

Sec. 20-2. - Condemnation and disposition of contaminated food.

The health officer is authorized and directed to take action as may be reasonably necessary to protect the public health, safety and welfare by condemning or initiating the condemnation of any food or drug product or item of food equipment that may be used or held with intent to sell, offer or expose for sale within the city that is suspected to be unsafe, adulterated, misbranded or expired pursuant to applicable ordinances or state or federal laws, rules and regulations. Expiration of ready-to-eat ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food items that are required to be time and date marked as provided under [section 20-21.3\(b\)\(10\)](#) of this Code shall be determined from the markings. Food that is not from an approved source as specified under [section 20-21.1](#) of this Code shall be discarded. Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under [section 20-21.7](#) and [section 20-24](#) of this Code shall be discarded. 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 shall be discarded. Pending disposition, the health officer may direct that the product or item not be used or sold by causing the same to be appropriately tagged if he finds upon diligent inquiry and inspection that the product or item poses an immediate threat of danger to the health, safety and welfare of the public and if the owner or person in possession thereof is afforded the right of a public hearing thereon within 24 hours, exclusive of Saturdays, Sundays and holidays observed by the closure of city offices, before the director of public health or his designee. The health officer may utilize the resources of all available state, county or federal offices and agencies as necessary or desirable in the prosecution of condemnation actions hereunder.

Sec. 20-4. - Charity bake sales.

Notwithstanding any provision of this chapter to the contrary, food prepared in a kitchen of a private home that is not licensed hereunder may be offered for sale for human consumption without any food permit, subject to full compliance with the following requirements:

- (1) The items offered for sale shall be limited to baked food products that are not ~~potentially hazardous~~ time/temperature controlled for safety (TCS) food;
- (2) The items are offered for sale at a function conducted by or under the auspices of a sponsoring organization, which may be a school or religious or nonprofit organization;
- (3) The sale shall not be conducted in a food establishment, except that if the sponsoring organization is a food establishment, then the sale may be conducted on its premises, provided that the sale is conducted separately and apart from the sponsoring organization's food sales or service; and
- (4) The consumer is informed by a clearly visible placard at the sales or service location that the food was prepared in a kitchen that is not subject to regulation and inspection by the City of Houston or any other health inspection agency. The person conducting the bake sale shall provide the placard, which shall be in a form approved by the health officer.

Sec. 20-18. - Definitions.

When used in this article, the following words, terms and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

* * *

Balut shall mean 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.

Clostridium botulinum shall mean the name of a group of rod-shaped bacteria that grow best in low oxygen conditions and cause a serious paralytic illness called botulism..

Conditional employee shall mean a potential food employee to whom a job offer is made, conditional upon 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 (ADA) of 1990.

Cut Leafy Greens shall mean fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. This does not include the harvest cut. The term "leafy greens" includes iceberg lettuce, romaine 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 "leafy greens" does not include herbs such as cilantro or parsley.

Demonstrates knowledge shall mean based on the risks of foodborne illness inherent to the food operation, during inspection and upon request, the person in charge demonstrates or exhibits to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles and the requirements of this article as specified in section 20-20(b) of this Code by, upon request of the health officer:

- (1) Complying with article II of this chapter by having no critical violations during the current inspection.
- (2) Having a certification card under division 3 of this article.
- (3) Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:
 - a. The relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
 - b. 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;
 - c. The symptoms associated with the diseases that are transmissible through food;
 - d. The significance of the relationship between maintaining the time and temperature of ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food and the prevention of foodborne illness;
 - e. The hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;

- f. The required food temperatures and times for safe cooking of ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food including meat, poultry, eggs, and fish;
- g. The required temperatures and times for safe refrigerated storage, hot holding, cooling, and reheating of ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food ;
- h. The relationship between the prevention of foodborne illness and the management and control of cross-contamination, bare hand contact with ready-to-eat foods, hand-washing, and maintaining the food establishment in clean condition and in good repair;
- i. The description of 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.
- j. 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;
- k. Correct procedures for cleaning and sanitizing utensils and other food-contact surfaces of equipment;
- l. Identification of the source of water used and measures taken to ensure that it remains protected from contamination, such as protection from backflow, and precluding the creation of cross connections;
- m. Identification of poisonous and toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of in accordance with all applicable laws;
- n. Critical control points in the operation, from purchase through sale or service, that when not controlled may contribute to the transmission of foodborne illness, and steps taken to ensure that the points are controlled in accordance with the requirements of this article;
- o. The details of how the person in charge and food employees comply with the HACCP plan if a plan is required by this article; and
- p. The responsibilities, rights, and authorities assigned by this article to the food employee, the person in charge and the health officer.
- q. Explanation of how the person in charge, food employees complies with reporting responsibilities and exclusion or restriction of food employees.

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

Egg product shall mean all or portion of the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, and that is intended for human consumption such as dried, frozen, or liquid eggs. Egg product does not include food which contains egg only in a relatively small portion such as cake mixes.

Exotic animal shall mean a member of a species of game not indigenous to this state, including axis deer, nilga antelope, red sheep, or other cloven-hoofed ruminant animals. Exotic animals are considered livestock and are amenable to inspection under ~~chapter 433~~ §433.035 of the Texas Health and Safety Code, referring to Inspection and Other Regulation of Exotic Animals in Interstate Commerce.

Food handler shall mean "food employee."

Food service establishment shall mean any place where food is prepared and intended for individual portion service or any site at which individual portions of food are provided, including any retail food store, catering establishment, commissary, delicatessen-type operation that prepares sandwiches intended for individual portions, group residence, bed and breakfast, or any operation that is conducted from a mobile food unit. The term applies regardless of whether the food is intended to be consumed on or off the premises and regardless of whether there is a charge for the food. The term does not include any private home where food is prepared or served for individual family consumption, premises where a food vending machine is located, supply vehicle, institutional premises where only food items packaged or wrapped at an approved location are then delivered for immediate consumption or, except for purposes of division 3 of this article, bed and breakfast limited.

Group residence shall mean a private or public housing corporation or institutional facility that provides living quarters and meals to ten or more persons who are unrelated by blood or marriage and shall include a domicile for unrelated persons, such as a retirement home, a correctional facility, or a ~~long-term~~ health care facility.

Imminent health hazard shall mean 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 operations to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury.

Light-colored shall mean having a 40% or greater light reflectance value (LRV).

Listeria monocytogenes--A rod-shaped bacteria that can be found in soil and water. Animals can carry the bacterium without appearing to be ill and can contaminate foods of animal origin. This bacterium is capable of surviving with or without the presence of oxygen. Consumption of food contaminated with Listeria monocytogenes is a common cause of a serious infection called Listeriosis.

Low risk food establishment shall mean any food establishment which is a packaged-food-only- food establishment, restricted bar, restricted warehouse, or an establishment that only manufactures and packages ice on premises, or serves only non- time/temperature controlled for safety (TCS) food that is popped, cut, assembled or packaged on the premises, such as candy, popcorn, non-time/temperature controlled for safety (non-TCS) baked goods, or hand-dipped ice cream.

Major food allergen shall mean a food protein that causes an adverse immune response. The 8 specific foods that are known as major food allergens include dairy, eggs, wheat, soy, peanuts, tree nuts, fish and shellfish or any food ingredients that contain protein derived from these foods. This does not include any highly refined oil derived from a food specified in this paragraph 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).

~~Non-potentially hazardous beverage~~ Non-Time/Temperature Controlled for Safety (non-TCS) beverage (formerly non-potentially hazardous beverage) shall mean a non-alcoholic liquid intended for consumption, whether natural or synthetic, that does not require temperature control because it is not capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms or the growth and toxin production of *Clostridium botulinum* and growth of *Listeria monocytogenes*. The term includes:

- (1) Tea and coffee, excluding espresso, with powdered creamer or ultra-high, pasteurized half and half in individual servings;
- (2) Commercially made, high acid beverages with a pH level of 4.6 or below, such as, apple juice, lemonade, limeade, and orange juice;
- (3) Fresh-squeezed, high acid beverages prepared according to department guidelines;
- (4) Commercially filled carbonated beverages;
- (5) High acid beverages made from a commercial mix; and
- (6) Mineral water sold in open, single-service cups with ice from an approved source.

~~Potentially hazardous food (PHF) shall mean a food that requires time and temperature control for safety (TCS) to limit pathogen growth or toxin production.~~

- (1) ~~The term includes food of animal origin, including fresh shell eggs, that is raw or heat-treated; food of plant origin that is heat-treated or consists of raw seed sprouts; any cut melons; and any garlic and oil mixtures that are not modified in a way that results in mixtures that do not support growth of pathogen toxins as specified in in the introductory paragraph of this definition; and food whose pH/a_w interaction is designated as PHF/TCS in one of the tables listed in Tables 20-18-A or 20-18-B below, unless a product assessment or vendor documentation acceptable to the regulatory authority is provided.~~
- (2) The term does not include:
 - a. ~~An air-cooled hard-boiled egg with shell intact, or a shell egg that is not hard-boiled, but has been treated to destroy all viable *Salmonellae*;~~
 - b. ~~Any food whose pH/ a_w interaction, is designed as non-PHF/non-TCS in Tables 20-18-A and 20-18-B in subparagraph d [e.] below~~
 - c. ~~Any 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;~~

- d. ~~Any food for which a product assessment including laboratory evidence demonstrates that the time and temperature control for safety is not required and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; and~~
- e. ~~Any food that does not support the growth of microorganisms as specified in the introductory paragraph of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth of microorganisms as specified in this definition. Potentially hazardous food does not include food that, because of pH, water activity (a_w) or the interaction of pH and a_w , is considered non-PHF/non-TCS in Table 20-18-A or 20-18-B of this Code. Guidance for using the tables is provided in the document entitled "Using pH, a_w , or the interaction of pH and a_w to Determine If a Food Requires Time/Temperature Control for Safety (TCS)". Copies of the guidance document may be obtained from the department.~~

Produce shall mean and include all herbs and spices in their natural or dried state, and vegetables, fruits, nuts, berries, grains, honey, watermelons and other melons, and cantaloupes and other edible plant material in their natural state.

