Section 9-56(d)(1) and as indicated by the manufacturer's use directions included in the labeling,<sup>P</sup> and

(iii) Be used only in water with 500 MG/L hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions;<sup>P</sup>

(D) If another solution of a chemical specified under Subparagraphs (A) through (C) of this paragraph is used, the permit holder shall demonstrate to the Department that the solution achieves sanitization and the use of the solution must be approved;

(E) If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it must be applied in accordance with the EPA-registered label use instructions; and

(F) If a chemical sanitizer is generated by a device located on-site at the food establishment, it must be used as specified in Subparagraphs (A) through (D) of this paragraph and must be produced by a device that:

(i) Complies with regulation as specified in §§ 2(q)(1) and 12 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA),<sup>P</sup>

(ii) Complies with 40 CFR 152.500 Requirement for Devices and 40 CFR 156.10 Labeling Requirements,<sup>P</sup>

(iii) Displays the EPA device manufacturing facility registration number on the device,<sup>Pf</sup> and

(iv) Is operated and maintained in accordance with manufacturer's instructions.<sup>Pf</sup>

(15) Manual warewashing equipment, chemical sanitization using detergent-sanitizers. If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and

sanitizing steps, the agent applied in the sanitizing step must be the same detergent-sanitizer that is used in the washing step.

(16) Warewashing equipment, determining chemical sanitizer concentration. Concentration of the sanitizing solution must be accurately determined by using a test kit or other device. <sup>Pf</sup>

(b) Utensils and temperature and pressure measuring devices.

(1) Good repair and calibration.

(A) Utensils must be maintained in a state of repair or condition that complies with the requirements specified under Sections 9-36 and 9-37 or must be discarded.

(B) Food temperature measuring devices must be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy. <sup>Pf</sup>

(C) Ambient air temperature, water pressure, and water temperature measuring devices must be maintained in good repair and be accurate within the intended range of use.

(2) Single-service and single-use articles, required use. A food establishment without facilities specified under Sections 9-41 and 9-42 for cleaning and sanitizing kitchenware and tableware must provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers. <sup>P</sup>

(3) Single-service and single-use articles, use limitation.

(A) Single-service and single-use articles may not be reused.

(B) The bulk milk container dispensing tube must be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

(4) Shells, use limitation. Mollusk and crustacea shells may not be used more than once as serving containers.

#### **Sec. 9-41. -Cleaning of equipment and utensils.**

(a) Objective.

(1) Equipment, food-contact surfaces, nonfood-contact surfaces, and utensils.

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(A) Equipment food-contact surfaces and utensils must be clean to sight and touch.<sup>Pf</sup>

(B) The food-contact surfaces of cooking equipment and pans must be kept free of encrusted grease deposits and other soil accumulations.

(C) Nonfood-contact surfaces of equipment must be kept free of an accumulation of dust, dirt, food residue, and other debris.

(b) Frequency.

(1) Equipment food-contact surfaces and utensils.

(A) Equipment food-contact surfaces and utensils must be cleaned:

(i) Except as specified in Subparagraph (B) of this paragraph, before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry;<sup>P</sup>

(ii) Each time there is a change from working with raw foods to working with ready-to-eat foods;<sup>P</sup>

(iii) Between uses with raw fruits and vegetables and with time/temperature control for safety food;<sup>P</sup>

(iv) Before using or storing a food temperature measuring device;<sup>P</sup> and

(v) At any time during the operation when contamination may have occurred.<sup>P</sup>

(B) Subparagraph (A)(i) of this paragraph does not apply if the food-contact surface or utensil is in contact with a succession of different types of raw meat and poultry each requiring a higher cooking temperature as specified under Section 9-25(a) than the previous type.

(C) Except as specified in Subparagraph (D) of this paragraph, if used with time/temperature control for safety food, equipment food-contact surfaces and utensils must be cleaned throughout the day at least every four (4) hours.<sup>P</sup>

(D) Surfaces of utensils and equipment contacting time/temperature control for safety food may be cleaned less frequently than every four (4) hours if:

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(i) In storage, containers of time/temperature control for safety food and their contents are maintained at temperatures specified under Article III and the containers are cleaned when they are empty;

(ii) Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:

(aa) The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

Temperature	Cleaning Frequency
5.0°C (41°F) or less	24 hours
>5.0°C - 7.2°C (>41°F - 45°F)	20 hours
>7.2°C - 10.0°C (>45°F - 50°F)	16 hours
>10.0°C - 12.8°C (>50°F - 55°F)	10 hours

(bb) The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment.

(iii) Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat time/temperature control for safety food that is maintained at the temperatures specified under Article III, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every 24 hours;

(iv) Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified under Article III;

(v) Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;

(vi) The cleaning schedule is approved based on consideration of:

(aa) Characteristics of the equipment and its use,

(bb) The type of food involved,

(cc) The amount of food residue accumulation, and

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(dd) The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

(vii) In-use utensils are intermittently stored in a container of water in which the water is maintained at 57°C (135°F) or more and the utensils and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

(E) Except when dry cleaning methods are used as specified under Section 9-41(c)(1), surfaces of utensils and equipment contacting food that is not time/temperature control for safety food must be cleaned:

(i) At any time when contamination may have occurred;

(ii) At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;

(iii) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and

(iv) In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:

(aa) At a frequency specified by the manufacturer, or

(bb) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

### (2) Cooking and baking equipment.

(A) The food-contact surfaces of cooking and baking equipment must be cleaned at least every 24 hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in Paragraph (1)(D)(vi).

(B) The cavities and door seals of microwave ovens must be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

(3) Nonfood-contact surfaces. Nonfood-contact surfaces of equipment must be cleaned at a frequency necessary to preclude accumulation of soil residues.

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### (c) Methods.

#### (1) Dry cleaning.

(A) If used, dry cleaning methods such as brushing, scraping, and vacuuming must contact only surfaces that are soiled with dry food residues that are not time/temperature control for safety food.

(B) Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.

#### (2) Precleaning.

(A) Food debris on equipment and utensils must be scraped over a waste disposal unit or garbage receptacle or must be removed in a warewashing machine with a prewash cycle.

(B) If necessary for effective cleaning, utensils and equipment must be preflushed, presoaked, or scrubbed with abrasives.

(3) Loading of soiled items, warewashing machines. Soiled items to be cleaned in a warewashing machine must be loaded into racks, trays, or baskets or onto conveyors in a position that:

(A) Exposes the items to the unobstructed spray from all cycles;  
and

(B) Allows the items to drain.

#### (4) Wet cleaning.

(A) Equipment food-contact surfaces and utensils must be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

(B) The washing procedures selected must be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

(5) Washing, procedures for alternative manual warewashing equipment. If washing in sink compartments or a warewashing machine is impractical such as when the equipment is fixed or the utensils are too large, washing must be done by using alternative manual warewashing equipment as specified in Section 9-38(a)(2)(D) in accordance with the following procedures:

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(A) Equipment must be disassembled as necessary to allow access of the detergent solution to all parts;

(B) Equipment components and utensils must be scraped or rough cleaned to remove food particle accumulation; and

(C) Equipment and utensils must be washed as specified under Subparagraph (c)(4)(A) of this section.

(6) Rinsing procedures. Washed utensils and equipment must be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

(A) Use of a distinct, separate water rinse after washing and before sanitizing if using:

(i) A three-compartment sink,

(ii) Alternative manual warewashing equipment equivalent to a three-compartment sink as specified in Section 9-38(a)(2)(D), or

(iii) A three-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;

(B) Use of a detergent-sanitizer as specified under Section 9-40(a)(15) if using:

(i) Alternative warewashing equipment as specified in 9-38(a)(2)(D) that is approved for use with a detergent-sanitizer, or

(ii) A warewashing system for CIP equipment;

(C) Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a two-compartment sink operation;

(D) If using a warewashing machine that does not recycle the sanitizing solution as specified under Subparagraph (E) of this paragraph, or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:

(i) Integrated in the application of the sanitizing solution, and

(ii) Wasted immediately after each application; or

(E) If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

**Sec. 9-42. -Sanitization of equipment and utensils.**

(a) Objective. Equipment food-contact surfaces and utensils must be sanitized.

(b) Frequency. Utensils and food-contact surfaces of equipment must be sanitized before use after cleaning.<sup>P</sup>

(c) Methods. After being cleaned, equipment food-contact surfaces and utensils must be sanitized in:

(1) Hot water manual operations by immersion for at least 30 seconds and as specified under Section 9-40(a)(11);

(2) Hot water mechanical operations by being cycled through equipment that is set up as specified under Sections 9-40(a)(5), (a)(12), and (a)(13) and achieving a utensil surface temperature of 71°C (160°F) as measured by an irreversible registering temperature indicator;<sup>P</sup> or

(3) Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under Section 9-40(a)(14). Contact times must be consistent with those on EPA-registered label use instructions by providing:

(A) Except as specified under Subparagraph (2)(B) of this subsection, a contact time of at least 10 seconds for a chlorine solution specified under Section 9-40(a)(14)(A),<sup>P</sup>

(B) A contact time of at least seven (7) seconds for a chlorine solution of 50 MG/L that has a pH of 10 or less and a temperature of at least 38°C (100°F) or a pH of eight (8) or less and a temperature of at least 24°C (75°F),<sup>P</sup>

(C) A contact time of at least 30 seconds for other chemical sanitizing solutions,<sup>P</sup> or

(D) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in Section 9-5.<sup>P</sup>

**Sec. 9-43. -Laundering.**

(a) Objective. Clean linens must be free from food residues and other soiling matter.

(b) Frequency.

(1) Specifications.

(A) Linens that do not come in direct contact with food must be laundered between operations if they become wet, sticky, or visibly soiled.

(B) Cloth gloves used as specified in Section 9-21(E)(4) must be laundered before being used with a different type of raw animal food such as beef, fish, lamb, pork or poultry.

(C) Linens that are used as specified under Section 9-21(c) and cloth napkins must be laundered between each use.

(D) Wet wiping cloths must be laundered daily.

(E) Dry wiping cloths must be laundered as necessary to prevent contamination of food and clean serving utensils.

(c) Methods.

(1) Storage of soiled linens. Soiled linens must be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

(2) Mechanical washing.

(A) Except as specified in Subparagraph (B) of this paragraph, linens must be mechanically washed.

(B) In food establishments in which only wiping cloths are laundered as specified in Section 9-38(a)(5), the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a warewashing or food preparation sink that is cleaned as specified under Section 9-40(a)(4).

(3) Use of laundry facilities.

(A) Except as specified in Subparagraph (B) of this paragraph, laundry facilities on the premises of a food establishment must be used only for the washing and drying of items used in the operation of the establishment.

(B) Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items.

**Sec. 9-44. -Protection of clean items.**

(a) Drying.

(1) Equipment and utensils, air-drying required. After cleaning and sanitizing, equipment and utensils:

(A) Must be air-dried or used after adequate draining as specified in the first paragraph of 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions), before contact with food; and

(B) May not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

(2) Wiping cloths, air-drying locations. Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified in Section 9-38(a)(5) must be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths. This section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under Section 9-40(a)(4).

(b) Lubricating and reassembling.

(1) Food-contact surfaces. Lubricants as specified under Section 9-44(b)(1) must be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.

(2) Equipment. Equipment must be reassembled so that food-contact surfaces are not contaminated.

(c) Storing.

(1) Equipment, utensils, linens, and single-service and single-use articles.

(A) Except as specified in Subparagraph (D) of this paragraph, cleaned equipment and utensils, laundered linens, and single-service and single-use articles must be stored:

- (i) In a clean, dry location;
- (ii) Where they are not exposed to splash, dust, or other contamination; and

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(iii) At least 15 cm (6 inches) above the floor.

(B) Clean equipment and utensils must be stored as specified under Subparagraph (A) of this paragraph and must be stored:

(i) In a self-draining position that allows air drying; and

(ii) Covered or inverted.

(C) Single-service and single-use articles must be stored as specified under Subparagraph (A) of this paragraph and must be kept in the original protective package or stored by using other means that afford protection from contamination until used.

(D) Items that are kept in closed packages may be stored less than 15 cm (6 inches) above the floor on dollies, pallets, racks, and skids that are designed as specified under Section 9-37(d)(22).

### (2) Prohibitions.

(A) Except as specified in Paragraph (B) of this paragraph, cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be stored in the following area:

(i) In locker rooms.

(ii) In toilet rooms. <sup>Pf</sup>

(iii) In garbage rooms.

(iv) In mechanical rooms.

(v) Under sewer lines that are not shielded to intercept potential drips.

(vi) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed.

(vii) Under open stairwells.

(viii) Under other sources of contamination.

(B) Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

### (d) Preventing contamination.

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(1) Kitchenware and tableware.