Poultry shall mean any domesticated bird (chicken(s), turkey(s), duck(s), ~~goose~~geese, or guinea(s), ratites or squabs), whether live or dead, and as defined in ~~chapter 433 of the Texas Health and Safety Code, 9 CFR 381.1, Poultry Products Inspection Regulations and §433.003 of the Texas Health and Safety Code (Texas Meat and Poultry Inspection Act),~~ and any migratory waterfowl, game bird, such as pheasant, partridge, quail, grouse, or guinea, pigeon, ~~or squab~~. Poultry does not include ratites. whether live or dead, and as defined in 9 CFR 362.1, Voluntary Poultry Inspection Regulations, and in §433.003 of the Texas Health and Safety Code

Psychrotrophic organisms shall mean organisms or bacteria that are capable of surviving or even thriving in a cold environment. They are responsible for spoiling refrigerated foods.

Ratite shall mean a diverse group of flightless birds such that includes as an emu, ostrich, or rhea or kiwis.

Ready-to-eat food shall mean:

- (1) Food in a form that is edible without washing, cooking or additional preparation by the food establishment or the consumer and that is reasonably expected to be in that form;
- (2) Food in a form that is edible without additional preparation to achieve food safety, as specified under sections 20-21.4(c)(1) and 20-21.4(c)(3) of this Code, section 20-21.4(c)(2) of this Code, or sections 20-21.1(b)(8) and 20-21.3(b)(8) of this Code;
- (3) Raw or partially cooked animal food and the consumer is advised for which a consumer advisory is required as specified under section 20-21.4(c)(4) through ~~(8)~~ (7) of this Code;

- (4) Food prepared in accordance with a variance that is granted as specified under sections 20-21.4(c)(4)(b) ~~and 20-21.4(e)(8)~~ of this Code; and that may receive additional preparation for palatability or aesthetic epicurean, gastronomic, or culinary purposes;
- (5) Unpackaged ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) food) that is cooked to the temperature and time required for the specific food under section 20-21.4 of this Code and cooled as specified under section 20-21.3(b) of this Code;
- (6) Raw, washed, cut fruits and vegetables; whole, raw, fruits and vegetables that are presented for consumption without the need for further washing;
- (7) Food presented for consumption for which further washing or cooking is not required and from which rind, peels, husks, or shells have been removed;
- (8) Substances derived from plants such as spices, seasonings, and sugar;
- (9) Bakery items such as bread, cake, pie, filling, or icing for which further cooking is not required for food safety;
- (10) Products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens, such as 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; and
- (11) Foods manufactured according to 21 CFR 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

Reduced oxygen packaging.

- (1) Reduced oxygen packaging shall mean:
 - a. ~~The reduction of Packaging in which~~ the amount of oxygen in a package ~~has been reduced~~ 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 ~~surrounding, 21% oxygen atmosphere; and (approximately 21% at sea level); and~~
 - b. A process Packaging as specified in subitem a of item (1) of this subsection that involves a food for which the hazards Clostridium botulinum or Listeria monocytogenes require control ~~is identified as a microbiological hazard~~ in the final packaged form.
- (2) Reduced oxygen packaging shall include:
 - a. Vacuum packaging, in which air is removed from a package and the package is hermetically sealed so that a vacuum remains inside the package; ~~such as sous vide;~~
 - b. Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from the 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; ~~and~~

c. 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, nonrespiring food, and impermeable packaging material;

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

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

Re-service shall mean 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.

Service Animals shall mean 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 per Health and Safety Code, §437.023.

Shiga toxin-producing Escherichia coli (STEC) shall mean any E. coli capable of producing Shiga toxins (also called verocytotoxins or “Shiga-like” toxins). This includes, but is not limited to, E.coli reported as serotype O157:NM, and O157:H-. STEC can cause infections that 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 are available in the 2014 TFER.

~~TCS shall mean time and temperature control for safety food.~~

Time/Temperature Controlled for Safety (TCS) food—(formerly Potentially Hazardous Food (PHF)) shall mean a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

- (1) Time/temperature controlled for safety (TCS) food includes food of animal origin, including fresh shell eggs, that is raw or heat-treated; food of plant origin 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 toxins formation; and except as specified in (2)d of this definition; a food that because of the interaction of its a_w and pH values is designated as Product Assessment Required (PA) in

one of the tables listed in Tables 20-18-A or 20-18-B below, unless a product assessment or vendor documentation acceptable to the regulatory authority is provided.

- (2) Time/temperature controlled for safety (TCS) food does not include:
- a. 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;
 - b. A food that because of its pH/ or a_w value, or interaction of a_w and pH is designed as non-TCS Food in Tables 20-18-A and 20-18-B of this definition;
 - c. 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;
 - d. A food that is designated as Product Assessment Required, in Table 20-18-A or 20-18-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:
 - [1] Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulate, or nutrients.
 - [2] 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
 - [3] A combination of intrinsic and extrinsic factors; or
 - e. A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the subitems (2)a-d 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 20-18-A. Control of spores: Product <u>Interaction of pH and a_w for control of spores in food</u> heat-treated to control destroy vegetative cells and subsequently PACKAGED			
Critical a _w Values	Critical pH Values		
	4.6 or less	> 4.6—5.6	>5.6
≤0.92 or less	non-PHF*/non-TCS <u>food**</u>	non-PHF/non-TCS <u>food</u>	non-PHF/non-TCS <u>food</u>
> 0.92—	non-PHF/non-TCS <u>food</u>	non-PHF/non-TCS <u>food</u>	PHF/TCS <u>PA***</u>

0.95				
> 0.95	non-PHF/non-TCS <u>food</u>	PHF/TCS <u>PA</u>	PHF/TCS <u>PA</u>	PHF/TCS <u>PA</u>
<p><u>*PHF means Potentially hazardous food (time/temperature controlled for safety food)</u></p> <p><u>**TCS food means Time/temperature Controlled for Safety food</u></p> <p><u>***PA means Product Assessment Required</u></p>				
<p><i>PHF/TCS means further product assessment is necessary to determine if the food is non-PHF/non-TCS.</i></p>				
<p>Table 20-18-B. Control of vegetative cells and spores: Product not heat-treated or heat-treated but NOT PACKAGED. <u>Table 20-18-B Interaction of pH and a_w for control of vegetative cells and spores in food not heat-treated or heat-treated but NOT PACKAGED</u></p>				
Critical a_w Values	Critical pH Values			
	< 4.2	4.2—4.6	\geq 4.6—5.0	> 5.0
< 0.88	non-PHF*/non-TCS <u>food**</u>	non-PHF/non-TCS <u>food</u>	Non-PHF/non-TCS <u>food</u>	Non-PHF/non-TCS <u>food</u>
0.88—0.90	non-PHF/non-TCS <u>food</u>	non-PHF/non-TCS <u>food</u>	Non-PHF/non-TCS <u>food</u>	PHF/TCS <u>PA***</u>
> 0.90—0.92	non-PHF/non-TCS <u>food</u>	non-PHF/non-TCS <u>food</u>	PHF/TCS <u>PA</u>	PHF/TCS <u>PA</u>
> 0.92	non-PHF/non-TCS <u>food</u>	PHF/TCS <u>food-PA</u>	PHF/TCS <u>PA</u>	PHF/TCS <u>PA</u>
<p><u>*PHF means Potentially Hazardous Food</u></p>				

**TCS Food means Time/temperature controlled for safety (TCS) food

***PA means Product Assessment Required

Sec. 20-19. - Applicability of article; compliance; penalty for violation; variances, etc.

(d) 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. A permit holder or medallion holder shall ensure that the food establishment or mobile food unit is in full compliance with this article at all times, as well as with the conditions of a variance granted under subsection (e)(2) of this section. If a food establishment is required under subsection (f)(1) of this section to operate under a HACCP plan, the permit holder or medallion holder shall ensure that the food establishment or mobile food unit is in full compliance with the plan as specified under subsection (e)(2) of this section. The person in charge shall ensure that the food establishment is operated in full compliance with this article, that all food is stored, prepared, displayed and served in accordance with the provisions of this article, and that food employees are trained in basic food safety principles including allergy awareness as it relates to their assigned duties. The person in charge shall ensure that 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 Sec. 20-21.7 (b) of this Code. The person in charge shall ensure that written procedures and plans, where specified by this Code and as developed by the food establishment, are maintained and implemented as required.

(f) HACCP plan requirements.

(1) *When a HACCP plan is required.*

a. Before engaging in an activity that requires a HACCP plan, a food establishment shall submit to the health officer for approval a properly prepared HACCP plan as specified under item (2) of this subsection and the relevant provisions of this article if:

[1] Submission of a HACCP plan is required according to law;

[2] A variance is required as specified under section 20-21.4(c)(4)b of this Code regarding cooking raw animal foods, section 20-21.4(l) of this Code regarding specialized processing methods or section 20-21.10(p) of this Code regarding molluscan shellfish; or

[3] The health officer determines that a food preparation or processing method requires a variance based on an inspectional finding or a variance request.

b. Before engaging in reduced oxygen packaging without a variance as specified under 20-21.4(l)(2), a food establishment shall submit a properly prepared HACCP plan to the regulatory authority. ~~A food establishment shall have a properly prepared HACCP plan as specified under section 20-21.4(m)(l)(2)b of this Code regarding reduced oxygen packing criteria, Clostridium botulinum controls.~~

(2) *Contents of a HACCP plan.* For a food establishment that is required under item (1) of

this subsection to have a HACCP plan, the plan and specifications shall include:

- a. A categorization of the types of ~~potentially hazardous foods~~ time/temperature controlled for safety (TCS) foods that are specified in the menu, such as soups and sauces, salads, and bulk, solid foods, such as meat roasts, or of other foods that are specified by the regulatory authority;
- b. A flow diagram by specific food or category type identifying critical control points and providing information on the following:
 - [1] Ingredients, materials, and equipment used in the preparation of that food; and
 - [2] Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
- c. A food employee and supervisory training plan that addresses the food safety issues of concern;
- d. A statement of standard operating procedures for the plan under consideration, clearly identifying:
 - [1] Each critical control point;
 - [2] The critical limits for each critical control point;
 - [3] The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;
 - [4] 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;
 - [5] Action to be taken by the person in charge if the critical limits for each critical control point are not met; and
 - [6] Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and
- e. Additional scientific data or other information, as required by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

(3) *Critical violations, time frame for correction.* A food establishment shall, at the time of inspection, implement corrective actions as specified in TFER ~~229.174(i)(1)(2)~~ 228.253 (a)(1)(2)(B) and verify and document corrections as specified in TFER ~~229.174(i)(2)(A)(B)~~ 228.253 (b)(1)(2)

Sec. 20-20. - Inspections; reports.

- (a) The health officer shall inspect each food establishment within the city at least once every 12 months, except that low risk food establishments shall be inspected at least once every 24 months, and he shall make as many additional inspections as are necessary for the enforcement of this article, based on the public health risks posed

by the establishment and the establishment's past compliance history. Inspections may also be made where consumer complaints and/or reports of foodborne illness outbreaks evidence a need to perform inspections.

- (b) The health officer or agents of the health officer, after presentation of proper identification, shall be permitted to enter any food establishment at any reasonable time, for the purpose of making inspections to determine compliance with this article. The health officer or agents of the health officer shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed. The person in charge shall demonstrate knowledge.
- (c) Whenever an inspection is made of a food establishment, the findings shall be recorded on an inspection report form provided for this purpose, and a copy of the inspection report shall be provided to the person in charge of the establishment, who shall be responsible for posting the report upon an inside wall of the establishment. The inspection report so posted shall not be defaced or removed by any person except the health officer. Another copy of the inspection report shall be filed with the records of the department.
- (d) The inspection report form shall specify a specific time by which each violation must be corrected; provided, however, the notice shall not relieve any person of criminal or civil penalties for the violations.
- (e) In the case of temporary food service establishments, all violations shall be corrected at the time of the inspection unless an extension is allowed by the health officer. In determining whether to allow an extension and the length of the extension, the health officer shall consider the degree of risk, if any, that is posed by the violation and the time reasonably required to correct it. No extension shall be granted where any significant risk of foodborne illness is posed to the public. If violations are not corrected within the specified time limit, the health officer shall immediately suspend the permit.
- (f) The report of inspection shall state that failure to comply with any time limits for corrections will require that the establishment immediately cease food service operations.
- (g) Whenever a reinspection is required by the health officer to determine that conditions responsible for the reinspection no longer exist, the permit holder shall pay the reinspection fee stated for this provision in the city fee schedule, and the permit or permits shall not be renewed until the permit holder has paid any outstanding reinspection fees. The health officer shall conduct a reinspection within a reasonable period of time.

- (h) Whenever a food establishment is required to cease operations under the provisions of this section, it shall not resume operations until a reinspection determines that conditions responsible for the requirement to cease operations no longer exist. The health officer shall conduct a reinspection within a reasonable period of time.
- (i) Food from food establishments outside the jurisdiction of the city may be sold within the city if the food establishments conform to the provisions of this article or to substantially equivalent provisions. To determine the extent of compliance with any substantially equivalent provisions, the health officer may accept reports from responsible authorities in other jurisdictions where the food establishments are located. Where reports cannot be obtained or there is some question regarding their validity, the city may request the food establishment in question to permit an inspection as provided in subsection (b) above. If the food establishment in question refuses to permit an inspection after the director of public health has determined the necessity for the inspection, he shall bar the sale of food from that food establishment within the city. The cost of inspections of food establishments outside the city shall be borne by the food establishment.

Sec. 20-21.1. Food supplies.

- (a) *General.* Food shall be in sound condition, free from spoilage, filth, or other contamination and safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling as defined in TFER. ~~229.164(P), (q), and (r)~~ 228.78 and 228.79 . Food may not contain unapproved food additives or additives that exceed amounts as specified in TFER ~~229.164(c)(2)~~ 228.63 (b) . The use of food in hermetically-sealed containers that was not prepared in a food processing establishment is prohibited. Food prepared in or obtained from an unlicensed private home or other unlicensed food establishment is considered to be from an unapproved source and may not be used or offered for sale for human consumption in or from a food establishment. The person in charge or the food service manager shall ensure that 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.
- b) *Special requirements.*
 - (1) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by applicable laws. Dry milk and dry milk products shall be made from pasteurized milk and milk products.
 - (2) Fresh and frozen shucked molluscan shellfish shall be packed in nonreturnable packages that bear a legible label identified with the name and address of the original shellstock processor, shucker-packer, or repacker, the certification number issued according to law, and the "sell by" date for packages of less than ~~4.87 L~~ 1.89 L (one-half gallon) or the date shucked for packages with a capacity of ~~4.87 L~~ 1.89 L (one-half gallon) or more. A package of raw shucked shellfish that does not bear a label or that bears a

label that does not contain all the information as specified shall be subject to detention. Molluscan shellfish may not be removed from the container in which they were received, other than immediately before sale or preparation for service. For display purposes, shellstock and shucked shellfish may be removed from the container in which they were received and held in a display container maintained at 41°F, and a quantity specified by the consumer may be removed from the display or display container and provided to the consumer if the source of the shellfish on display is identified in accordance with federal law and the shellfish are protected from contamination. For the purposes of display, only shellstock may be displayed on drained ice. Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers according to TFER ~~229.164(d)(4)~~ 228.64(d)(1-4). Shellstock shall be obtained and identified as specified in TFER ~~229.164(c)(8)~~ 228.63 (i). When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish and broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded. Each container of unshucked shellstock shall be identified by an attached tag that states the name and address of the original shellstock processor, the kind and quantity of shellstock, and an interstate certification number issued by the state or foreign shellfish control agency.

(3) *Shellstock tags.*

a. Except as specified under item [2] of this paragraph, shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

b. The date when the last shellstock from the container is sold or served shall be recorded on the tag or label.

c. The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date that ~~the container is emptied~~ is recorded on the tag or label, as specified under paragraph (3)(b) of this subsection, by:

[1] using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date ~~when, or dates during which, the shellstock are sold served~~ that is recorded on the tag or label, as specified under paragraph (3)(b) of this subsection; and

[2] if shellstock are removed from their tagged or labeled container (as specified in (b) (2):-

[a] Preserving source identification by using a record keeping system as specified under ~~subitem [1] of this item~~ paragraph (3) (c) (1) of this subsection; and

[b] Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different shellfish certification numbers, different harvest dates or different growing areas as identified on the tag or label before being ordered by the consumer.

(4) Only clean and sound shell eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs, or pasteurized dry egg products shall be used,

except that hard boiled, peeled eggs, commercially prepared and packaged, may be used. ~~Restricted eggs shall not be used.~~ Eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in TFER 228.63(c). Raw shell eggs shall be received and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less, except that shell eggs that have been specifically processed to destroy all viable Salmonella shall be exempt from this requirement. Shell eggs that have not been specifically treated to destroy all viable Salmonella shall be labeled to include safe handling instructions as specified in TFER ~~228.62 (a)(7)~~~~229.164(b)(1)(G)~~ and shall be stored in refrigerated equipment as ~~specified in this section~~ that maintains an ambient air temperature of 45 °F (7°C) or less. If the United States Department of Agriculture and the United States Food and Drug Administration determine by law that a lower temperature must be maintained, the lower temperature shall prevail.

a. Pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods:

[1] Such as Caesar salad, hollandaise or ~~barnaise~~ béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, ~~and~~ egg fortified beverages, and other similar foods; and

[2] That are not cooked as specified in Table 20-21.4-1 of this Code; and

[3] Not included under section 20-21.4(c)(4) of this Code.

b. In a food establishment that serves a highly susceptible population, pasteurized shell eggs or, pasteurized liquid, frozen or dry eggs or egg products shall be substituted for shell eggs in the preparation of foods:

[1] Such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg fortified beverages, and other similar foods; and

[2] Except as specified in section 20-21.2(a) (2)e of this section, recipes in which more than one egg is broken and the eggs are combined. This part [2] does not apply if:

[a] The raw eggs are combined immediately before cooking for one consumer serving at a single meal, cooked as specified under section 20-21.4(c)(1)a of this Code, and served immediately, such as for an omelet, soufflé, or scrambled eggs;

[b] The raw eggs are combined as an ingredient immediately before baking and the egg mixture is thoroughly cooked to a ready-to-eat form such as in a cake, muffins, or bread; or

[c] The preparation of the food is conducted under a HACCP plan that;

{1} Identifies the food to be prepared;

{2} Prohibits contacting ready to eat food with bare hands;

- {3} Includes specifications and practices that ensure:
 - a Salmonella Enteritidis growth is controlled before and after cooking; and
 - b Salmonella Enteritidis is destroyed by cooking the eggs according to the time and temperature as specified in 20-21.4(c)(1)b of this Code;
- {4} Contains the information specified in section 20-19(f)(2)d including procedures that:
 - a Control cross contamination of ready to eat food with raw egg; and
 - b Delineate cleaning and sanitizing procedures for food-contact surfaces; and
- {5} Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

(5) All frozen desserts such as ice cream, soft frozen desserts, soft serves, ice milk, slush, noncarbonated fruit-flavored frozen desserts, frozen carbonated beverages, snow cones, sherbets, and their related mixes shall meet the standards of quality established for the products by applicable laws and regulations.