(A) Single-service and single-use articles and cleaned and sanitized utensils must be handled, displayed, and dispensed so that contamination of food-and lip-contact surfaces is prevented.

(B) Knives, forks, and spoons that are not prewrapped must be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

(C) Except as specified under Subparagraph (B) of this paragraph, single-service articles that are intended for food-or lip-contact must be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

(2) Soiled and clean tableware. Soiled tableware must be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

(3) Preset tableware.

(A) Except as specified in Subparagraph (B) of this paragraph, tableware that is preset must be protected from contamination by being wrapped, covered, or inverted.

(B) Preset tableware may be exposed if:

(i) Unused settings are removed when a consumer is seated; or

(ii) Settings not removed when a consumer is seated are cleaned and sanitized before further use.

(4) Rinsing equipment and utensils after cleaning and sanitizing. After being cleaned and sanitized, equipment and utensils may not be rinsed before air drying or use unless:

(A) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified under Sections 9-37(d) and 9-40(a); and

(B) The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose EPA-registered label use instructions call for rinsing off the sanitizer after it is applied in a commercial warewashing machine.

**ARTICLE V. WATER, PLUMBING, AND WASTE**

**Sec. 9-45. -Water.**

(a) Source.

(1) Approved system. Drinking water must be obtained from an approved source that is:

(A) A public water system;<sup>P</sup> or

(B) A nonpublic water system that is constructed, maintained, and operated according to law.<sup>P</sup>

(2) System flushing and disinfection. A drinking water system must be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.<sup>P</sup>

(3) Bottled drinking water. Bottled drinking water used or sold in a food establishment must be obtained from approved sources in accordance with 21 CFR 129 - Processing and Bottling of Bottled drinking water.<sup>P</sup>

(b) Water quality standards.

(1) Public and private water systems.

(A) Water from a public water system must meet 40 CFR 141 – National Primary Drinking Water Regulations, state drinking water quality standards in accordance that 30 TAC §§290.38 – 290.47 (relating to Rules and Regulations for Public Water Systems). And 30 TAC §§290.101 – 290.114, 290.117 290.119, 290.121, and 290.122 (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems).<sup>P</sup>

(B) Water from nonpublic water system must meet the requirements of 30 TAC Chapter 290, Subchapter F (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems), pertaining to transient non-community water systems.<sup>P</sup>

(2) Nondrinking water.

(A) A nondrinking water supply must be used only if its use is approved.<sup>P</sup>

(B) Nondrinking water must be used only for non-culinary purposes such as air conditioning, nonfood equipment cooling, and fire protection.<sup>P</sup>

(3) Sampling. A water source obtained from other than a community public water system must be sampled and analyzed in accordance with the requirements found in 30 TAC Chapter 290, Subchapter F (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems), concerning transient non-community water systems, except nondrinking water.<sup>Pf</sup>

(4) Sample report. The most recent sample report for the nonpublic water system must be retained on file in the food establishment, or the report must be maintained as specified in 30 TAC Chapter 290, Subchapter F, concerning transient non-community water systems.

(c) Quantity and availability.

(1) Capacity.

(A) The water source and system must be of sufficient capacity to meet the peak water demands of the food establishment.<sup>Pf</sup>

(B) Hot water generation and distribution systems must be sufficient to meet the peak hot water demands throughout the food establishment.<sup>Pf</sup>

(2) Pressure. Water under pressure must be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified under Subsection (d)(2)(A) and (B) to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.<sup>Pf</sup>

(d) Distribution, delivery, and retention.

(1) System. Water must be received from the source through the use of:

(A) An approved public water main;<sup>Pf</sup> or

(B) One or more of the following that must be constructed, maintained, and operated according to law:<sup>Pf</sup>

(i) Water transport vehicles,<sup>Pf</sup>

(ii) Water containers<sup>Pf</sup>; or

(iii) Nonpublic water system. The nonpublic water mains, water pumps, pipes, hoses, connections, and other appurtenances must meet the requirements of 30 TAC Chapter 290, Subchapter F (relating to Drinking Water Standards

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Governing Drinking Water Quality and Reporting Requirements for Public Water Systems), concerning transient non-community water systems.<sup>Pf</sup>

(2) Alternative water supply. Water meeting the requirements specified under Subsections (a) through (c) of this section must be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:

- (A) A supply of containers of commercially bottled drinking water;<sup>Pf</sup>
- (B) One or more closed portable water containers;<sup>Pf</sup>
- (C) An enclosed vehicular water tank;<sup>Pf</sup>
- (D) An on-premises water storage tank;<sup>Pf</sup> or
- (E) Piping, tubing, or hoses connected to an adjacent approved source.<sup>Pf</sup>

### **Sec. 9-46. -Plumbing system.**

#### (a) Materials.

##### (1) Approved.

(A) A plumbing system and hoses conveying water must be constructed and repaired with approved materials according to law.<sup>P</sup>

(B) A water filter must be made of safe materials.<sup>P</sup>

#### (b) Design, construction, and Installation.

##### (1) Approved system and cleanable fixtures.

(A) A plumbing system must be designed, constructed, and installed according to law.<sup>P</sup>

(B) A plumbing fixture such as a handwashing sink, toilet, or urinal must be easily cleanable.

##### (2) Handwashing sink, installation.

(A) A handwashing sink must be equipped to provide water at a temperature of at least 38°C (100°F) through a mixing valve or combination faucet.<sup>Pf</sup>

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(B) A steam mixing valve may not be used at a handwashing sink.

(C) A self-closing, slow-closing, or metering faucet must provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

(D) An automatic handwashing facility must be installed in accordance with manufacturer's instructions.

(3) Backflow prevention, air gap. An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment must be at least twice the diameter of the water supply inlet and may not be less than 25 mm (1 inch).<sup>P</sup>

(4) Backflow prevention device, design standard. A backflow or backsiphonage prevention device installed on a water supply system must meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.<sup>P</sup>

(5) Conditioning device, design. A water filter, screen, and other water conditioning device installed on water lines must be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element must be of the replaceable type.

(6) Water heaters.

(A) Water heaters must be installed and maintained in accordance with the Plumbing Code.<sup>P</sup>

(B) Water heaters must be listed as a commercial unit by an ANSI accredited testing and certification organization and approved by the regulatory authority.

(C) Residential water heaters are prohibited in retail establishments, except for those facilities providing only commercially pre-packaged food.<sup>Pf</sup>

(c) Numbers and capacities.

(1) Handwashing sinks.

(A) Except as specified in Subparagraph (B) of this paragraph, at least one (1) handwashing sink, a number of handwashing sinks necessary for their convenient use by employees in areas specified under Section 9-46(d)(1), and not fewer than the number of handwashing sinks required by law must be provided.<sup>Pf</sup>

(B) If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be

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substituted for handwashing sinks in a food establishment that has at least one (1) handwashing sink.

(2) Toilets and urinals. At least one (1) toilet and not fewer than the toilets required by law must be provided. If authorized by law and urinals are substituted for toilets, the substitution must be done as specified in law.

(3) Service sink.

(A) At least one (1) service sink or one (1) curbed cleaning facility equipped with a floor drain must be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(B) Lavatories, utensil-washing sinks, equipment-washing sinks, food preparation sinks, toilets, urinals, and showers may not be used as a service sink for the disposal of mop water and similar liquid waste.

(4) Backflow prevention device, when required. A plumbing system must be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

(A) Providing an air gap as specified under Subsection (b)(3) of this section;<sup>P</sup> or

(B) Installing an approved backflow prevention device as specified under Subsection (b)(4) of this section.<sup>P</sup>

(5) Backflow prevention device, carbonator.

(A) If not provided with an air gap as specified under Subsection (b)(3) of this section, a dual check valve with an intermediate vent preceded by a screen of not less than 100 mesh to 25.4 mm (100 mesh to 1 inch) must be installed upstream from a carbonating device and downstream from any copper in the water supply line.<sup>P</sup>

(B) A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified under Subparagraph (A) of this paragraph.

(6) Food preparation sink. A food preparation sink is required for washing of food if the menu or method of preparation requires soaking, rinsing, culling, or cleaning of raw ingredients or produce.<sup>Pf</sup>

(7) Dump sink.

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(A) At least one (1) waste sink must be provided where bar service or counter service is offered, including but not limited to where blender, coffee, or tea service is performed.

(B) When a facility is observed using a hand sink as a dump sink in a bar or counter service area at three (3) or more routine inspections in a two-year period, the Department may require the facility to install a dump sink in the bar or counter service area.

(d) Location and placement.

(1) Handwashing sinks.

(A) A handwashing sink must be located within 25 linear feet of food preparation, food dispensing, and warewashing areas convenient for use by employees, and in, or immediately adjacent to, toilet rooms. <sup>Pf</sup>

(B) Hand sinks located adjacent to food preparation, food preparation equipment, wares, or food storage areas must be protected with splash guards that are at least as high as the top of the faucet supplying water to the hand sink. <sup>Pf</sup>

(C) Any area in which a hand wash sink is located must be unobstructed by doors or equipment, and access must be kept clear to enable its use as required by this Code. <sup>Pf</sup>

(2) Backflow prevention device, location. A backflow prevention device must be located so that it may be serviced and maintained.

(3) Conditioning device, location. A water filter, screen, and other water conditioning device installed on water lines must be located to facilitate disassembly for periodic servicing and cleaning.

(e) Operation and maintenance.

(1) Using a handwashing sink.

(A) A handwashing sink must be maintained so that it is accessible at all times for employee use. <sup>Pf</sup>

(B) A handwashing sink may not be used for purposes other than handwashing. <sup>Pf</sup>

(C) An automatic handwashing facility must be used in accordance with manufacturer's instructions. <sup>Pf</sup>

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(2) Prohibiting a cross connection.

(A) A person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality.<sup>P</sup>

(B) The piping of a nondrinking water system must be durably identified so that it is readily distinguishable from piping that carries drinking water.<sup>Pf</sup>

(3) Scheduling inspection and service for a water system device. A device such as a water treatment device or backflow preventer must be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service must be maintained by the person in charge.<sup>Pf</sup>

(4) Water reservoir of fogging devices, cleaning.

(A) A reservoir that is used to supply water to a device such as a produce fogger must be:

(1) Maintained in accordance with manufacturer's specifications;<sup>P</sup> and

(2) Cleaned in accordance with manufacturer's specifications or according to the procedures specified under Subparagraph (B) of this paragraph, whichever is more stringent.<sup>P</sup>

(B) Cleaning procedures must include at least the following steps and must be conducted at least once a week:

(1) Draining and complete disassembly of the water and aerosol contact parts;<sup>P</sup>

(2) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;<sup>P</sup>

(3) Flushing the complete system with water to remove the detergent solution and particulate accumulation;<sup>P</sup> and

(4) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 MG/L hypochlorite solution.<sup>P</sup>

(C) A cleaning log of the procedures identified in this paragraph must be maintained onsite and made available to the Department upon request.

(5) System maintained in good repair. A plumbing system must be:

(A) Repaired according to law; <sup>P</sup> and

(B) Maintained in good repair.

**Sec. 9-47. -Mobile water tank and mobile food establishment water tank.**

(a) Materials.

(1) Approved. Materials that are used in the construction of a mobile water tank, mobile food establishment water tank, and appurtenances must be:

(A) Safe; <sup>P</sup>

(B) Durable, corrosion-resistant, and nonabsorbent; and

(C) Finished to have a smooth, easily cleanable surface.

(b) Design and construction.

(1) Enclosed system, sloped to drain. A mobile water tank must be:

(A) Enclosed from the filling inlet to the discharge outlet; and

(B) Sloped to an outlet that allows complete drainage of the tank.

(2) Inspection and cleaning port, protected and secured. If a water tank is designed with an access port for inspection and cleaning, the opening must be in the top of the tank and:

(A) Flanged upward at least 13 mm (one-half inch); and

(B) Equipped with a port cover assembly that is:

(i) Provided with a gasket and a device for securing the cover in place, and

(ii) Flanged to overlap the opening and sloped to drain.

(3) "V" type threads, use limitation. A fitting with "V" type threads on a water tank inlet or outlet may be allowed only when a hose is permanently attached.

(4) Tank vent, protected. If provided, a water tank vent must terminate in a downward direction and must be covered with:

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(A) 16 mesh to 25.4 mm (16 mesh to 1 inch) screen or equivalent when the vent is in a protected area; or

(B) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

(5) Inlet and outlet, sloped to drain.

(A) A water tank and its inlet and outlet must be sloped to drain.

(B) A water tank inlet must be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.