(6) All food manufactured, processed, or packaged in commercial food processing establishments or commissaries shall be labeled according to all applicable laws as defined in TFER 229.164(p), (q), and (r) [228.78 and 228.79](#)

(7) Game animals and exotic animals will be approved for sale or service only as authorized by TFER 229.164(b)(7) [228.62 \(g\)](#)

(8) Fish may not be received for sale or service unless commercially and legally caught or harvested, or unless their sale or service is otherwise approved by the health officer. ~~Fish, other than molluscan shellfish and 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), that are intended for consumption in their raw form shall be frozen as specified under [section 20-21.3\(b\)\(8\)](#) of this Code. The fish may be frozen either by the supplier or on the premises of the food establishment, and records of the freezing shall be retained at the food establishment for 90 calendar days beyond the time of service or sale of the fish. If the fish are frozen on the premises, then the person in charge shall record the freezing temperature to which the fish are subjected and the duration of such subjection and shall retain the records as specified in this paragraph; if the fish are frozen by a supplier, a written statement from the supplier stipulating that the fish supplied were frozen as required shall be accepted.~~

[\(a.\) Freezing of fish, parasite destruction.](#)

~~[1] Except as specified in paragraph (2) of this subsection item paragraph [2] of this paragraph subitem, before~~ Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than Molluscan shellfish that are intended for consumption in their raw form shall be frozen as specified under section 20-21.3(b)(8) of this Code. This subsection does not apply to:

~~[2] Paragraph (1) of this subsection Item Paragraph [1] of this paragraph subitem does not apply to~~

~~[a1] Molluscan shellfish, and~~

~~[b2] scallop product consisting only of the shucked adductor muscle,~~

~~[e3] 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), and~~

~~[e4] aquacultured fish, such as but not limited to salmon, carp, channel catfish, trout, and tilapia, that:~~

~~[[4a]] If raised in open water, are raised in net-pens, or~~

~~[[2b]] Are raised in land-based operations such as ponds or tanks, and~~

~~[[3c]] Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish.~~

~~[e5] Fish eggs that have been removed from the skein and rinsed as specified in TFER 228.72 (a)(2.)~~

b. Records, creation and retention

~~[1] Except as specified in subsection (b)(8)(a) of this subsection and item (2) of this paragraph, 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 and have accessible the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish.~~

~~[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 section 20-21.3(b)(8) of this Code, may substitute for the records specified under paragraph [1] of this subitem.~~

~~[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 section 20-21.1 (b)(8)(d), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in item ((8)(a)[4] of this section shall 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.

(9) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified as defined in TFER ~~229.164(e)(4)(D)~~ 228.63(d)(4).

(10) *Juice, treated.*

a. Pre-packaged treated juice shall (i) be obtained from a processor with a HACCP system as specified in TFER ~~229.164(e)(10)(A)~~ 228.63(g)(1), (ii) be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in TFER ~~229.164(e)(10)(B)~~ 228.63(g)(2), or (iii) bear a warning label as specified in TFER ~~229.164(e)(10)(C)~~ 228.74 (b).

b. Juice packaged in a food establishment shall be treated under a HACCP plan as specified in section 20-19(f)(2)b-d to attain a 5-log reduction, which is equal to 99.999% reduction, of the most resistant microorganism of public health significance or, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance, shall be labeled as specified in section 20-21.1(a) of this Code and bear the phrase "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".

c. In a food establishment that serves a highly susceptible population, the following criteria shall apply to juice:

[1] For the purposes of this subitem c only, children who are age 9 or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible population;

[2] Prepackaged juice or prepackaged beverage containing juice that bears a warning label as specified in subitems a and b of this item may not be served or offered for sale; and

[3] Unpackaged juice that is prepared on premises for service or sale in a ready to eat form shall be processed under a HACCP plan as specified in TFER ~~229.164(u)(1)(C)~~ 228.82(1) (C)

(11) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in section 20-21.4(c)(3) of this Code shall be:

a. Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them to indicate that the steaks meet the definition of whole-muscle, intact beef; or

b. Deemed acceptable by the regulatory authority based on other evidence, such as written buyer specification or invoices, that indicate that the steaks meet the definition of whole-muscle, intact beef; and

c. If individually cut in a food establishment:

[1] Cut from whole-muscle intact beef that is labeled by a food processing

plant as specified under subitem a of this item or identified as specified under subitem b of this item;

[2] Prepared so they remain intact; and

[3] If packaged for undercooking in a food establishment, labeled as specified under subitem a of this item or identified as specified under subitem b of this item.

(12) Meat or 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 human consumption shall be labeled to include safe handling instructions as specified in TFER ~~229.164(b)(1)(F)~~ 228.62 (a)(6).

(13) Temperature of Food When Received

a. Except as specified in item (b) of this paragraph, refrigerated, time/temperature controlled for safety (TCS) food shall be at a temperature of 41°F (5°C) or below when received.

b. If a temperature other than 41°F (5°C) for a ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish as specified in items c, d, and e of this paragraph, the food may be received at the temperature specified in such law.

c. Raw shell eggs shall be received as specified under section 20-21.1(b)(3)(4) of this Code and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.

d. Grade A Milk shall be received in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less in compliance with the Texas Milk and Dairy Rules, 25 TAC §217.28(1) and cooled to 41°F (5°C) or below within 4 hours as specified in section 20-21.3(b)(2)(c).

e. Molluscan shellfish shall be received in refrigerated equipment or on ice that maintains a temperature of 45°F (7°C) or less in compliance with the Texas Molluscan Shellfish Rules, 25 TAC §241.61(a) and cooled to 41°F (5°C) or below within 4 hours as specified in section 20-21.3(b)(2)(c).

(14) Wild mushrooms.

a. Except as specified in subparagraph (b) of this paragraph, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert.

b. This section does not apply to:

[1] 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

[2] 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.

Sec. 20-21.2. Food protection.

(a) General.

- (1) At all times, including while being stored, prepared, displayed, served, received, or transported, food shall be protected from potential contamination by all agents, including dust, insects, rodents, toxic materials, cross-contamination, damaged or spoiled products, distressed merchandise, recalled products, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, draining, and overhead leakage or overhead drippage from condensation. Upon receipt, ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) food) shall be free of previous temperature abuse. The internal temperature of ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) food) shall be 45°F (7°C) or below as specified under section 20-21.3(b)(9) of this Code, or 41°F (5°C) or below or 135 F (57°C) or above at all times, except as otherwise provided in this article or unless a packaged product is so labeled as exempted and approved by the appropriate state or federal health authority.

(2) Time Without Temperature Control

~~a.~~ Except as specified under subitem ~~e-d.~~ of this item, if time only, rather than time in conjunction with ~~out~~ temperature control, ~~may be is~~ used as the public health control for a working supply of ~~potentially hazardous food~~ time/temperature controlled for safety ~~time/temperature controlled for safety (TCS) food~~ before cooking, or for ready-to-eat ~~potentially hazardous food~~ (time/temperature controlled for safety ~~time/temperature controlled for safety TCS food~~ that is displayed or held for service; ~~for immediate consumption, if:~~

a. [4] Written procedures shall be prepared in advance, maintained in the food establishment and made available to the regulatory authority upon request that specify:

[a1].Methods of compliance with subitems b[1]-[3] or c(1)-(5) of this subitem; and

[b2] Methods of compliance with section 20-21.3(b)(2) of this Code for food that is prepared, cooked, and refrigerated before time is used as a public health control.

b. If time without temperature control is used as the public health control up to a maximum of 4 hours:

[1] The food shall have an initial temperature of 41°F (5°C) or less when removed from cold holding temperature control, or 135°F (57°C) or greater when removed from hot holding temperature

[2] The food shall be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the food is removed from temperature control;

[3] The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within 4 hours from the point in time when the food is removed from temperature control; and

[4] The food in unmarked containers or packages, or marked to exceed a 4-hour limit shall be discarded.

c. If time without temperature control is used as the public health control up to a maximum time period of 6 hours:

[1] The food shall have an initial temperature of 41°F (5°C) or below when removed from temperature control and food temperature may not exceed 70°F (21°C) within a maximum time period of 6 hours.

[2] The food shall be monitored to ensure the warmest portion of the food does not exceed 70°F (21°C) during the 6-hour holding period, unless an ambient air temperature is maintained that ensures the food does not exceed 70°F (21°C) during the 6-hour holding period.

[3] The food shall be marked or otherwise identified to indicate:

[a] The time when the food is removed from 41°F (5°C) or less cold holding temperature control, and

[b] The time that is 6 hours past the point in time when the food is removed from cold holding temperature control;

[4] The food shall be:

[a] Discarded if the temperature exceeds 70°F (21°C), or

[b] Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of 6 hours from the point in time when the food is removed from 41°F (5°C) or less cold holding temperature control; and

[5] The food in unmarked containers or packages, or marked with a time that exceeds the 6-hour limit shall be discarded

d. A food establishment that serves a highly susceptible population may not use time as specified under (a)(2) of this section as the public health control for raw eggs.

~~a. The food is marked or otherwise unmistakably identified to indicate the time that is four hours past the point in time when the food is removed from temperature control;~~

~~b. The food shall be cooked and served, served if ready-to-eat, or discarded within four hours from the point in time when the food is removed from temperature control;~~

~~c. The food in unmarked containers or packages or in marked containers for which the time elapsed exceeds a four hour limit shall be discarded; and~~

~~d. Written procedures are maintained in the food establishment to assure compliance with subitems a, b and c above and also with section 20-21.3(b)(2) of this Code for food that is prepared, cooked and refrigerated before time is used as a public health control hereunder. The procedures shall be made available for inspection and copying by the health officer. The procedures shall be in English and~~

~~shall also be available in translations to any other language used in lieu of English by the food employees.~~

~~e. A food establishment that serves a highly susceptible population may not use time only, as specified in this section, as the public health control for raw eggs.~~

(3) Protection from unapproved additives.

a. Food shall be protected from contamination that may result from the addition of, as specified in section 20-21.1(a) of this Code:

[1] Unsafe or unapproved food or color additives; and

[2] Unsafe or unapproved levels of approved food or color additives.

b. A food employee may not:

[1] 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; or

[2] Serve or sell food specified under part [1] of this subitem that has been treated with sulfiting agents before receipt by the food establishment, except that grapes need not meet this requirement.