(6) Hose, construction and identification. A hose used for conveying drinking water from a water tank must be:

(A) Safe;<sup>P</sup>

(B) Durable, corrosion-resistant, and nonabsorbent;

(C) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;

(D) Finished with a smooth interior surface; and

(E) Clearly and durably identified as to its use if not permanently attached.

(c) Numbers and capacities.

(1) Filter, compressed air. A filter that does not pass oil or oil vapors must be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.<sup>P</sup>

(2) Protective cover or device. A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device must be provided for a water inlet, outlet, and hose.

(3) Mobile food establishment tank inlet. A mobile food establishment's water tank inlet must be:

(A) 19.1 mm (three-fourths inch) in inner diameter or less; and

(B) Provided with a hose connection of a size or type that will prevent its use for any other service.

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(d) Operation and maintenance.

(1) System flushing and sanitization. A water tank, pump, and hoses must be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.<sup>P</sup>

(2) Using a pump and hoses, backflow prevention. A person must operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

(3) Protecting inlet, outlet, and hose fitting. If not in use, a water tank and hose inlet and outlet fitting must be protected using a cover or device as specified under Subsection (c)(2).

(4) Tank, pump, and hoses, dedication.

(A) Except as specified in Subparagraph (B) of this paragraph, a water tank, pump, and hoses used for conveying drinking water must be used for no other purpose.<sup>P</sup>

(B) Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.

### **Sec. 9-48. -Sewage, other liquid waste, and rainwater.**

(a) Mobile holding tank.

(1) Capacity and drainage. A sewage holding tank in a mobile food establishment must be:

(A) Sized 15 percent larger in capacity than the water supply tank;  
and

(B) Sloped to a drain that is 25 mm (1 inch) in inner diameter or greater, equipped with a shut-off valve.

(b) Retention, drainage, and delivery.

(1) Establishment drainage system. Food establishment drainage systems, including grease traps, that convey sewage must be designed and installed as specified under Section 9-46(b)(1).

(2) Backflow prevention.

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(A) Except as specified in Paragraphs (B), (C), and (D) of this paragraph, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.<sup>P</sup>

(B) Subparagraph (A) of this paragraph does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.

(C) If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

(D) If allowed by law, a warewashing or culinary sink may have a direct connection.

### (3) Grease trap.

(A) Unless a facility sells only prepackaged food, grease traps are required at new food establishments, existing food establishments, and food establishments that change ownership.<sup>P</sup>

(B) Grease traps must be:

(i) adequately sized by a professional engineer, master plumber, or architect;<sup>P</sup>

(ii) installed and maintained in accordance with the Plumbing Code and the City of Plano Liquid Waste Management ordinance;<sup>P</sup>

(iii) located outside of the food preparation, food storage, and warewashing areas of the establishment;<sup>Pf</sup> and

(iv) easily accessible for cleaning.

(4) Conveying sewage. Sewage must be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.<sup>P</sup>

(5) Removing mobile food establishment wastes. Sewage and other liquid wastes must be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.<sup>Pf</sup>

(6) Flushing a waste retention tank. A tank for liquid waste retention must be thoroughly flushed and drained in a sanitary manner during the servicing operation.

(c) Disposal facility.

(1) Approved sewage disposal system. Sewage must be disposed through an approved facility that is:

(A) A public sewage treatment plant;<sup>P</sup> or

(B) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.<sup>P</sup>

(2) Other liquid wastes and rainwater. Condensate drainage and other non-sewage liquids and rainwater must be drained from point of discharge to disposal according to law.

**Sec. 9-49. -Refuse, recyclables, and returnables.**

(a) Facilities on the premises.

(1) Indoor storage area. If located within the food establishment, a storage area for refuse, recyclables, and returnables must meet the requirements specified under Sections 9-50(a)(1), 9-51(a)(1) – (7), 9-51(b)(5), and 9-51(b)(6).

(2) Outdoor storage surface. An outdoor storage surface for refuse, recyclables, and returnables must be constructed of nonabsorbent material such as concrete or asphalt and must be smooth, durable, and sloped to drain.

(3) Outdoor enclosure. If used, an outdoor enclosure for refuse, recyclables, and returnables must be constructed of durable and cleanable materials.

(4) Receptacles.

(A) Except as specified in Subparagraph (B) of this paragraph, receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue must be durable, cleanable, insect-and rodent-resistant, leakproof, and nonabsorbent.

(B) Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles.

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(5) Receptacles in vending machines. Except for a receptacle for beverage bottle crown closures, a refuse receptacle may not be located within a vending machine.

(6) Outside receptacles.

(A) Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment must be designed and constructed to have tight-fitting lids, doors, or covers.

(B) Receptacles and waste handling units for refuse and recyclables such as an on-site compactor must be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

(7) Storage areas, rooms, and receptacles, capacity and availability.

(A) An inside storage room and area and outside storage area and enclosure, and receptacles must be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.

(B) A receptacle must be provided in each area of the food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

(C) If disposable towels are used at handwashing lavatories, a waste receptacle must be located at each lavatory or group of adjacent lavatories.

(8) Toilet room receptacle, covered. A toilet room used by females must be provided with a covered receptacle for sanitary napkins.

(9) Cleaning implements and supplies.

(A) Except as specified in Subparagraph (B) of this paragraph, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent must be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.

(B) If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

(10) Storage areas, redeeming machines, receptacles and waste handling units, location.

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(A) An area designated for refuse, recyclables, returnables, and, except as specified in Subparagraph (B) of this paragraph, a redeeming machine for recyclables or returnables must be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.

(B) A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.

(C) The location of receptacles and waste handling units for refuse, recyclables, and returnables may not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

(11) Storing refuse, recyclables, and returnables. Refuse, recyclables, and returnables must be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

(12) Areas, enclosures, and receptacles, good repair. Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables must be maintained in good repair.

(13) Outside storage prohibitions.

(A) Except as specified in Subparagraph (B) of this paragraph, refuse receptacles not meeting the requirements specified under Subparagraph (14)(A) such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside.

(B) Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

(14) Covering receptacles. Receptacles and waste handling units for refuse, recyclables, and returnables must be kept covered:

(A) Inside the food establishment if the receptacles and units:

(1) Contain food residue and are not in continuous use; or

(2) After they are filled; and

(B) With tight-fitting lids or doors if kept outside the food establishment.

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(15) Using drain plugs. Drains in receptacles and waste handling units for refuse, recyclables, and returnables must have drain plugs in place.

(16) Maintaining refuse areas and enclosures. A storage area and enclosure for refuse, recyclables, or returnables must be maintained free of unnecessary items, as specified under Section 9-54(a)(4), and clean.

(17) Cleaning receptacles.

(A) Receptacles and waste handling units for refuse, recyclables, and returnables must be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water must be disposed of as specified under Section 9-48(b)(4).

(B) Soiled receptacles and waste handling units for refuse, recyclables, and returnables must be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

(b) Removal.

(1) Frequency. Refuse, recyclables, and returnables must be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

(2) Receptacles or vehicles. Refuse, recyclables, and returnables must be removed from the premises by way of:

(A) Portable receptacles that are constructed and maintained according to law; or

(B) A transport vehicle that is constructed, maintained, and operated according to law.

(c) Facilities for disposal and recycling.

(1) Community or individual facility. Solid waste not disposed of through the sewage system such as through grinders and pulpers must be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste must be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to law.

### **ARTICLE VI. PHYSICAL FACILITIES**

**Sec. 9-50. -Materials for construction and repair.**

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(a) Indoor areas.

(1) Surface characteristics.

(A) Except as specified in Subparagraph (B) of this paragraph, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use must be:

(i) smooth, durable, and easily cleanable for areas where food establishment operations are conducted;

(ii) Closely woven and easily cleanable carpet for carpeted areas; and

(iii) Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.

(B) Floors and floor coverings.

(i) Floors and floor coverings of all food preparation, food service, food storage, warewashing areas, walk-in refrigeration units, dressing rooms, locker rooms, and toilet rooms must be commercial grade, durable, smooth, non-absorbent, and easy to clean.

(ii) Floors must be coved at the juncture of the floor and wall, and toe kick/floor junctures, with a 3/8-inch-minimum radius coving which must extend up the wall at least four (4) inches in all areas except for dry storage or areas not subject to splash.

(iii) Grout between tiles must be a sealed so it is water resistant.

(iv) Except as provided in Subparagraph (B)(v), prohibited floors and floor coverings in areas identified in Subparagraph (B)(i) include, but are not limited to cardboard, sawdust, wood shavings, peanut hulls, sheet vinyl, marble, and sealed or unsealed concrete.

(v) Commercial grade sheet vinyl:

(aa) may be used only in a dry storage area;

(bb) may not have felt backing;

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(cc) must be at least 0.080-inches thick, with heat-welded seams;

(dd) must be properly installed in accordance with manufacturer's specifications;

(ee) must include a cove backing (cove stick) at the wall/floor and toe kick/floor junctures; and

(ff) must be approved by the regulatory authority.

(C) Brick and/or rock, whether sealed or unsealed, may not be used as a floor or wall covering in any area specified in Subparagraph (B)(i) of this paragraph.

(D) In a temporary food establishment:

(i) If graded to drain, a floor may be concrete, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other approved materials that are effectively treated to control dust and mud; and

(ii) Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

(b) Outdoor areas.

(1) Surface characteristics.

(A) The outdoor walking and driving areas must be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

(B) Exterior surfaces of buildings and mobile food establishments must be of weather-resistant materials and must comply with law.

(C) Outdoor storage areas for refuse, recyclables, or returnables must be of materials specified under Sections 9-49(a)(2) and 9-49(a)(3).

### **Sec. 9-51. -Design, construction, and installation.**

(a) Cleanability.

(1) Floors, walls, and ceilings. Except as specified under § 6-201.14 and except for anti-slip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings must be designed, constructed, and installed so they are smooth and easily cleanable.

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### (2) Floors, walls, and ceilings, utility lines.

(A) Utility service lines and pipes may not be unnecessarily exposed.

(B) Exposed utility service lines and pipes must be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(C) Exposed horizontal utility service lines and pipes may not be installed on the floor.

### (3) Floor and wall junctures, coved, and enclosed or sealed.

(A) In food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures must be coved and closed to no larger than 1 mm (one thirty-second inch).

(B) The floors in food establishments using water flush cleaning methods, or that receive discharges of water or other fluid waste from equipment, must have trapped floor drains graded to drain, and the floor and wall junctures must be coved and sealed.

### (4) Floor carpeting, restrictions and installation.

(A) A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

(B) If carpeting is installed as a floor covering in areas other than those specified under Paragraph (4)(A), it must be:

(i) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

(ii) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

### (5) Floor covering, mats and duckboards.

(A) Mats and duckboards must be designed to be removable and easily cleanable.

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(B) Duckboards may not be used as storage racks.

(6) Wall and ceiling coverings and coatings.

(A) Wall and ceiling covering materials must be attached so that they are easily cleanable.

(B) Concrete, porous blocks, or brick must not be used for indoor wall construction in food preparation, food service, food storage, warewashing areas, walk-in refrigeration units, dressing rooms, locker rooms, or toilet rooms.

(C) All food preparation, food service, food storage, warewashing areas, walk-in refrigeration units, dressing rooms, locker rooms, and toilet rooms in a food establishment must:

(i) be covered with durable waterproof materials;

(ii) be light in color; and

(iii) use waterproof materials extending from the top of the coved base (wall/floor or toe-kick/floor junctures) to at least three (3) feet above the backsplash.

(D) Walls including non-supporting partitions, wall covering and ceilings of the walk-in refrigeration units, dry storage areas, food preparation areas, equipment and utensil washing areas, toilet rooms and vestibules must be light in color or meet the requirements and approval of the regulatory authority.

(E) Darker-colored coverings for the items listed in Subparagraph (D) of this paragraph may require additional lighting, as specified in Section 9-52(c)(1), or meet the requirements set by the regulatory authority, to allow cleaning of the surface.

(7) Walls and ceilings, attachments.

(A) Except as specified in Subparagraph (B) of this paragraph, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments must be easily cleanable.

(B) In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

(C) Except for temporary food establishments, studs, joists, and rafters may not be exposed in areas subject to moisture.

(b) Functionality.

(1) Light bulbs, protective shielding.

(A) Except as specified in Subparagraph (B) of this paragraph, light bulbs must be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.

(B) Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:

(i) The integrity of the packages cannot be affected by broken glass falling onto them;

(ii) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened; and

(iii) LED lighting is used.

(C) An infrared or other heat lamp must be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

(2) Heating, ventilating, air conditioning system vents. Heating, ventilating, and air conditioning systems must be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

(3) Insect control devices, design and installation.

(A) Insect control devices that are used to electrocute or stun flying insects must be designed to retain the insect within the device.