(b) *Cross contamination.*

(1) ~~Except as specified in item (c) of this subsection, F~~food shall be protected from cross contamination by separating raw animal foods during storage, preparation, holding and display from:

a. Raw ready-to-eat foods including other raw animal food such as fish for sushi or molluscan shellfish or other raw ready-to-eat food such as vegetables; and

b. Cooked ready-to-eat foods;~~;~~and

c. 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.

(2) Except when combined as ingredients, raw animal foods such as fish, beef, lamb, pork, and poultry shall be separated from each other during storage, preparation, holding, and display by:

a. Using separate equipment for each type of food;

b. Preparing each type of food at different times or in separate areas; and

c. Arranging each type of food in equipment so that cross contamination of one type with another is prevented.

(3) Cross contamination shall be prevented by:

a. Cleaning equipment and utensils as specified under [section 20-21.11](#)(a) of this Code and sanitizing as specified under [section 20-21.12](#)(e) of this Code;

b. Storing the food in packages, containers, or wrappings except as specified under [section 20-21.3](#)(a) of this Code;

c. Cleaning hermetically-sealed containers of food of visible soil before opening;

d. Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened; and

- e. Separating ready-to-eat foods from raw fruits and vegetables, before they are washed as specified under [section 20-21.4\(b\)](#) of this Code.
- f. Storing damaged, spoiled, or recalled food being held in the food establishment as specified in [section 20-21.5\(l\)](#) of this Code.

(c) *Preventing contamination by employees' hands.*

(1) Food employees shall wash their hands as specified under section 20-21.8(a) of this Code.

(2) Except when washing fruits and vegetables as specified under section 20-21.4(b) of this Code or as specified in item (4) of this subsection, food employees may not contact exposed, ready-to-eat foods with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment to handle such ready-to-eat foods.

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

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

a. Documentation is maintained at the food establishment that food employees acknowledge that they have received training in:

- [1] The risks of contacting the specific ready-to-eat foods with bare hands;
- [2] Proper handwashing as specified under section 20-21.8(a) of this Code;
- [3] When to wash their hands ~~us~~ as specified under section 20-21.8(a) of this Code;
- [4] Where to wash their hands as specified under section 20-21.8(b) of this Code;
- [5] Proper fingernail maintenance as specified under section 20-21.8(a) and (g) of this Code;
- [6] Prohibition of jewelry as specified under section 20-21.8(g) of this Code;
- [7] Good hygienic practices as related to sections 20-21.7(a)(2) and 20-21.9(a) through (e) of this Code; and
- [8] Employee health policies that detail how the food establishment complies with section 20-21.7 of this Code;

b. Documentation is maintained at the food establishment that food employees contacting ready-to-eat foods with bare hands utilize two or more of the following control measures to provide additional safeguards against hazards associated with bare hand contact:

- [1] Double hand washing;
- [2] Use of nail brushes;

- [3] Use of a hand sanitizer after hand washing as specified under section 20-21.8(d) of this Code;
 - [4] Incentive program that assists or encourages food employees not to work when they are ill, such as paid sick leave; or
 - [5] Other control measures approved by the health officer; and
- c. Documentation is maintained at the food establishment that corrective actions are taken when subitems a and b of this item are not followed.
- (d) ~~Emergency occurrences.~~ Imminent Health Hazard
- (1) Ceasing operations and reporting.
 - a. Except as specified in paragraph (2) of this subsection, a food establishment shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency ~~In the event of an occurrence,~~ such as a fire, flood, power outage, sewage water back-flow, extended interruption of electrical or water service, misuse of poisonous or toxic materials, onset of an apparent foodborne disease outbreak, gross unsanitary occurrence or condition or similar event, that might result in the contamination of food, or that might prevent ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) food) from being held at required temperatures, the person in charge shall immediately discontinue operation and contact the health officer. Upon receiving notice of this occurrence, the health officer shall, consistent with the nature of the emergency and the risks posed, take appropriate action as he deems necessary to protect the public health.
 - b. A permit holder need not discontinue operations in an area of an establishment that is unaffected by the emergency occurrence.
 - (2) Resumption of operations. If operations are discontinued as specified under item (1) of this subsection or otherwise according to law, the permit holder shall obtain approval from the health officer before resuming operations.

Sec. 20-21.3. - Food storage.

(a) *General.*

(b) *Refrigerated storage.*

(1) *Refrigeration facilities.* Equipment for cooling and holding cold food shall be sufficient in number and capacity to provide food temperatures as specified under item (9) of this subsection.

Each mechanically refrigerated facility storing ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) food) shall be provided with numerically scaled indicating thermometer, accurate to 3°F if scaled in Fahrenheit only. The sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of the mechanically refrigerated unit and designed to be easily readable. Recording thermometers, accurate to 3°F if scaled in Fahrenheit only, may be used in lieu of indicating thermometers. Thermometers that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to $\pm 1.5^{\circ}\text{C}$ in the intended range of use.

(2) *Rapid cooling temperatures.* Potentially hazardous food (time/temperature controlled for safety (TCS) food) except as specified in subitem c. of this paragraph, requiring refrigeration after cooking shall be rapidly cooled to an internal temperature of 45°F (7°C) or below as specified under part b of item (9) below or to 41°F (5°C) or below with cooling occurring within the following parameters:

- a. An initial rapid cooling from 135°F (57°C) to 70°F (21°C) within two hours; and from 135°F (57°C) to 41°F (5°C) or below, or to 45°F (7°C) or below within a total of six hours as specified under subitem b or item (9) of this subsection.
- b. To 45°F (7°C) or below as specified under subitem b of item (9) of this subsection or to 41°F (5°C) or below within 4 hours if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.
- c. Except as specified in section 20-21.1(b)(13) (c), if received in compliance with laws allowing a temperature above 41°F (5°C) during shipment from the supplier as specified in 20-21.1(b)(13) of this Code, to 45°F (7°C) or to 41°F (5°C) or below as specified under subitem b of item (9) of this subsection within 4 hours.
- d. ~~Raw shell eggs shall be received as specified under section 20-21.1(b)(3) of this Code and immediately placed in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.~~

(3) *Methods for rapid cooling.* Potentially hazardous food (time/temperature controlled for safety (TCS) foods) that require cooling shall be rapidly cooled in accordance with the time and temperature criteria specified under item (2) of this subsection by utilizing methods such as shallow pans, agitation, quick chilling, separating the food into smaller or thinner portions, using rapid cooling equipment, using containers that facilitate heat transfer, adding ice as an ingredient, water circulation external to the food container; or other effective methods. Potentially hazardous food (time/temperature controlled for safety (TCS) foods) to be transported shall be prechilled and held at a temperature of 45°F (7°C) or below as specified under subitem b of item (9) of this subsection or 41°F (5°C) or below unless maintained in accordance with item (2) of subsection (c) of this section regarding hot storage of (time/temperature controlled for safety (TCS) foods). The person in charge shall ensure that employees are using proper methods to rapidly cool time/temperature controlled for safety (TCS) 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.

(4) A food that is labeled frozen and shipped frozen by a processing plant shall be received frozen and be kept frozen.

(5) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers, or food utensils, but may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.

(6) All perishable food shall be stored at temperatures that will protect against spoilage.

(7) Frozen foods prepared in any food service establishment once thawed shall not be refrozen.

(8) *Cold storage of certain fish.* Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish and a scallop product consisting only of the shucked adductor muscle shall be frozen to a temperature of -4°F (-20°C) or below for 168 hours (7 days) in a freezer; or frozen until solid at -31°F (-35°C) or below and stored at -31°F (-35°C) or below for 15 hours; or frozen at (-31°F (-35°C) or below until solid and stored at (-4°F (-20°C) or below for a minimum of 24 hours, except for tuna species, and the aquacultured fish, and fish eggs that have been removed from the skein specified under section 20-21.1(b)(8) of this Code.

(9) *Cold storage of foods.* Except during preparation, cooking or cooling, or when time is used as the public health control as specified under section 20-21.2(a)(2) of this Code, ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) foods). shall be maintained at 41°F (5°C) or below.

a. ~~At 41°F (5°C) or below; or~~

b. ~~At 45°F (7°C) or below, if and only to the extent authorized by TFER 229.164(o)(6)(B)(ii). Refrigeration units shall be upgraded or replaced as and within the time provided in TFER~~

(10) *Date marking of ready-to-eat foods.*

a. The following definitions apply to the provisions of this item and item (11) of this subsection:

Disposition date shall mean the date or day by which a ready-to-eat ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) foods). shall be consumed, sold or disposed of.

Opening /preparation date shall mean the date counted as day 1 that a ready-to-eat ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) foods) is prepared or that a container of ready-to-eat ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) foods) is opened.