(B) Insect control devices must be installed so that:

(1) The devices are not located over a food preparation area; and

(2) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(4) Toilet rooms, enclosed. Except where a toilet room is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room located

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on the premises must be completely enclosed and provided with a tight-fitting and self-closing door.

(5) Outer openings, protected.

(A) Except as specified in Subparagraphs (B), (C), and (E) and under Subparagraph (D) of this paragraph, outer openings of a food establishment must be protected against the entry of insects and rodents by:

- (1) Filling or closing holes and other gaps along floors, walls, and ceilings;
- (2) Closed, tight-fitting windows; and
- (3) Solid, self-closing, tight-fitting doors.

(B) Subparagraph (A) of this paragraph does not apply if a food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

(C) Exterior doors used as exits need not be self-closing if they are:

- (1) Solid and tight-fitting;
- (2) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
- (3) Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

(D) Except as specified in Subparagraphs (B) and (E) of this paragraph, if the windows or doors of a food establishment, or of a larger structure within which a food establishment is located, are kept open for ventilation or other purposes or a temporary food establishment is not provided with windows and doors as specified under Subparagraph (A) of this paragraph, the openings must be protected against the entry of insects and rodents by:

- (1) 16 mesh to 25.4 mm (16 mesh to 1 inch) screens;
- (2) Properly designed and installed air curtains to control flying insects; or
- (3) Other effective means as approved by the Department.

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(E) If approved by the Department, Subparagraph (D) of this paragraph does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

(6) Exterior walls and roofs, protective barrier. Perimeter walls and roofs of a food establishment must effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

(7) Outdoor food vending areas, overhead protection. Except for machines that vend canned beverages, if located outside, a machine used to vend food must be provided with overhead protection.

(8) Outdoor servicing areas, overhead protection. Except for areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, servicing areas must be provided with overhead protection.

(9) Outdoor walking and driving surfaces, graded to drain. Exterior walking and driving surfaces must be graded to drain.

(10) Outdoor refuse areas, curbed and graded to drain.

(A) Outdoor refuse areas must be constructed in accordance with all local law, state, and federal laws and must be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

(B) It shall be an offense for an outdoor refuse area to drain to a storm drain.<sup>P</sup>

(11) Private homes and living or sleeping quarters, use prohibition. A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting food establishment operations.<sup>P</sup>

(12) Living or sleeping quarters, separation. Living or sleeping quarters located on the premises of a food establishment such as those provided for lodging registration clerks or resident managers must be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

### **Sec. 9-52. -Numbers and capacities.**

(a) Handwashing sinks.

(1) Minimum number. Handwashing sinks must be provided as specified under Section 9-52(a).

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(2) Handwashing cleanser, availability. Each handwashing sink or group of two (2) adjacent handwashing sinks must be provided with a supply of hand cleaning liquid in a dispenser. <sup>Pf</sup>

(3) Hand drying provision.

(A) Each handwashing sink or group of adjacent handwashing sinks must be provided with:

(i) Individual, disposable towels in a dispensing unit; <sup>Pf</sup> or

(ii) A hand drying device that is air-heated or employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures as provided in this paragraph. <sup>Pf</sup>

(B) Toilet rooms without paper towels from a dispensing unit must provide a kick plate or foot pull to avoid recontamination of hands when exiting the restroom facilities, except where the toilet room door swings outward or is exempted as provided in Section 9-51(b)(4). <sup>Pf</sup>

(C) No forced air dryers are allowed in food preparation areas. <sup>Pf</sup>

(4) Handwashing aids and devices, use restrictions. A sink used for food preparation or utensil washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a handwashing sink as specified under Subsection(a)(2) and (a)(3) of this section and Section 9-49(a)(7)(C).

(5) Handwashing signage. A sign or poster that notifies food employees to wash their hands must be provided at all handwashing sinks used by food employees and must be clearly visible to food employees.

(6) Disposable towels, waste receptacle. A handwashing sink or group of adjacent handwashing sinks that is provided with disposable towels must be provided with a waste receptacle as specified under Section 9-49(a)(7)(C). Waste receptacles shall be located within easy access of the restroom door. <sup>Pf</sup>

(b) Toilets and urinals.

(1) Minimum number. Toilets and urinals must be provided as specified under Section 9-46(c)(2).

(2) Toilet tissue, availability. A supply of toilet tissue must be available in a dispenser at each toilet. <sup>Pf</sup>

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(c) Lighting.

(1) Intensity. The light intensity must be:

(A) At least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;

(B) At least 215 lux (20 foot candles):

(1) At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption,

(2) Inside equipment such as reach-in and under-counter refrigerators, and

(3) At a distance of 75 cm (30 inches) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and

(C) At least 540 lux (50 foot candles) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

(d) Ventilation.

(1) Mechanical.

(A) If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity must be provided.

(B) All ventilation areas which involve cooking, grilling, baking, and frying must meet requirements as set forth by applicable codes, including, but not limited to, Fire Code, Mechanical Code, Electric Code, and Plumbing Code.

(e) Dressing areas and lockers.

(1) Designation.

(A) Dressing rooms or dressing areas must be designated if employees routinely change their clothes in the establishment.

(B) Lockers or other suitable facilities must be provided for the orderly storage of employees' clothing and other possessions.

(f) Service sinks.

(1) Availability. A service sink or curbed cleaning facility must be provided as specified under Section 9-46(c)(3)(A).

**Sec. 9-53. -Location and placement.**

(a) Handwashing sinks.

(1) Conveniently located. Handwashing sinks must be conveniently located as specified under Section 9-46(d)(1).

(b) Toilet rooms.

(1) Convenience and accessibility. Toilet rooms must be conveniently located and accessible to employees during all hours of operation.

(c) Employee accommodations.

(1) Designated areas.

(A) Areas designated for employees to eat, drink, and use tobacco products must be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination.

(B) Lockers or other suitable facilities must be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles cannot occur.

(d) Distressed merchandise.

(1) Segregation and location. Products that are held by the permit holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, must be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.<sup>Pf</sup>

(e) Refuse, recyclables, and returnables.

(1) Receptacles, waste handling units, and designated storage areas. Units, receptacles, and areas designated for storage of refuse and recyclable and returnable containers must be located as specified under Section 9-49(a)(10).

**Sec. 9-54. -Maintenance and operation; premises.**

(a) Premises, structures, attachments, and fixtures – methods.

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(1) Repairing. Physical facilities must be maintained in good repair.

(2) Cleaning, frequency, and restrictions.

(A) Physical facilities must be cleaned as often as necessary to keep them clean.

(B) Except for cleaning that is necessary due to a spill or other accident, cleaning must be done during periods when the least amount of food is exposed such as after closing.

(C) Physical facilities, equipment, and utensils must be cleaned before the facility is left unoccupied.

(3) Cleaning floors, dustless methods.

(A) Except as specified in Subparagraph (B) of this paragraph, only dustless methods of cleaning must be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

(B) Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

(i) Without the use of dust-arresting compounds; and

(ii) In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

(4) Cleaning ventilation systems, nuisance and discharge prohibition.

(A) Intake and exhaust air ducts must be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

(B) If vented to the outside, ventilation systems may not create a public health hazard or nuisance or unlawful discharge.

(5) Cleaning maintenance tools, preventing contamination. Food preparation sinks, handwashing sinks, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.<sup>Pf</sup>

(6) Drying Mops. After use, mops must be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

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(7) Absorbent materials on floors, use limitation. Except as specified in Subparagraph (3)(B), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

(8) Cleaning of plumbing fixtures. Plumbing fixtures such as handwashing sinks, toilets, and urinals must be cleaned as often as necessary to keep them clean.

(9) Closing toilet room doors. Except during cleaning and maintenance operations, toilet room doors as specified under Section 9-51(b)(4) must be kept closed.

(10) Using dressing rooms and lockers.

(A) Dressing rooms must be used by employees if the employees regularly change their clothes in the establishment.

(B) Lockers or other suitable facilities must be used for the orderly storage of employee clothing and other possessions.

(11) Controlling pests. The premises must be maintained free of insects, rodents, and other pests. the presence of insects, rodents, and other pests must be controlled to eliminate their presence on the premises by:

(A) Routinely inspecting incoming shipments of food and supplies;

(B) Routinely inspecting the premises for evidence of pests;

(C) Using methods, if pests are found, such as trapping devices or other means of pest control as specified under Sections 9-56(b)(2), 9-56(f)(2), and 9-56(f)(2); <sup>Pf</sup> and

(D) Eliminating harborage conditions.

(12) Removing dead or trapped birds, insects, rodents, and other pests. Dead or trapped birds, insects, rodents, and other pests must be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

(13) Storing maintenance tools. Maintenance tools such as brooms, mops, vacuum cleaners, and similar items must be:

(A) Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and

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(B) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

(14) Maintaining premises, unnecessary items and litter. The premises must be free of:

(A) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and

(B) Litter.

(15) Prohibiting animals.

(A) Except as specified in Subparagraphs (B), (C), and (D) of this paragraph, live animals may not be allowed on the premises of a food establishment.<sup>Pf</sup>

(B) Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:

(i) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(ii) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(iii) In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;

(iv) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:

(aa) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas,

(bb) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present, and

(cc) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and

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(v) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.

(C) Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result.

(D) Dogs may be allowed in outdoor dining areas of a food establishment if:

(i) the establishment posts a sign in a conspicuous location in the area stating that dogs are allowed;

(ii) the customer and dog access the area directly from the exterior of the establishment;

(iii) the dog does not enter the interior of the establishment;

(iv) the customer keeps the dog on a leash and controls the dog;

(v) the customer does not allow the dog on a seat, table, countertop, or similar surface; and

(vi) in the area, the establishment does not:

(aa) prepare food; or

(bb) permit open food other than food that is being served to a customer; and

(vii) the requirements specified in this subparagraph do not apply to service animals or service animals in training.

### ***ARTICLE VII. POISONOUS OR TOXIC MATERIALS***

#### **Sec. 9-55. -Labeling and identification.**

(a) Original containers.

(1) Identifying information, prominence. Containers of poisonous or toxic materials and personal care items must bear a legible manufacturer's label.<sup>Pf</sup>

(b) Working containers.

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(1) Common name. Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies must be clearly and individually identified with the common name of the material.<sup>Pf</sup>

### **Sec. 9-56. -Operational supplies and applications.**

#### (a) Storage.

(1) Separation. Poisonous or toxic materials must be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(A) Separating the poisonous or toxic materials by spacing or partitioning;<sup>P</sup> and

(B) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. this paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.<sup>P</sup>

#### (b) Presence and use.

##### (1) Restriction.

(A) Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, may be allowed in a food establishment.

(B) Subparagraph (A) of this paragraph does not apply to packaged poisonous or toxic materials that are for retail sale.

##### (2) Conditions of use. Poisonous or toxic materials must be:

###### (A) Used according to:

(i) Law and this Code,

(ii) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment,<sup>P</sup>

(iii) The conditions of certification, if certification is required, for use of the pest control materials,<sup>P</sup> and

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Department; and (iv) Additional conditions that may be established by the

(B) Applied so that:

constituted,<sup>P</sup> and (i) A hazard to employees or other persons is not

(ii) contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and this is achieved by<sup>P</sup>:

(aa) Removing the items,<sup>P</sup>

or (bb) Covering the items with impermeable covers,<sup>P</sup>

and (cc) Taking other appropriate preventive actions,<sup>P</sup>

after the application.<sup>P</sup> (dd) Cleaning and sanitizing equipment and utensils

(C) A restricted use pesticide may be applied only by an applicator certified as defined in 7 USC 136 Definitions, (e) Certified Applicator, of the Federal Insecticide, Fungicide, and Rodenticide Act, or a person under the direct supervision of a certified applicator.<sup>Pf</sup>

(c) Container prohibitions.

(1) Poisonous or toxic material containers. A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food, equipment, utensils, linens, single-service or single-use articles.<sup>P</sup>

(d) Chemicals.