Refrigerated-hold time shall mean the length of time that a ready-to-eat ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) foods). was held refrigerated before being frozen, counting the commencement date.

b. Except when packaging food using a TCTCS packaging method as specified in 20-21.4 (l)(2) of this Code and except as specified in this subitem, each refrigerated ready-to-eat, ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) foods) prepared and held refrigerated in a food establishment for more than 24 hours and, except for subitems d-g i of this item, each container of refrigerated ready-to-eat ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) foods) prepared and packaged by a food processing plant that is opened in a food establishment shall be clearly marked using calendar dates, days of the week, color-coded marks, or other effective means, provided that the marking system is disclosed to the regulatory authority upon request to indicate the date or time the original container is opened in a food establishment and, if held for more than 24 hours, to indicate the date and time by which the food shall be consumed on the premises, sold, or discarded, based on the following temperature and time combinations:

~~[1] The seventh calendar day after the opening/preparation date, counting the opening/preparation date, if when the food is maintained at 41°F (5°C) or below.;~~~~or~~

~~[2] The fourth calendar day after the opening/preparation date, counting the opening/preparation date, if the food is maintained at 45°F (7°C) or below as specified under subitem b of item (9) of this subsection.~~

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. A refrigerated, ready-to-eat time/temperature controlled for safety (TCS) foods ingredient or a portion of a refrigerated, ready-to-eat, time/temperature controlled for safety (TCS) foods that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

c. A refrigerated, ready-to-eat ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) foods 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, may be marked as specified in subitem b of this item or by an alternative method acceptable to the health officer.

d. Alternative date marking systems must receive prior approval from the health officer.

e. ~~Subitem b of this item does not apply to shellstock.~~

~~ef.~~ Subitem b of this item does not apply to cheeses that are maintained under refrigeration as specified in TFER 229.164(o)(7)(E) the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:

[1] deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured as specified in TFER 228.75 (g)(7)(A);

[2] hard cheeses containing not more than 39% moisture as specified in TFER 228.75 (g)(7)(B), such as cheddar, gruyere, parmesan and reggiano, and romano;

[3] semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as specified in TFER 228.75 (g)(7)(C).

~~fg.~~ Subitem b of this item does not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

~~gh.~~ Subitem b of this item does not apply to the following when the face has been cut, but the remaining portion is whole and intact prepared and packaged by a food processing plant inspected by a regulatory authority:

~~[1] Fermented sausages produced in a federally inspected food processing plant that are not labeled "Keep Refrigerated" and retain the original casing on~~

~~the product~~

[12] Shelf stable, dry, fermented sausages; and

[23] Shelf stable salt-cured products such as prosciutto and Parma (ham).
~~produced in a federally inspected food processing plant that are not labeled "Keep Refrigerated."~~

hi. Subitem b of this item does not apply to cultured dairy products, as defined in TFER 229.164(e)(7)(H) 228.75 (g)(7)(D), Milk and Cream, such as yogurt, sour cream, and buttermilk, that are maintained under refrigeration as specified in item (9) of this subsection.

ij. Subitem b of this item does not apply to preserved fish products, such as pickled herring, dried or salted cod, and other acidified fish products defined in TFER 229.164(e)(7)(I) 228.75 (g)(7)(E).

ik. A refrigerated, ready-to-eat, ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) foods ingredient or a portion of a refrigerated, ready-to-eat, ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) foods that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

(11) *Disposition of ready-to-eat foods.*

a. Except the time that the product is frozen, any food that exceeds either of the temperature and time combinations, specified under item (10) of this subsection shall be discarded.

b. Any food specified under item (10) of this subsection in a container or package that does not bear a date or day marking, color-coded marks, or other effective means to indicate the date or time the original container was opened, shall be discarded.

c. Any food specified under item (10) of this subsection that is appropriately marked with a date or day marking or signal that indicates a temperature and time combination that is in excess of those specified under item (10) of this subsection shall be discarded.

(c) *Hot storage.*

(1)

Equipment for heating food and holding hot food shall be sufficient in number and capacity to provide food temperatures as specified under [section 20-21.3\(c\)\(2\)](#) of this Code. Each hot food facility storing ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food shall be provided with a numerically scaled indicating thermometer, accurate to 3°F if scaled in Fahrenheit only. The sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the coolest part of the hot food storage unit, and designed to be easily readable. Recording thermometers, accurate to 3°F if scaled in Fahrenheit only, may be used in lieu of indicating thermometers. Thermometers dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to 1.5°C in the intended range of use. Where it is impractical to install thermometers on equipment such as bainmaries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a food temperature measuring device must be available and used to check internal food temperature.

(2)

The internal temperature of ~~potentially hazardous foods~~ time/temperature controlled for safety (TCS) food requiring hot storage shall be 135°F (57°C) or above except during necessary periods of preparation or when time is used as the public health control as specified under section 20-21.2(a)(2) of this Code. Roasts cooked to a temperature and for a time as specified in Table 20-21.4-3 of this Code or reheated as specified in Table 20-21.4-1 of this Code may be held at a temperature of 130°F (54°C) or above. ~~Potentially hazardous food~~ Time/temperature controlled for safety (TCS) food to be transported shall be held at a temperature of 135°F (57°C) or above unless maintained in accordance with items (2) and (3) of subsection (b) of this section.

Sec. 20-21.4. - Food preparation.

(a) *General.* . . .

(b) Raw fruits and raw vegetables. Raw fruits and raw vegetables shall be washed thoroughly in potable water under pressure before being cut, combined with other ingredients, cooked, or served for human consumption or offered for consumption in ready-to-eat form, except fruits and vegetables may be washed by using chemicals as specified in this paragraph. Chemicals, including those generated on-site, used to wash or peel raw, whole fruits and vegetables shall:

(1) be an approved food additive listed for this intended use in 21 CFR 173, or

(2) be generally recognized as safe (GRAS) for this intended use; or

(3) be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification), and

(4) meet the requirements in 40 CFR 156 Labeling Requirements for Pesticide and Devices.

(5) Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a food establishments shall meet the requirements specified in 21 CFR 173.368 Ozone.

(c) Whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold

(c) *Cooking* ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) foods.

(1) *Time and temperature specifications.* The person in charge shall ensure that employees are properly cooking ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food s) and being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under section 20-21.10(f) of this Code. Except as specified under Tables 20-21.4-1, 20-21.4-2, ~~and~~ 20-21.4-3 and section 20-21.4(l)(2)b[9][b]{2} of this section, raw animal foods, such as eggs, fish, meat, or poultry, and foods containing any of these raw animal foods shall 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. 145°F (63°C) or above for 15 seconds for:
 - [1] Raw shell eggs that are broken and prepared in response to a consumer's order for immediate service; and
 - [2] Except as specified under subsections (b) and (c) of this section and in Tables 20-21.4-2 and 20-21.4-3, fish, meat, and pork, including game animals and exotic animals commercially raised for food as specified under TFER 228.62(g)(1)(A), ~~229.164(b)(7)(A)(i)~~ and 228.62(g)(2)(A), ~~229.164(b)(7)(B)(i)~~, and game animals and exotic animals subjected to a voluntary inspection program as specified under TFER 228.62(g)(2)(B), ~~229.164(b)(7)(B)(ii)~~
- b. 155°F (68°C) for 15 seconds or the temperature specified in Table 20-21.4-1 that corresponds to the holding time for:
 - [1] Ratites and injected meats;
 - [2] The following if they are comminuted: fish, meat, game animals and exotic animals commercially raised for food as specified under TFER 228.62(g)(1)(A), ~~229.164(b)(7)(A)(i)~~ and (g)(2)(A), ~~(b)(7)(B)(i)~~, and game animals and exotic animals subjected to a voluntary inspection program as specified under TFER 228.62(g)(2)(B), ~~229.164(b)(7)(B)(ii)~~; and
 - [3] Raw eggs that are not prepared as specified under subitem a[1] of this item; or
- c. 165°F (74°C) or above for 15 seconds for:
 - [1] Poultry, baluts, game animals and exotic animals as specified under TFER 228.62(g)(1)(C), ~~229.164(b)(7)(A)(iii)~~ and 228.62(g)(2)(C), and 228.62(g)(2)(D), ~~229.164(b)(7)(B)(iii) and (iv)~~;
 - [2] Stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffed ratites; or
 - [3] Stuffing containing fish, meat, poultry, or ratites.

(2) *Special additional requirements for microwave cooking.* In addition to the temperature and time requirements in the second column of Table 20-21.4-1 of this Code, raw animal foods cooked in a microwave oven shall be:

- a. Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
- b. Covered to retain surface moisture;
- c. Heated to a temperature of at least 165°F (74°C) in all parts of the food; and
- d. Allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.

(3) *Raw, rare or partially cooked foods.* Raw or undercooked whole-muscle, intact beef steak may be served or offered for sale if it meets the requirements in Table 20-21.4-1 of this Code.

(4) Except as specified in items (3) and (8) of this subsection, a raw animal food, such as raw eggs, 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 steak as specified in item (3) of this subsection, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

- a. The consumer is informed as specified in item (5) of this subsection that to ensure its safety the food should be cooked as specified under subsection (c)(1) of this section; or
- b. The department grants a variance from subsection (c)(1) of this section as specified under section 20-19(e) of this Code based on a HACCP plan that:

[1] Is submitted by the permit holder and approved as specified under section 20-19(e)(1) of this Code

[2] Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food; and

[3] Verifies that equipment and procedures for food preparation and training for food employees at the food establishment meet the conditions of the variance.

(5) *Consumer advisory.* Except as specified in items (3) and (8) of this subsection, 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 items (6) and (7) of this subsection, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

(6) Disclosure shall 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)"; or
- b. Identification of the animal-derived foods in a menu or other listing 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.

(7) Reminder shall include asterisking the animal-derived foods that require disclosure in a menu or other listing to a footnote that states that:

- a. Written information regarding the safety of these items is available upon request;
- b. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk for foodborne illness; or
- c. Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk for foodborne illness, especially if you have certain medical conditions.

(8) The following foods may not be served or offered for sale in a ready-to-eat form in a food establishment serving a highly susceptible population:

- a. Raw animal foods, such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;
- b. A partially cooked animal food, such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw shell eggs, and meringue; and
- c. Raw seed sprouts.

(d) *Dry milk and dry milk products.* Reconstituted dry milk and dry milk products may only be used in instant desserts and whipped products or for cooking and baking purposes.

(e) *Liquid, frozen, or dry eggs and egg products.* Liquid, frozen, or dry eggs and egg products shall be used only for cooking and baking purposes.

(f) *Reheating for hot holding.*

(1) *Time and temperature specifications.* ~~Potentially hazardous food~~ (time/temperature controlled for safety (TCS) food) s that were cooked and then refrigerated shall be reheated rapidly to the temperature and for the applicable time specified in the third column of Table 20-21.4-1 of this Code before being served or placed in a hot food storage facility. The temperature of the food shall reach the minimum temperature specified in the table within two hours from the removal of the food from refrigeration.

(2) *Hot holding facilities not for rapid reheating.* Steam tables, bainmaries, warmers, and similar hot food holding facilities shall not be used for the rapid reheating of ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) food) s.

(3) *Additional requirements for reheating in microwave oven.* Food reheated in a microwave oven for hot holding shall be reheated so that the food is covered and either rotated or stirred during reheating; the food shall then be allowed to stand covered for two minutes after reheating.

(4) *Sealed or packaged food.* Ready-to-eat food taken from a commercially-processed, hermetically-sealed container or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant shall be heated to a temperature of at least ~~140°F~~ 135°F (60°C) (57°C), for hot holding.

(g) *Preparation for immediate service.* Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature, as requested by the customer.

(h) *Nondairy products.* Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one gallon in capacity and cooled to ~~45°F (7°C) or below as specified under section 20-21.3(b)(9)b of this Code or to~~ 41°F (5°C) or below within four hours after preparation.

(i) *Temperature measuring device, food.* Food temperature measuring devices accurate to $\pm 2^{\circ}\text{F}$ in the intended range of use shall be provided and used to assure attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) food) s if the thermometers are

scaled only in Fahrenheit. If the thermometers are scaled in Celsius or dually scaled, they shall be accurate to $\pm 1^{\circ}\text{C}$ in the intended range of use. A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and kept readily accessible to accurately measure the temperature in thin foods, such as meat patties and fish fillets.

(j) ~~Thawing potentially hazardous food~~ time/temperature controlled for safety (TCS) foods. Except as specified in item (5) of this subsection, ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) foods shall be thawed:

(1) In refrigerated units at a temperature not to exceed 45°F (7°C) as specified under section 20-21.3(b)(9)b of this Code or 41°F (5°C);

(2) Completely submerged under potable running water of a temperature of 70°F (21°C) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow, provided the temperature of the thawed portions of ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food shall not remain above 45°F (7°C) as specified under section 20-21.3(b)(9)b of this Code or 41°F (5°C) for more than four hours, including the time the food is exposed to the running water and the time needed for preparation for cooking or the time it takes under refrigeration to lower the food temperature to 41°F (5°C) as specified in section 20-21.3(b)(9)a of this Code ~~or 45°F (7°C) as specified in section 20-21.3(b)(9)b of this Code~~

(3) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven;

(4) As part of the conventional cooking process; or

(5) Using any other safe procedure that thaws a portion of frozen ready-to-eat food that is prepared for immediate service in response to an individual consumer's order.

(6) reduced oxygen packaged fish that bears a label indicating that it is to be kept frozen until time of use shall 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

(k) ~~Potentially hazardous food time/temperature controlled for safety (TCS) food, slacking.~~ Frozen potentially hazardous food time/temperature controlled for safety (TCS) food that is slacked to moderate the temperature shall be held under refrigeration that maintains the food temperature at 41°F (5°C) or below or at any temperature if the food remains frozen.

~~(l) Specialized processing methods.~~

(1) *Variance requirement.* A food establishment shall obtain a variance from the department as specified in section 20-19(e)(1) of this Code before:

a. Smoking food as a method of food preservation rather than as a method of flavor enhancement;

- b. Curing food;
- c. Using food additives or adding components such as vinegar; ~~except as specified in 20-21.4(l)(2)(b)[9](b)5c;~~
 - [1] As a method of food preservation rather than as a method of flavor enhancement; or
 - [2] To render a food so that it is not ~~potentially hazardous food time/temperature controlled for safety (TCS) food (time/temperature controlled for safety (TCS) food)~~
- d. Packaging ~~potentially hazardous food time/temperature controlled for safety (TCS) food (time/temperature controlled for safety (TCS) food)~~ using a reduced oxygen packaging method ~~except as specified under item (2) of this subsection where a barrier to the growth of and toxin formation of Clostridium botulinum and the growth of Listeria monocytogenes in addition to refrigeration exists; are controlled as specified in item (2) of this subsection.~~
- e. Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption;
- f. Custom processing animals that are for personal use as food and not for sale or service in a food establishment; such as indigenous deer processing.
- g. Preparing food by another method that is determined by the regulatory authority to require a variance; or
- h. Sprouting seeds or beans, such as wheat grass and alfalfa sprouts, in a retail food establishment.

(2) *Clostridium botulinum* and Listeria monocytogenes controls, reduced oxygen packaging criteria without a variance.

- a. Except for a food establishment that obtains a variance as specified under item (1) of this subsection, a food establishment that packages food ~~potentially hazardous food (time/temperature controlled for safety (TCS) food)~~ using a reduced oxygen packaging method ~~where shall control the growth of and toxin formation of Clostridium botulinum and the growth of Listeria monocytogenes.~~ is identified as a microbiological hazard in the final packaged form shall ensure that there are at least two barriers in place to control the growth and toxin formation of *C. botulinum*.
- b. A food establishment that packages food ~~potentially hazardous food (time/temperature controlled for safety (TCS) food)~~ using a reduced oxygen packaging method ~~where shall control the growth and toxin formation of Clostridium botulinum and the growth of Listeria monocytogenes and, except as specified under [11] of this section,~~ is identified as a microbiological hazard in the final packaged form shall have a HACCP plan that contains the information specified under section 20-19(f)(2)(b) and (d) of this Code, and that:
 - [1] Identifies the food to be packaged; and
 - [2] Limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one of the following: Except as specified in [sub-items [8] – [10] of this section, requires that the packaged food

shall be maintained at 41°F (5°C) or less and meet at least one of the following criteria:

- [a] Has an aw of 0.91 or less;
- [b] Has a pH of 4.6 or less;
- [c] Is a meat or poultry product cured at a food processing plant regulated by the USDA or the department using substances specified in 9 CFR § 424.21, Use of food ingredients and sources of radiation, and is received in an intact package; or
- [d] Is a food with a high level of competing organisms such as raw meat, ~~or raw poultry;~~ or raw vegetables;

~~[3] Specifies methods for maintaining food at 41°F (5°C) or below;~~

~~[4] Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:~~

- ~~[a] Maintain the food at 41°F (5°C) or below; and~~
- ~~[b] For food held at refrigeration temperatures, discard the food if within 44 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;~~

~~[5] Limits the refrigerated shelf life to no more than 44 30 calendar days from packaging to consumption, except the time the product is maintained frozen, or not past the original manufacturer's "sell by" or "use by" date, whichever occurs first;~~

~~[6] Includes operational procedures that:~~

- ~~[a] Prohibit contacting ready-to-eat food with bare hands, as specified in 20-21.2(c)(2);~~
- ~~[b] Identify a designated area and the method by which:
 - 1 Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination; and
 - 2 Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation; and~~
- ~~[c] Delineate cleaning and sanitization procedures for food-contact surfaces; and~~

~~[7] Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:~~

- ~~[a] Concepts required for a safe operation;~~
- ~~[b] Equipment and facilities; and~~
- ~~[c] Procedures specified under part [6] of this subitem and section 20-19(f)(2)(b) and (d) of this Code.~~

~~[8] Is provided to the regulatory authority prior to implementation as specified under section 20-19(f)(1)(b).~~

~~(3) [8] Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method.~~

[9] Except as specified in parts [8] and [11] of this subitem, a food establishment that packages potentially hazardous food (time/temperature controlled for safety (TCS) food) (time/temperature controlled for safety (TCS) food) using a cook-chill or sous vide process shall:

- [a] Provide to the regulatory authority prior to implementation, a HACCP plan that contains the information as specified under section 20-19(f)(2)(b) and (d).
- [b] Ensure that the food is:
 - {1} 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.
 - {2} Cooked to heat all parts of the food to a temperature and for a time as specified in 20-21.4(c) or cooked in a scheduled process for a continuous time-temperature combination as specified in 20-21.4(c)(4)(b).
 - {3} Protected from contamination before and after cooking as specified in Sections 20-21.2(a)(1) Protecting food from potential contamination, 20-21.2(a)(3) Protecting food from unapproved additives, 20-21.2 (b) Protecting food from cross contamination, 20-21.2 (c) Protecting food from contamination by employee's hands, 20-21.10 (a)(8) Glove use, and 20-21.11(a)(9) tasting spoons.
 - {4} 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 (135°F) 57°C.
 - {5} Cooled to 41°F (5°C) in the sealed package or bag as specified in section 20-21.3(b)(2) and:
 - a Cooled to 34°F(1°C) within 48 hours of reaching 41°F(5°C) and held at that temperature until consumed or discarded within thirty (30) days after the date of packaging; or
 - b. Held at 41°F (5°C) or less for no more than 7 days, at which time the food must be consumed or discarded; or
 - c. Held frozen with no shelf life restriction while frozen until consumed or used.
 - {6} Held in a refrigeration unit that is equipped with an electronic system that continuously monitors and records time and temperature, such as thermocouple data loggers that connect with thermocouple probes, or similar technology, and is visually examined for proper operation twice daily,
 - {7} If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices as specified in paragraph 6 of this section to ensure that times and temperatures are monitored during transportation; and
 - {8} Labeled with product name and date packaged; and
- [c] Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are met as part of the HACCP plan and:
 - 1 Make such records available to the department upon request, and
 - 2 Hold such records for at least 6 months; and
- [d] Implement written operational procedures as specified under ~~item~~ paragraph {1} of this subpart and a training program as specified under ~~item~~ paragraph 2 of this subpart:

- {1} Includes operational procedures that:
 - {a} Prohibit contacting ready-to-eat food with bare hands;
 - {b} Identify a designated area and the method by which:
 - {1.} Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination; and
 - {2.} Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation; and
 - {c} Delineate cleaning and sanitization procedures for food-contact surfaces;
- {2} Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
 - {a} Concepts required for a safe operation;
 - {b} Equipment and facilities; and
 - {c} Procedures specified under ~~part (d)~~ paragraph 1 of this subpart and section 20-19(f)(2)(b) and (d) of this Code.