(1) Sanitizers, criteria. Chemical sanitizers, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to food-contact surfaces must:

(A) Meet the requirements specified in 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions),<sup>P</sup> or

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(B) Meet the requirements as specified in 40 CFR 180.2020 Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-food determinations.<sup>P</sup>

(2) Chemicals for washing, treatment, storage and processing fruits and vegetables, criteria. Chemicals, including those generated on-site, used to wash or peel raw, whole fruits and vegetables or used in the treatment, storage, and processing of fruits and vegetables must:

(A) Be an approved food additive listed for this intended use in 21 CFR 173,<sup>P</sup> or

(B) Be generally recognized as safe (GRAS) for this intended use,<sup>P</sup> or

(C) Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification),<sup>P</sup> and

(D) Meet the requirements in 40 CFR 156 Labeling Requirements for Pesticide and Devices.<sup>P</sup>

(3) Boiler water additives, criteria. Chemicals used as boiler water additives must meet the requirements specified in 21 CFR 173.310 Boiler water additives.<sup>P</sup>

(4) Drying agents, criteria. Drying agents used in conjunction with sanitization must:

(A) Contain only components that are listed as one of the following:

(i) Generally recognized as safe for use in food as specified in 21 CFR 182 - Substances Generally Recognized as Safe, or 21 CFR 184 - Direct Food Substances Affirmed as Generally Recognized as Safe,<sup>P</sup>

(ii) Generally recognized as safe for the intended use as specified in 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe,<sup>P</sup>

(iii) Generally recognized as safe for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to food as described in 21 CFR 170.30 Eligibility for classification as generally recognized as safe (GRAS),<sup>P</sup>

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(iv) Subject of an effective Food Contact Notification as described in the Federal Food Drug and Cosmetic Act (FFDCA) Section 409(h),<sup>P</sup>

(v) Approved for use as a drying agent under a prior sanction as described in the Federal Food Drug and Cosmetic Act (FFDCA) § 201(s)(4);<sup>P</sup>

(vi) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 174 - 178,<sup>P</sup> or

(vii) Approved for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39 Threshold of regulation for substances used in food-contact articles;<sup>P</sup> and

(B) When sanitization is with chemicals, the approval required under Subparagraphs (A)(v) or (A)(vii) of this paragraph or the regulation as an indirect food additive required under Subparagraph (A)(vi) of this paragraph, must be specifically for use with chemical sanitizing solutions.<sup>P</sup>

(e) Lubricants.

(1) Incidental food contact, criteria. Lubricants must meet the requirements specified in 21 CFR 178.3570 Lubricants with incidental food contact, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.<sup>P</sup>

(f) Pesticides.

(1) Restricted use pesticides, criteria. Restricted use pesticides specified under Subsection (b)(2)(C) of this section must meet the requirements specified in 40 CFR 152 Subpart I Classification of Pesticides.<sup>P</sup>

(2) Rodent bait stations. Rodent bait must be contained in a covered, tamper-resistant bait station.<sup>P</sup>

(3) Tracking powders, pest control and monitoring.

(A) Except as specified in Subparagraph (B) of this paragraph, a tracking powder pesticide may not be used in a food establishment.<sup>P</sup>

(B) If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single-service and single-use articles.

(g) Medicines.

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### (1) Restriction and storage.

(A) Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees must be allowed in a food establishment. <sup>Pf</sup>

(B) Medicines that are in a food establishment for the employees' use must be labeled as specified under Section 9-55(a)(1) and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles. <sup>P</sup>

(2) Refrigerated medicines, storage. Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator must be:

(A) Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; <sup>P</sup> and

(B) Located so they are inaccessible to children. <sup>P</sup>

### (h) First aid supplies.

(1) Availability. A first aid kit must be provided in all food establishments.

(2) Storage. First aid supplies that are in a food establishment for the employees' use must be:

(A) Labeled as specified under Section 9-55(a)(1); <sup>Pf</sup> and

(B) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles. <sup>P</sup>

### (i) Other personal care items.

(1) Storage. Except as specified under Subsections (g)(2) and (h)(2) of this section, employees must store their personal care items in facilities as specified under Section 9-52(e)(1).

## **Sec. 9-57. -Stock and retail sale.**

### (a) Storage and display.

(1) Separation. Poisonous or toxic materials must be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(A) Separating the poisonous or toxic materials by spacing or partitioning;<sup>P</sup> and

(B) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.<sup>P</sup>

**ARTICLE VIII. REQUIREMENTS APPLICABLE TO CERTAIN ESTABLISHMENTS**

**Sec. 9-58. -Mobile food units.**

(a) Mobile food unit provisions.

(1) In general. Except as otherwise provided in this paragraph and in Subparagraph (2) of this subsection, the Department:

(A) may impose additional requirements to protect against health hazards related to the conduct of the food establishment as a mobile operation;

(B) may prohibit the sale of some or all time and temperature control for safety foods (TCS foods); and

(C) when no health hazard will result, may waive or modify requirements of this section relating to physical facilities, except those requirements as specified in Paragraphs (7) – (9) and (11)(A)(E) of this subsection, and Sections 9-25 – 9-29.

(2) Mobility.

(A) A mobile food establishment (MFE) must maintain mobility at all times. Examples of items needed to maintain mobility include, but are not limited to, a driver that is authorized and able to move the MFE at the request of the Department, a tow vehicle in the event a MFE is a trailer, no additional food prep or service items to be stored outside (i.e. food prep tables, handwashing sinks, 3 compartment sinks, refrigeration, ice coolers), and for drivable units, the engine must start on its own power at all times.<sup>P</sup>

(B) Alterations, removal, attachments, additions, placement or change in, under, or upon a mobile food establishment that would prevent or reduce ready mobility is prohibited.<sup>P</sup>

(C) If required by the Department, a mobile food establishment must come, on an annual basis or as often as required, to a location designated by the Department as proof that the mobile food establishment is readily moveable.

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(3) Restricted operations. As approved by the Department, an MFE that serves only food that is prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of this article, or beverages that are non-time and temperature control for safety food and are dispensed from covered urns or other protected equipment, need not comply with the requirements of this article, relating to the necessity of water and sewage systems nor to those requirements, relating to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at its central preparation facility.

(4) Initial permit inspection process.

(A) A mobile food establishment must go to the location designated by the Department for any permit inspection. <sup>Pf</sup>

(B) If a mobile food establishment does not arrive for a scheduled inspection and does not provide a 24-hour notification to the Department, a cancellation fee will be assessed, and must be paid prior to any future issuance of permit.

(C) A mobile food establishment must be totally operable at all times during inspection, including but not limited to, handwash/warewash facilities, refrigeration and wastewater disposal. <sup>P</sup>

(D) A mobile food establishment must provide, upon request during an inspection, the following documentation:

(i) Certified food manager certification. <sup>P</sup>

(ii) A signed and notarized letter of authorization is required to verify facility use if the central preparation facility is not owned by the mobile unit operator. This authorization is required at the time of permit application and at each renewal of the permit. <sup>Pf</sup>

(iii) A copy of the most current health inspection of the central preparation facility. The copy of the inspection must be maintained on the mobile unit at all times.

(iv) If the servicing area is not owned by the mobile unit operator, a signed and properly filled out Mobile Food Establishment Central Preparation Facility Log Sheet.

(v) Menu of all food to be sold.

(vi) If a mobile food establishment is operating in one location for more than two (2) consecutive hours, the mobile food establishment operator shall provide a signed and notarized letter from the property/business owner stating that there is a restroom available for mobile food establishment employees to use while they

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are selling food on their property. No port-a-potty or other portable toilet may be used to satisfy the requirements of the subparagraph.<sup>Pf</sup>

(E) Mobile food establishments must identify the vehicle with characters at least four (4) inches high on both exterior sides of the unit stating the name of the mobile food establishment or business.

(6) Single-service articles. A MFE may only provide single service articles for use by the consumer.

(7) Equipment, numbers, and capacities.

(A) Equipment for cooling and heating food, and holding cold and hot food, must be sufficient in number and capacity to provide food temperatures as specified under Article III.<sup>Pf</sup>

(B) Manual warewashing, sink compartment requirements:

(i) A sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils as specified in Section 9-38(a)(2)(A).

(ii) Sink compartments must be large enough to accommodate immersion of the largest equipment and utensils as specified in Section 9-38(a)(2)(c).

(C) At least one handwashing sink must be available for convenient use by employees and properly provisioned in accordance with Sections 9-52(a)(2) and (3).

(8) Compliance with Code. In addition to the requirements found in this article, Mobile Food Establishment must comply with all applicable sections of the Code.<sup>P</sup>

(9) Mobile food establishment water and wastewater systems.

(A) An MFE drinking water tank must meet the requirements of Section 9-47(c)(3).

(i) Fill hose and water holding tank must be labeled as "Potable Water."

(ii) Drinking water in an MFE holding tank must be tested for contamination by sampling upon request by the Department.<sup>P</sup>

(B) Liquid waste generated from the operation of a MFE must be stored in a permanently installed retention tank.<sup>Pf</sup> A leak-proof sewage holding tank in an MFE must meet the requirements of Section 9-48(a)(1) for capacity and drainage.<sup>Pf</sup>

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(C) All connections on the vehicle for servicing the MFE waste disposal facilities must be of a different size or type than those used for supplying potable water to the MFE. <sup>Pf</sup>

(D) Liquid waste may not be discharged from the retention tank while the MFE is in motion. <sup>P</sup> Flushing a waste retention tank must meet the requirements of Section 9-48(b)(6).

(E) Liquid waste holding tank(s) must be labeled as "waste water." Removing MFE wastes must meet the requirements of Section 9-48(b)(5).

(F) No residential water heater may be used in a mobile food establishment. <sup>Pf</sup>

(G) Toilet rooms must be located no more than 100 linear feet from the MFE. The toilet rooms must be accessible to employees during all hours of operation. <sup>Pf</sup>

### (10) MFE water and wastewater exemption.

(A) A roadside vendor that sells only prepackaged food is exempt from the requirements of this article relating to water and wastewater.

(B) A MFE that sells food requiring no water for operations and no hand contact with food is exempt from the requirements of this chapter relating to water and wastewater if the required cleaning and sanitization equipment exists at its central preparation facility. Chemically treated towelettes for handwashing may be used as specified in Section 9-46(c)(1).

### (11) Central preparation facility.

(A) An MFE must operate from a central preparation facility or other fixed food establishment and must report to such location daily for supplies, cleaning, and servicing operations. <sup>Pf</sup>

(B) The central preparation facility or other fixed food establishment, used as a base of operation for an MFE, must be constructed and operated in compliance with the requirements of Article IV.

(C) A private residence may not be used as a central preparation facility. <sup>P</sup>

### (12) Outdoor servicing area and operations.

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(A) An MFE servicing area must include at least overhead protection for any supplying, cleaning, or servicing operation. Those areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection. <sup>Pf</sup>

(B) Within the servicing area, the location provided for the flushing and drainage of liquid wastes must be separate from the location provided for potable water servicing and for the loading and unloading of food and related supplies.

(C) A servicing area will not be required where only packaged food is placed on the MFE or where a MFE does not contain waste retention tanks.

(D) The surface of the servicing area must be constructed of a smooth nonabsorbent material, such as concrete or machine-laid asphalt and must be maintained in good repair, kept clean, and be graded to drain.

(E) Potable water servicing equipment must be installed in the servicing area according to the Plumbing Code and must be stored and handled in a way that protects the water and equipment from contamination. <sup>P</sup>

(F) The construction of the walls and ceilings of the servicing area is exempted from the provisions of Section 9-51(a)(1).

### (13) Central preparation facility log sheet.

(A) Mobile food establishments must maintain a central preparation facility log sheet with them at all times.

(B) A new central preparation log sheet must be filled out every month.

(C) A mobile food establishment central preparation facility log sheet must include:

- (i) The name of the mobile food unit;
- (ii) The date of service of the mobile food unit;
- (iii) The time of arrival to the central preparation facility;
- (iv) The time of departure from the central preparation facility; and
- (v) A signature from the owner or owner's designee of the central preparation facility each day of service at the facility.

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(D) A mobile food establishment must email the previous month's properly completed and signed central preparation facility log sheet to the Department's email address of [envhealth@plano.gov](mailto:envhealth@plano.gov) no later than the 5th day of every month.

### (14) Interior and exterior surfaces.

(A) All interior and exterior surfaces of a mobile food establishment must be of a material that:

- (i) Is light in color (interior only);
- (ii) Is corrosion resistant;
- (iii) Is non-absorbent;
- (iv) Is smooth;
- (v) Is easily cleanable;
- (vi) Is free of breaks;
- (vii) Has no open seams;
- (viii) Is free from difficult to clean internal corners and crevices; and
- (ix) Is resistant to:
  - (aa) Denting;
  - (bb) Buckling;
  - (cc) Chipping; or
  - (dd) Crazing.

(B) Interior and exterior surfaces must be maintained in good repair.

### (15) Generators.

(A) A mobile food establishment that is selling food or parked and not connected to an external power source must have a generator supplying power to the establishment. <sup>P</sup>

(B) Generators must be of adequate size to meet all power needs of the mobile food establishment.<sup>P</sup>

(C) Generators must have adequate ventilation to prevent exposure to exhaust fumes. MFEs that use a generator must have a carbon monoxide sensor installed and maintained in accordance with the manufacturer's instructions.<sup>P</sup>

(16) Compliance with Fire Code. All mobile food establishments must comply with the current Fire Code.<sup>P</sup>

**Sec. 9-59. -Temporary food establishments.**

(a) Temporary food establishment requirements.

(1) In general.

(A) An applicant for a Temporary Food Establishment permit shall submit their application and any required fees at least five (5) business days prior to the event. An administrative fee will apply to applications received after this deadline.

(B) Food Establishments with a valid City of Plano food establishment permit shall apply for a temporary permit when participating in an event.

(C) Food manufacturers shall submit a copy of the state manufacturer's license with their application.

(D) The Department may impose additional requirements to protect against health hazards related to the conduct of the temporary food establishment, may prohibit the sale of some or all time and temperature control for safety foods (TCS foods), and when no health hazard will result, such as children's neighborhood beverage stands, may waive or modify requirements of this article.

(i) Food that is not prepared on site or that require extensive preparation or cooking must be prepared at a licensed food establishment. All food must be obtained from an approved source.<sup>P</sup>

(ii) Each temporary establishment may be required by the Department to have at least one person on-site who has a minimum of an accredited food handler certification.<sup>Pf</sup>

(E) The temporary or seasonal food event permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the event during hours of food service operations when the operation is involved in handling TCS food. The person in charge shall have proof of successfully passing a recognized certified food handler course and shall make it available to the Department upon request.

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(2) Food temperatures. All food temperature requirements must be met as contained in Sections 9-15, 9-17.1, 9-25 – 9-27, and 9-29.

(3) Ice. Ice that is consumed or that contacts food must have been made under conditions meeting the requirements of Article III. The ice must be obtained only in blocked, chipped, crushed, or cubed form and in single-use safe plastic or wet-strength paper bags filled and sealed at the point of manufacture. Ice for consumption must be held in the bags until it is dispensed and be dispensed in a way that protects it from contamination.<sup>P</sup>

(4) Equipment and utensils.

(A) Equipment and utensils must be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.<sup>Pf</sup>

(B) Equipment must be located and installed and cleaned in a way that prevents food contamination and that also facilitates cleaning of the temporary food establishment.<sup>Pf</sup>

(C) Equipment for cooling or heating food and holding cold or hot food must be adequate in number and capacity to provide food temperatures as specified in Sections 9-25 – 9-27 and 9-29.

(D) Food-contact surfaces of equipment must be protected from contamination by consumers and other sources. Where necessary to prevent contamination, effective shields for such equipment must be provided.<sup>Pf</sup>

(E) Alternative manual warewashing equipment, such as receptacles that substitute for the compartments of a three-compartment sink, may be used when there are special cleaning needs or constraints and the Department has approved the use of alternative equipment. Each compartment must be large enough to immerse the largest piece of equipment that will be used. A means to heat water must also be provided.<sup>Pf</sup>

(5) Single-service articles. A temporary food establishment must provide only single-service articles for use by the consumer.

(6) Water.

(A) Water from an approved source must be made available in a temporary food establishment for food preparation, handwashing, and for cleaning and sanitizing utensils and equipment.<sup>P</sup>

(B) Water does not need to be under pressure but must come from approved sources which include:

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- (i) commercially bottled drinking water; <sup>P</sup>
- (ii) closed portable water containers; <sup>P</sup>
- (iii) enclosed vehicular water tanks; <sup>P</sup>
- (iv) on-premise water storage tanks; <sup>P</sup> or
- (v) piping, tubing or hoses connected to an approved source. <sup>P</sup>

(7) Wet storage. No packaged food may be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water. <sup>P</sup>

(8) Sewage.

(A) All waste water and sewage generated from the temporary food establishment must be disposed of through an approved sanitary sewage system that is:

- (i) a public sewage system; <sup>P</sup> or
- (ii) an individual sewage disposal system that is sized, constructed, maintained, and operated according to 30 TAC Chapter 285 (relating to On-Site Sewage Facilities). <sup>P</sup>

(9) Handwashing. Handwashing facilities must include a container with a spigot that provides potable, clean, warm water; a wastewater container; soap; disposable towels; and a waste receptacle. Handwashing facilities are not required if the only food items offered are commercially pre-packaged foods that are dispensed in their original containers. <sup>Pf</sup>

(10) Floors. If graded to drain, a floor may be concrete, machine-laid asphalt, dirt, or gravel covered with mats, plywood, removable platforms, duckboards if covered with mats, or other suitable materials approved by the Department, such as tarps, that effectively control dust and mud.

(11) Ceilings & outer openings in food preparation areas.

(A) Walls and ceilings must be made of wood, canvas, or other materials that protect the interior of the establishment from the weather, windblown dust, birds, and debris.

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(B) The outer openings must be protected against entry of insects and rodents by:

(i) 16 mesh to 25.4 millimeters (16 mesh to 1 inch) screens;

(ii) properly designed and installed air curtains; or

(iii) other effective means.

(C) If approved by the Department, Subparagraph (B) of this paragraph does not apply if flying insects and other pests are absent due to the location of the temporary food establishment or other limiting conditions.

(12) Verification and documentation of correction. In the case of temporary food establishments, all priority and priority foundation items must be corrected immediately, and other violations must be corrected within 24 hours or sooner if required by the Department. If violations are not corrected, the establishment must immediately cease food operations upon execution of an Emergency Suspension or Closing Order until authorized to resume by the Department.

### **Sec. 9-60. -Bed and breakfast.**

(a) In general.

(1) A bed and breakfast extended, in addition to licensing and compliance with applicable city and state regulations, must comply with the minimum requirements of this section if the establishment:

(A) has more than seven rooms for rent; or

(B) provides food service other than breakfast to overnight guests.

(2) A bed and breakfast food establishment that provides food service to customers in addition to its overnight guests must comply with the rules and regulations applicable to retail food establishments, including licensing with the Department.

(3) A bed and breakfast limited:

(A) has seven (7) or fewer rooms for rent;

(B) serves only breakfast to overnight guests;

(C) is not a retail food establishment; and

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(D) complies with Subsection (b) of this section.

(b) Certified food protection manager. The owner or manager shall successfully complete a food manager's certification course accredited by the state. <sup>Pf</sup>

(c) Food supplies. Food must be obtained from approved sources in accordance with Sections 9-14(a) – (h) and Section 9-29 and must be in sound condition and be safe for human consumption. <sup>P</sup>

(d) Food preparation and protection.

(1) Food preparation and protection. Food must be prepared and protected in accordance with Article III.

(2) Temperature requirements. All food temperature requirements must be met as contained Sections 9-15, 9-25 – 9-27, 9-29, and 9-17.1.

(e) Cleaning and sanitizing.

(1) Manual. A three-compartment sink must be used if washing, rinsing, and sanitizing of utensils and equipment is done manually; or a two-compartment sink may be utilized if single service tableware is provided, and if an approved detergent sanitizer is used. <sup>Pf</sup>

(2) Mechanical. Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils either by chemical or mechanical sanitization.

(f) Personal hygiene. Employees shall conform to good hygienic practices as required in Sections 9-10 and 9-11.

(g) Employee restrooms. A restroom must be available for use by employees. <sup>Pf</sup>

(h) Equipment and utensil design and construction. All equipment and utensils must be constructed of safe materials and maintained in good repair. <sup>P</sup>

(i) Handwash sinks.

(1) Location. An accessible and conveniently located handwash sink must be provided in or immediately adjacent to food preparation areas and restrooms. <sup>Pf</sup>

(2) Intended use. Handwash sinks must be used for no other purpose other than handwashing. <sup>Pf</sup>

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(j) Food-contact surfaces. All food contact surfaces, counters, or work surfaces in the bed and breakfast establishment must be smooth, non-absorbent and easily cleanable.<sup>Pf</sup>

(k) Insect proof/rodent proof.

(1) Construction. Food service preparation and storage areas must be constructed and maintained to prevent the entry of pests and other vermin.

(2) Chemical control. Pesticides and rodenticides must be applied in accordance with Section 9-56.

(l) Equipment. Equipment must be provided to maintain time and temperature control for safety foods (TCS foods) at the temperatures required in accordance with Article III.

(m) Garbage receptacles. A sufficient number of impervious receptacles must be provided for storage of garbage and refuse. Receptacles must be maintained in clean and sanitary condition.

(n) Sewage. Sewage must be disposed through an approved facility that is:

(1) a public sewage system;<sup>P</sup> or

(2) an individual sewage disposal system that is sized, constructed, maintained, and operated according to law in 30 TAC Chapter 285 (relating to On-Site Sewage Facilities).<sup>P</sup>

(o) Water supply. Hot and cold water under pressure must be provided<sup>P</sup> and must be from an approved source that meets the standards in accordance with:

(1) state drinking water quality standards in accordance with 30 TAC §§290.38 - 290.47 (relating to Rules and Regulations for Public Water Systems), and 30 TAC §§290.101 - 290.114, 290.117 - 290.119, 290.121, and 290.122 (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems);<sup>P</sup> or

(2) private water system standards as provided in 30 TAC Chapter 290, Subchapter F (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems), concerning transient noncommunity water systems.<sup>P</sup>

### **Sec. 9-61. -Outfitter operations.**

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(a) In general. Requirements in this section are specific for outfitter operations. The Department may impose additional requirements to protect against health hazards that may be specific to these operations.

(b) Food supplies. Food supplies, including ice, must be obtained from approved sources described in Sections 9-14(a) – (h) and Section 9-15. No home-prepared products may be offered.

(c) Food temperatures. All food temperature requirements must be met as contained in Sections 9-15, 9-25 – 9-27, 9-29, and 9-17.1.

(d) Food preparation and protection for excursions.

(1) Except for Paragraphs (2) through (4) of this subsection, all food must be prepared and protected in central preparation facility and meet requirements contained in Chapter 3 - Food.

(2) Only commercially prepackaged ready-to-eat foods or ready-to-eat foods that have been prepared and packaged with no cooking at a central preparation facility may be served. <sup>P</sup>

(3) Raw time and temperature control for safety foods (TCS foods) may be cooked on-site if cooked and immediately served.

(4) All food must be stored to protect from contamination in accordance with Article III.

(5) TCS foods that require complex preparation must be served within the first 24 hours of the excursion departure time. <sup>P</sup>

(6) Leftover food may not be re-heated or re-served. <sup>P</sup>

(e) Warewashing.

(1) Alternative manual warewashing equipment, such as receptacles that substitute for the compartments of a multi-compartment sink, may be used for washing and sanitizing utensils when approved by the regulatory authority. <sup>Pf</sup>

(2) An outfitter operation without effective facilities for cleaning and sanitizing tableware may only provide single-service articles for use by food employees and consumers.

(f) Ice usage.

(1) Ice that is used for cooling food may not be used for human consumption. <sup>P</sup>

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(2) Ice used for human consumption must be stored in a clean sanitized container that is properly constructed and maintained in good repair. <sup>P</sup>

(g) Potable water.

(1) Potable water must be used on excursions for human consumption, food preparation, handwashing, and for cleaning and sanitizing utensils and equipment. <sup>P</sup>

(2) Potable water must be stored in a clean sanitized container that is easily cleanable and good condition. <sup>P</sup>

(h) Handwashing.

(1) Handwashing facilities must include:

(A) a container with a spigot that can be turned on to allow potable, clean, water; <sup>Pf</sup>

(B) a wastewater container; <sup>Pf</sup>

(C) soap; <sup>Pf</sup>

(D) disposable towels; <sup>Pf</sup> and

(E) a waste receptacle.

(2) Handwashing facilities are not required if the only food items offered are commercially prepackaged foods that are dispensed in their original containers.

(i) Equipment. All equipment and utensils intended for food contact must be approved for food use. <sup>P</sup>

(j) Thermometers. Thermometers must be provided, accurate, and accessible during excursions. <sup>P</sup>

(k) Garbage receptacles. Impervious receptacles must be provided for storage of garbage and refuse.

(l) Certified food protection manager. If food other than pre-packaged ready to-eat food is being served, at least one guide or instructor of the outfitter operation, who is on the excursion, must successfully complete a food manager's certification course accredited by this Department. <sup>P</sup>

(m) Central preparation facility. An outfitter operation must have a central preparation facility as specified in the definition of Outfitter Operations in Section 9-5.

**Sec. 9-62. -Self-service food markets.**

(a) Self-service food market requirements.

(1) In general. Self-service food markets must comply with the minimum standards of this section.

(2) Additional requirements. In addition to the minimum standards of this section, self-service food markets must comply with all requirements of the Code the Department deems applicable.

(3) Surveillance & point of contact.

(A) Self-service food markets must:

(i) be equipped with 24/7 video surveillance records of consumers viewing, selecting, handling, and purchasing products that identify these consumers. Video surveillance records must be maintained and available for the regulatory authority for a period of 14 calendar days from the date of the video; and

(ii) provide information to the Department as to the responsible party that will be available for routine inspections. <sup>Pf</sup>

(4) Pre-packaged food.

(A) Pre-packaged food sold at a self-service food market must:

(i) meet the labeling requirements as specified in Food Code, Paragraph 3-201.11(C); and

(ii) be tamper evident. <sup>P</sup>

(5) Specified foods.

(A) A food specified in Sections 9-29(g)(1) or (2) or 9-29(h) must be discarded if it:

(i) exceeds the temperature or time specified in Sections 9-29(g)(1) and (2), except time that the product is frozen;

(ii) is in a container or package that does not bear an expiration date or day; <sup>P</sup> or

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(iii) is not appropriately marked with a date or day that exceeds the temperature and time combination as specified in Sections 9-29(g)(1) and (2).

### (6) Display-units offering TCS foods.

(A) All self-service food market display-units offering refrigerated, time and temperature control for safety foods (TCS foods) must have an automatic shut-off control <sup>Pf</sup> or a plan approved by the regulatory authority that prevents the market or market equipment from dispensing food if:

(i) there is a power failure, mechanical failure, or other condition that results in failure of the equipment to maintain food temperatures as specified under Article IV; <sup>Pf</sup> and

(ii) where a condition specified in Subparagraph (A)(1) occurs, until the equipment is serviced and restocked with food that has been maintained at temperatures specified in Sections 9-15, 9-25 – 9-27, and 9-29. <sup>Pf</sup>

(B) When a condition specified in Subparagraph (A)(i) of this subsection occurs, the ambient temperature may not exceed five degrees Celsius (41 degrees Fahrenheit), or seven degrees Celsius (45 degrees Fahrenheit) for a unit holding raw shell eggs only, for more than 30 minutes immediately after the display is filled, serviced, or restocked. <sup>P</sup>

### (7) Display-unit requirements.

(A) All self-service food market display-units offering TCS food, must be:

(i) equipped with a self-closing door; or

(ii) maintained at five degrees Celsius (41 degrees Fahrenheit), or seven degrees Celsius (45 degrees Fahrenheit) for raw shell eggs, if it is an open display unit. <sup>P</sup>

### (8) Signs at automated payment kiosk.

(A) Self-service food markets must have a sign readily visible from the automated payment kiosk stating:

(i) the name of the business to whom complaints or comments must be addressed;

(ii) the address of the business responsible for the market;  
and

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(iii) the responsible business's telephone number and email or web information, when applicable.

(9) Person in charge. When a retail food establishment operating as a self-service food market incorporates the provision in this section, it will not be required to maintain a person in charge onsite as specified in Section 9-6(a).

(10) Food equipment certification and classification. Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program is deemed to comply with Sections 9-36(a) and 9-36(b), and 9-37 (a) – (d).

(11) Floors and floor coverings.

(A) The floor and floor coverings of all food storage, self-service areas, walk-in refrigeration units, and vestibules must:

- (i) be commercial grade;
- (ii) include a cove backing at the wall/floor and toe kick/floor junctures;
- (iii) be constructed of smooth, durable material, that is non-absorbent and easy to clean. as approved by the regulatory authority; and
- (iv) be maintained in good repair.

(B) Grout between tiles should be sealed so it is water resistant.

(C) Commercial grade sheet vinyl may be used in dry storage areas. Commercial-grade sheet vinyl (no felt backing) which is at least 0.080-inches thick, with heat-welded seams, may be suitable for some applications if installed in conjunction with manufacturer's specifications and a cove backing (cove stick) must be used at the wall/floor and toe kick/floor junctures.

(12) Garbage receptacles.

(A) Impervious receptacles must be provided for storage of garbage and refuse.

(B) There must be a sufficient number of containers to hold all the garbage and refuse that accumulate. The Department may require more frequent collection, dumpsters, or larger dumpsters to accommodate the garbage and refuse that accumulates at the food establishment.

**Sec. 9-63. -Farmer's markets.**

The regulations of Title 25, Chapter 229.701-704 of the Texas Administrative Code (25 TAC 229.701-704) apply to farmer's markets located within the City of Plano, and each farmer's market must comply with those regulations as enforced by the Department.

**ARTICLE IX. COMPLIANCE**

**Sec. 9-64. -Code applicability.**

(a) Use for intended purpose.

(1) Public health protection.

(A) The Department shall apply this Code to promote its underlying purpose, as specified in Section 9-4(a), of safeguarding public health and ensuring that food is safe, unadulterated, and honestly presented when offered to the consumer or donated.

(B) In enforcing the provisions of this Code, the Department should assess existing facilities or equipment that were in use before the effective date of this Code based on the following considerations:

(i) Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;

(ii) Whether food-contact surfaces comply with Section 9-36(a);

(iii) Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with Section 9-38(a)(1); and

(iv) The existence of a documented agreement with the permit holder that the facilities or equipment will be replaced as specified under Section 9-68(d)(1).

(b) Additional requirements.

(1) Preventing health hazards, provision for conditions not addressed.

(A) If necessary to protect against public health hazards or nuisances, the Department may impose specific requirements in addition to the requirements contained in this Code that are authorized by law.

(B) The Department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health

rationale. The documentation must be provided to the permit applicant or permit holder and a copy must be maintained in the Department's file for the food establishment.

(c) Variances.

(1) Modifications and waivers. The Department may grant a variance by modifying or waiving the requirements of this Code if in the opinion of the Department a health hazard or nuisance will not result from the variance. If a variance is granted, the Department shall retain the information specified under Subsection (c)(2) of this section in its records for the food establishment.

(2) Documentation of proposed variance and justification. Before a variance from a requirement of this Code is approved, the information that must be provided by the person requesting the variance and retained in the Department's file on the food establishment includes:

(A) A statement of the proposed variance of the code requirement citing relevant Code section numbers; <sup>Pf</sup>

(B) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant code sections will be alternatively addressed by the proposal; <sup>Pf</sup> and

(C) A HACCP plan if required as specified under Section 9-65(a)(2)(A) that includes the information specified under Section 9-65(a)(3) as it is relevant to the variance requested. <sup>Pf</sup>

(3) Conformance with approved procedures. If the Department grants a variance as specified in Subsection (c)(1) of this section, or a HACCP plan is otherwise required as specified under Section 9-65(a)(2), the permit holder shall:

(A) Maintain the approved variance at the food establishment; <sup>Pf</sup>

(B) Comply with the HACCP plans and procedures that are submitted as specified under Section 9-65(a)(3) and approved as a basis for the modification or waiver; <sup>P</sup> and

(C) Maintain and provide to the Department, upon request, records specified under Sections 9-65(a)(3)(E) and 9-65(a)(3)(F)(iii) that demonstrate that the following are routinely employed:

(i) Procedures for monitoring the critical control points, <sup>Pf</sup>

(ii) Monitoring of the critical control points, <sup>Pf</sup>

process,<sup>Pf</sup> and

(iv) Necessary corrective actions if there is failure at a critical control point.<sup>Pf</sup>

**Sec. 9-65. -Plan submission and approval.**

(a) Facility and operating plans.

(1) When plans are required.

(A) A permit applicant or permit holder shall submit to the Department plans and specifications properly prepared by an engineer, architect, or as otherwise approved by the Department. Plans and specifications must be submitted for review and approval before:

(i) The construction of a food establishment;<sup>Pf</sup>  
(ii) The conversion of an existing structure for use as a food establishment;<sup>Pf</sup>

(iii) The remodeling of a food establishment or a change of type of food establishment or food operation, or under the conditions set by the Department, if the Department determines that plans and specifications are necessary to ensure compliance with this Code.<sup>Pf</sup>

(B) Any changes to the plans and specifications must be submitted to the Department for approval prior to making the planned changes.<sup>Pf</sup>

(C) Prior to opening, the operator of the facility shall request a permitting inspection from the Department. If deficiencies are found during this inspection, corrections shall be made prior to receiving approval to operate, or as determined by the Department.<sup>Pf</sup>

(2) Contents of the plans and specifications. The plans and specifications for a food establishment, including a food establishment specified under Paragraph (3) of this Subsection must include, as required by the Department based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with code provisions:

(A) Intended menu;  
(B) Anticipated volume of food to be stored, prepared, and sold or served;

(C) Proposed layout, mechanical schematics, and construction materials, and finish schedules;

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(D) Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;

(E) Evidence that standard procedures that ensure compliance with the requirements of this Code are developed or are being developed; and

(F) Other information that may be required by the Department for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.

(3) When a HACCP plan is required.

(A) Before engaging in an activity that requires a HACCP plan, a permit applicant or permit holder shall submit to the Department for approval a properly prepared HACCP plan as specified under Subsection (a)(4) of this section and the relevant provisions of this Code if:

(i) Submission of a HACCP plan is required according to law;

(ii) A variance is required as specified under Sections 9-25(a)(4)(D), 9-30(a), or 9-37(d)(10)(B); or

(iii) The Department determines that a food preparation or processing method requires a variance based on a plan submittal specified under Subsection (a)(1), an inspectional finding, or a variance request.

(B) Before engaging in reduced oxygen packaging without a variance as specified under Section 9-30(b), a permit applicant or permit holder shall submit a properly prepared HACCP plan to the Department.

(4) Contents of a HACCP plan. For a food establishment that is required under Subsection (a)(3) of this section to have a HACCP plan, the permit applicant or permit holder shall submit to the Department a properly prepared HACCP plan that includes:

(A) General information such as the name of the permit applicant or permit holder, the food establishment address, and contact information;

(B) A categorization of the types of time/temperature control for safety foods that are to be controlled under the HACCP plan; <sup>Pf</sup>

(C) A flow diagram or chart for each specific food or category type that identifies:

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- (i) Each step in the process, <sup>Pf</sup> and
- (ii) The steps that are critical control points; <sup>Pf</sup>

(D) The ingredients, recipes or formulations, materials and equipment used in the preparation of each specific food or category type and methods and procedural control measures that address the food safety concerns involved; <sup>Pf</sup>

(E) A critical control points summary for each specific food or category type that clearly identifies:

- (i) Each critical control point, <sup>Pf</sup>
- (ii) The significant hazards for each critical control point, <sup>Pf</sup>
- (iii) The critical limits for each critical control point, <sup>Pf</sup>
- (iv) The method and frequency for monitoring and controlling each critical control point by the designated food employee or the person in charge, <sup>Pf</sup>
- (v) Action to be taken by the designated food employee or person in charge if the critical limits for each critical control point are not met, <sup>Pf</sup>
- (vi) The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points, <sup>Pf</sup> and
- (vii) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; <sup>Pf</sup>

(F) Supporting documents such as:

- (i) Food employee and supervisory training plan that addresses the food safety issues of concern; <sup>Pf</sup>
- (ii) Copies of blank records forms that are necessary to implement the HACCP plan; <sup>Pf</sup>
- (iii) Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal; <sup>Pf</sup> and

(G) Any other information required by the Department.

**Sec. 9-66. -Confidentiality, Trade secrets.**

In accordance with the requirements of the Public Information Act, Texas Government Code, Chapter 552, the Department shall treat as confidential the information that meets the criteria specified in law for a trade secret and is contained on inspection report forms, photos, recordings or videos and in the plans and specifications submitted as specified in Sections 9-65(a)(2) and 9-65(a)(4).

**Sec. 9-67. -Construction inspection and approval, preoperational inspections.**

The Department may conduct one or more preoperational inspections to verify that the food establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has established standard operating procedures as specified in Section 9-65(a)(2)(E), and is in compliance with the Code.

**Sec. 9-68. -Permit to operate.**

(a) Requirement.

(1) Prerequisite to operation. No person may operate a food establishment without a valid permit to operate issued by the Department. <sup>Pf</sup>

(2) Property owner also responsible. No person may allow the operation of a business or activity regulated by this Code on any property they own unless the person operating the business or conducting the activity has the required permit. <sup>Pf</sup>

(b) Application procedure.

(1) Form of submission. An application for a permit or for the renewal of a permit must be made and submitted on forms furnished by the Department and containing all required information. The application must be signed by the permittee and constitutes an agreement that the permittee assumes responsibility for the conduct of the business, occupation, or other activity in accordance with the requirements of this Code or other applicable law. Applications may be submitted on paper or electronically.

(2) Contents of application. The application must be accompanied by such other information or documentation as the Department may require or as may be provided for in this code or other applicable law enforced by the Department. The application must, at a minimum, include the name, residence and business address, telephone numbers and email addresses of the permittee, and information the regulatory authority may need in order to contact the permittee in the event of an emergency.

(3) Qualifications and responsibilities of applicants. To qualify for a permit, an applicant shall:

(i) Be an owner of the food establishment or an officer of the entity who is legally authorized to enter into contracts for the entity;

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- (ii) Comply with the requirements of this Code;
- (iii) As specified under Section 9-69(d)(2), agree to allow access to the food establishment and to provide all information required by the Department; and
- (iv) Pay the applicable permit fees at the time the application is submitted.

(4) Arm's length transaction. No new permit may be issued by the Department to any entity based on a sale or change of ownership of a permitted business or activity where the business has outstanding uncorrected violations or the prior owner has unpaid fines and penalties, unless the applicant submits satisfactory proof that the transfer of the business was the result of, and meets the definition of, an arm's length transaction and all outstanding violations have been corrected.

(c) Conditions of retention.

(1) Responsibilities of the permit holder. Upon issuance of the permit by the Department, the permit holder in order to retain the permit shall:

(A) Post the permit in a location in the food establishment that is conspicuous to consumers;

(B) Comply with the provisions of this Code including the conditions of a granted variance as specified under Section 9-64(c)(3), and approved plans as specified under Section 9-65(a)(1);

(C) If a food establishment is required under Section 9-65(a)(2) to operate under a HACCP plan, comply with the plan as specified under Section 9-64(c)(3);

(D) Immediately contact the Department to report an illness of a food employee or conditional employee as specified under Section 9-7(a)(2);

(E) Immediately discontinue operations and notify the Department if an imminent health hazard may exist as specified under Section 9-69(d)(1);

(F) Allow representatives of the Department access to the food establishment as specified under Section 9-69(b)(2);

(G) Replace existing facilities and equipment specified in Section 9-64(a)(1) with facilities and equipment that comply with this Code if:

(i) The Department directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted,

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(ii) The Department directs the replacement of the facilities and equipment because of a change of ownership, or

(iii) The facilities and equipment are replaced in the normal course of operation;

(H) Comply with directives of the Department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Department in regard to the permit holder's food establishment or in response to community emergencies;

(I) Accept notices issued and served by the Department according to law;

(J) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Code or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and

(K) Notify customers that a copy of the most recent establishment inspection report is available upon request by posting a sign or placard in a location in the food establishment that is conspicuous to customers or by another method acceptable to the Department.

(d) Permits not transferable. No permit may be transferred from one person to another, from one food establishment to another, or from one type of operation to another if the food operation changes from the type of operation specified in the application as specified under Subsection (b)(2) of this section and the change in operation is not approved.

### **Sec. 9-69. -Inspections and correction of violations.**

(a) Frequency

(1) Establishing Inspection Interval and performance and risk-based inspection. The Department shall establish inspection intervals and prioritize inspection of each food establishment based upon an assessment of the food establishment's history of compliance with this Code and the potential for causing foodborne illness by evaluating:

(A) past performance, for nonconformance with the Code or Hazard HACCP plan requirements that are priority items or priority foundation items;

(B) past performance, for numerous or repeat violations of the Code or HACCP plan requirements that are core items;

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(C) past performance, for complaints investigated and found to be valid;

(D) the hazards associated with the particular foods that are prepared, stored, or served;

(E) the type of operation including the methods and extent of food storage, preparation, and service;

(F) the number of people served;

(G) whether the population served is a highly susceptible population; and

(H) any other risk factors deemed relevant to the operation by the Department.

(b) Competency of inspectors and access.

(1) Competency of inspectors. An individual conducting inspections of retail food establishments must be a Registered Professional Sanitarian in Texas or a Sanitarian-in-Training in Texas, as defined in 16 TAC Chapter 119, or must meet the U.S. Food and Drug Administration Voluntary National Retail Food Regulatory Program Standards' basic curriculum and field training elements in order to:

(A) assure application of basic scientific principles, including hazard analysis critical control point principles of food safety, during inspections;

(B) properly conduct foodborne illness investigations;

(C) assure uniformity in the interpretations of this Code; and

(D) assure fair and uniform enforcement of this Code.

(2) Access allowed at reasonable times after due notice. After the Department presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the Department to determine if the food establishment is in compliance with this Code by allowing access to the establishment, allowing inspection, and providing information and records specified in this Code and to which the Department is entitled according to law, during the food establishment's hours of operation and other reasonable times.

(c) Report of findings.

(1) Documenting information and observations. The Department shall document on an inspection report form:

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(A) Administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as type of water supply and sewage disposal, status of the permit, and personnel certificates that may be required; and

(B) Specific factual observations of violative conditions or other deviations from this Code that require correction by the permit holder including:

(i) Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this Code as specified under Section 9-6(b)(1),

(ii) Failure of food employees, conditional employees, and the person in charge to report a disease or medical condition as specified under Sections 9-7(a)(2) and (4),

(iii) Nonconformance with priority items or priority foundation items of this Code,

(iv) Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the Department as specified under Section 9-64(c)(3),

(v) Failure of the person in charge to provide records required by the Department for determining conformance with a HACCP plan as specified under Section 9-65(a)(3)(E)(vii), and

(vi) Nonconformance with critical limits of a HACCP plan.

(2) Specifying time frame for corrections. The Department shall specify on the inspection report form the time frame for correction of the violations as specified under Sections 9-69(d)(1), 9-69(e)(1), and 9-69(f)(1).

(3) Issuing report and obtaining acknowledgment of receipt. At the conclusion of the inspection and according to law, the Department shall provide a copy of the completed inspection report and the notice to correct violations to the permit holder or to the person in charge and request a signed acknowledgment of receipt.

(4) Public information. The Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in law.

(d) Imminent health hazard.

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### (1) Ceasing operations and reporting.

(A) Except as specified in Subparagraphs (B) and (C) of this paragraph, a permit holder shall immediately discontinue operations and notify the Department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.

(B) A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

(C) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may agree to continuing operations in the event of an extended interruption of electrical or water service if:

(i) A written emergency operating plan has been approved;

(ii) Immediate corrective action is taken to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption; and

(iii) The Department is informed upon implementation of the written emergency operating plan.

(2) Resumption of operations. If operations are discontinued as specified under Subsection (c)(1) of this section or otherwise according to law, the permit holder shall obtain approval from the Department before resuming operations. A fee shall be assessed for reinspections.

### (e) Violation of priority item or priority foundation item.

#### (1) Timely correction.

(A) Except as specified in Subparagraph (B) of this paragraph, a permit holder shall at the time of inspection correct a violation of a priority item or priority foundation item of this Code and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

(B) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may agree to or specify a longer time frame, not to exceed:

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(i) 72 hours after the inspection for the permit holder to correct violations of a priority item; or

(ii) 10 calendar days after the inspection for the permit holder to correct violations of a priority foundation item or HACCP plan deviations.

(2) Verification and documentation of correction.

(A) After observing at the time of inspection a correction of a violation of a priority item or priority foundation item or a HACCP plan deviation, the Department shall enter the violation and information about the corrective action on the inspection report.

(B) As specified under Subsection (d)(1)(B) of this section, after receiving notification that the permit holder has corrected a violation of a priority item or priority foundation item or HACCP plan deviation, or at the end of the specified period of time, the Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the Department's records.

(C) A fee shall be assessed for all required reinspections.

(f) Core item violation.

(1) Time frame for correction.

(A) Except as specified in Subparagraph (B) of this paragraph, the permit holder shall correct core items by a date and time agreed to or specified by the Department but no later than 90 calendar days after the inspection.

(B) The Department may approve a compliance schedule that extends beyond the time limits specified under Subparagraph (A) of this paragraph if a written schedule of compliance is submitted by the permit holder and no health hazard exists or will result from allowing an extended schedule for compliance.

(g) Temporary food establishments. In the case of temporary food establishments, all priority and priority foundation items must be corrected immediately, and other violations must be corrected within 24 hours or sooner if required by the Department. If violations are not corrected, the establishment shall immediately cease food operations upon execution of an Emergency Suspension or Closing Order until authorized to resume by the Department.

### **Sec. 9-70. -Investigation and control.**

The Department shall release a food employee or conditional employee from restriction or exclusion according to Texas Health and Safety Code, §438.033, and the conditions specified under Section 9-9.

**ARTICLE X. ENFORCEMENT**

**Sec. 9-71. –Authority for Enforcement; Offenses**

(a) Authority. The director of environmental health and sustainability and his/her designees shall have authority to enforce this Code.

(b) Offenses.

(1) It is an offense for a permit holder, person in charge, or person with ownership in or care, custody or control over a food establishment to fail to comply with any requirement in this Code.

(2) It is an offense for a person to provide false or misleading information to the director of environmental health and sustainability, or the director's designee in the lawful performance of duties under this Code, state, local, or federal law.

**Sec. 9-72. -Suspension, revocation of permit.**

(a) Suspension of permit.

(1) Emergency suspension. If the Department finds a condition constituting an imminent health hazard or that a public health nuisance, as that term is defined in Texas Health and Safety Code, § 341.011, exists in an establishment operating under a valid permit issued by the Department, the Department may issue a summary suspension of said permit without prior warning, notice, or hearing. The notice shall:

(A) State the reasons for the suspension;

(B) State the evidence that the permit holder shall provide in order to demonstrate that the reasons for suspension have been eliminated;

(C) State that the permit holder may request an appeal hearing by submitting a timely request to the Department pursuant to Section 9-73 of this Code; and

(D) Provide the name and the address of the Department representative to whom a request for appeal hearing may be made.

(2) General suspension. If the Department finds a condition constituting a public health nuisance, as defined in Texas Health and Safety Code, § 341.011, but not constituting an immediate health hazard to the public health exists in the operation of an establishment operating under a valid permit issued by the Department, the Department may issue a written notice ordering abatement of the nuisance to any person responsible for the nuisance. Whenever a permit holder or operator has failed to comply with any notice issued under the provisions of this article, the permit holder or operator shall be

notified in writing that the permit is, upon receipt of the suspension notice, immediately suspended, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Department by the permit holder within five (5) business days.

(3) Suspension; other remedies. The issuance of a suspension shall be a remedy in addition to, and not in lieu of, any penalty authorized under Paragraph (b) of this section, and shall not limit any other rights of the Department to pursue other actions or remedies to address any violation of the provisions of this Code.

(4) Reinstatement of suspended permit. Any person whose permit has been suspended may, not more than sixty (60) days after the date of suspension, make application for a re-inspection for the purpose of reinstating the permit. Within ten (10) business days following receipt of a written request, including a statement signed by the applicant that in his opinion the condition causing the suspension of the permit has been corrected, the Department shall make a re-inspection. If the applicant is complying with the requirements of this article, the permit shall be reinstated.

(b) Revocation of permit. If a permit holder has been issued more than three (3) general suspensions pertaining to any of the requirements of this Code during an eighteen-month (18) period, a permit may be permanently revoked after an opportunity for a hearing has been provided by the Department. Prior to such action, the Department must notify the permit holder in writing, stating the reasons that the permit should be permanently revoked. The permit will be revoked at the end of five (5) business days following service of this notice, unless a request for a hearing is filed with the Department by the permit holder within such five-day period.

**Sec. 9-73. -Appeal of decision.**

(a) An appeal may be made from the decision of the Department under this article. An appeal must be made in writing to the city manager or his designee no later than five (5) business days after notice of the complained-of action or decision has been received by the appellant. The appeal must:

(1) Set forth the decision of the regulatory authority complained of;

(2) Contain any documents and argument on this issue for the city manager or his designee to consider; and

(3) If applicable, discuss any emergency or exigent circumstances that appellant believes are material to when the hearing should be set.

(b) A hearing must be scheduled at a time and place designated by the city manager or his designee no later than five (5) business days after receiving an appeal that conforms with the requirements of this section, and the city manager or his designee's written decision must be furnished to the appellant no later than five (5) business days after the date of the hearing.

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**Sec. 9-74. -Fees.**

All fees for this Code shall be reviewed, set, and adopted by the city council.

**Sec. 9-75. -Penalties.**

(a) Any violation of the provisions or terms of this Code by any person, firm or corporation is a misdemeanor offense and shall be subject to a fine in accordance with subsection 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues constitutes a separate offense.

(b) In addition to the penalties prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief, administrative adjudication and revocation of licenses or permits."

**Section II.** All provisions of the Code of Ordinances of the City of Plano, codified or uncoded, in conflict with the provision of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncoded, not in conflict with this Ordinance shall remain in full force and effect.

**Section III.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

**Section IV.** The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

**Section V.** This Ordinance shall become effective on July 1, 2025, and shall be published upon passage as required by law.

**PASSED AND APPROVED** this the 14th day of April 2025.

  
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John B. Muns, MAYOR

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ATTEST:

  
\_\_\_\_\_  
Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Paige Mims, CITY ATTORNEY