[10]. Except as specified under part [11] of this subitem, a food establishment that packages cheese using a reduced oxygen packaging method shall:

[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;

[b] Have a HACCP plan that contains the information specified in section 20-19 (f)(2)(b) and (d) of this Code, and as specified in subsections (l)(2)(b)[1], (l)(2)(b)[3][a], (l)(2)(b)[6] [5]and (l)(2)(b)[7][6].

[c] Labels the package on the principal display panel with a “use by” date that does not exceed thirty (30) days from its packaging or the original manufacturer’s “sell by” or “use by” date, whichever occurs first; and

[d] Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within thirty (30) calendar days of its packaging.

[11] A HACCP plan is not required when a food establishment uses a reduced oxygen packaging method to package (time/temperature controlled for safety (TCS) food) that is always:

[a] Labeled with the production time and date,

[b] Held at 41°F (5°C) or less during refrigerated storage, and

[c] Removed from its package or exposed to atmospheric oxygen by cutting open the entire package in the food establishment within 48 hours after packaging.

TABLE 20-21.4-1.

Cooking Potentially hazardous food (time/temperature controlled for safety (TCS) food)

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Food	Cooking Temperature & Time	Reheating Minimum Temperature & Time
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	and Instructions	(minimum temperature to be reached within 2 hours)
•Fruits and vegetables cooked for hot holding	140°F (60°C) 135°F (57°C)	165°F (74°C) for 15 seconds
•A raw or undercooked whole muscle, intact beef steak, not served in a food establishment serving a highly susceptible population and labeled to indicate that it meets the definition of whole muscle intact beef as specified in section 20-21.1(b)(11) of this Code	Shall be cooked on both the top and bottom to a surface temperature of 145°F (63° C) or above and a cooked color change is achieved on all external surfaces.	
•Raw animals foods not specified below •Raw shell eggs that are broken and prepared for immediate service •Fish, meat, game animals and exotic animals commercially raised for food, and game animals and exotic animals subject to a voluntary inspection program that are not specified below Pork	145°F (63°C) for 15 seconds	165°F (74°C) for 15 seconds
•Ratites •Injected meats •Any of the following if they are comminuted: fish, meat, game animals and exotic animals commercially raised for food, and game animals and exotic animals subject to a voluntary inspection program •Raw shell eggs not prepared as specified above	155°F (68°C) for 15 seconds; or 150°F (66°C) for 60 seconds; or 145°F (63°C) for 180 seconds; or 158° F (70°C) for less than 1 second (instantaneous)	165°F (74°C) for 15 seconds
•Poultry, and baluts , other than ratites •Game animals and exotic animals that are live caught and are subjected to a voluntary inspection program •Stuffed fish/meat/poultry/pasta/ratites •Stuffing containing fish/meat/poultry/ratites	165°F (74°C) for 15 seconds	165°F (74°C) for 15 seconds

<ul style="list-style-type: none"> •Whole beef roast, •Whole corned beef roast <p>Whole pork roast and cured pork roast</p>	<p>Shall be cooked in an oven that is preheated to and held at the temperature specified for the roast's weight and the type of oven, as applicable, in Table 20-21.4-2 of this Code and shall be cooked so that all parts of the roast are heated to the temperature and for the holding time that corresponds to that temperature in Table 20-21.4-3 of this Code</p>	<p>Un sliced portions, if cooked in accordance with Cooking Temperature and Time, at left, may be reheated in the same manner</p>
<ul style="list-style-type: none"> •Raw animal foods cooked in a microwave oven and allowed to stand for two minutes 	<p>165°F (74°C) and allowed to stand for two minutes</p>	<p>165°F (74°C) for 15 seconds</p>
<ul style="list-style-type: none"> •Ready-to-eat food taken from hermetically-sealed container or intact package from an inspected food processing plant 	<p>—</p>	<p>135°F (57°C) without time duration</p>

TABLE 20-21.4-2.

Cooking Whole Beef or Corned Beef- Meat Roasts including Beef, Corned Beef, Lamb, Pork, and Cured Pork Roasts Such as Ham-Oven Preheating/Holding Requirements by Weight

Oven Type	Oven temperature based on ROAST weight	
	Less than 10 lbs. (4.5 Kg)	10 lbs. (4.5 Kg) or more
STILL DRY	>350°F (177°C) or more	250°F (121°C) or more
CONVECTION	325°F (163°C) or more	250°F (121°C) or more
HIGH HUMIDITY@	250°F (121°C) or more	250°F (121°C) or more
@ Relative humidity greater than 90% for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity		

TABLE 20-21.4-3.

Cooking Whole Beef or Corned Beef Meat Roasts including Beef, Corned Beef, Lamb, Pork, and Cured Pork Roasts Such as Ham Roasts- Heating Temperatures and Holding Times

Temperature		Time in Minutes @	Temperature		Time in Seconds @
°C	°F		°C	°F	
54.4	130	112	63.9	147	134
55.0	131	89	65.0	149	85
56.1	133	56	66.1	151	54
57.2	135	36	67.2	153	34

57.8	136	28	68.3	155	22
58.9	138	18	69.4	157	14
60.0	140	12	70.0	158	0
61.1	142	8			
62.2	144	5			
62.8	145	4			
@ Holding time may include post_overnight heat rise.					

Sec. 20-21.5. Food display and service.

~~(a) Potentially hazardous foods.~~ Potentially hazardous food – Time/temperature controlled for safety (TCS) foods. Except when time is used as a public health control as specified in section 20-21.2(a)(2) of this Code, ~~potentially hazardous food (time/temperature controlled for safety (TCS) foods)~~ shall be kept at an internal temperature of 45°F (7°C) or below as specified under ~~(9)~~ b of this Code or at 41°F (5°C) or below or at a temperature of 135°F (57°C) or above during display and service, except that roasts cooked to a temperature and for a time specified in Table 20-21.4-3 of this Code or reheated as specified in Table 20-21.4-1 of this Code may be held for service at a temperature of 130°F (54°C) or above.

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- (f) *Dispensing utensils.* To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. During pauses in food preparation and dispensing, utensils shall be:
- (1) Except as specified in item (6) of this subsection, stored in the food with the dispensing utensil handle extended out of the food;
 - (2) Stored in a clean protected location if the utensils, such as ice scoops, are used only with a food that is not ~~potentially hazardous~~ time/temperature controlled for safety (TCS);
 - (3) Stored in running water of sufficient velocity to flush particulates to a proper drain if used with moist foods such as ice cream or mashed potatoes;
 - (4) Stored in water that maintains a temperature of at least 135°F (57°C) if the container is cleaned at a frequency specified under section 20-21.11(a)(5)(g) of this Code;
 - (5) Stored on a clean portion of the food preparation table or cooking equipment and cleaned and sanitized at a frequency specified under section 20-21.11 of this Code; or
 - (6) Stored in food that is not ~~potentially hazardous~~ time/temperature controlled for safety (TCS) 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.
- (g) *Returned food and re-service of food.* Except as specified in subitems a and b of item (1) 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.
- (1) A container of food that is not ~~potentially hazardous~~ time/temperature controlled for safety (TCS) food may be transferred 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 ketchup, 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.
- (2) Re-service of food:
- (a) Any food served to patients or clients who are under contact precautions and medical isolation or quarantine, protective environmental may not be re-served to others outside; and
 - (b) Packages of food from any patient, client, or other consumer may not be re-served to persons in protective environment isolation.
- (h) *Display equipment.* Except for nuts in shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption, food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases, or other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of ~~potentially hazardous food~~ **time/temperature controlled for safety (TCS) food** on display. A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.
- (k) *Food donations.* Foods previously served to a consumer, foods in heavily rim- or seam-dented cans or packaged foods without the manufacturer's complete labeling shall not be donated. Donated foods shall be labeled with the name of the food, the source of the food and the preparation date of the food. Donated ~~potentially hazardous foods~~ **time/temperature controlled for safety (TCS) foods** may not exceed the shelf life for leftover foods outlined in [section 20-21.3\(b\)\(10\)](#) of this Code.
- A ~~potentially hazardous food~~ **time/temperature controlled for safety (TCS) food** may be donated if:
- (1) The food has been kept at or above 135°C (57°C) during hot holding and service, and subsequently refrigerated to meet the time and temperature requirements under [section 20-21.3\(b\)\(2\)](#) of this Code.
 - (2) The donor can substantiate that the recipient has the facilities to meet the transportation, storage, and reheating requirements of this article;
 - (3) The temperature of the food is at or below 41°F (5°C) at the time of donation, and the food is protected from contamination; and
 - (4) If the food is transported by the recipient directly to the consumer, the recipient need only meet the transportation requirements, including holding temperatures, under these rules.

Sec. 20-21.7. Employee health.

- (a) *General.*
 - (1) Prevention of disease transmission. No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food establishment in any capacity in which there is a likelihood of the infected or afflicted person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.
 - (2) Discharges from the eyes, nose and mouth. Food employees who are experiencing persistent sneezing or coughing or a runny nose that causes discharges from the eyes, nose or

mouth may not work with exposed food, clean equipment, utensils and linens, unwrapped single-service articles, or single-use articles.

(3) Contamination Event: Clean-up of vomit and diarrheal events. A food establishment shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment the procedures shall 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.

(34) Notification of health officer. The permit holder or person in charge of a food service establishment shall notify the health officer as specified in TFER 228.257 ~~229.171(p)~~ with respect to reporting of communicable diseases.

- (b) *Reporting responsibility; restriction or exclusion of employees.* In addition to the foregoing requirements, each permit holder, person in charge, food employee and ~~food employee applicant~~ conditional employee to whom a conditional offer of employment is made shall comply with and the health officer shall administer and enforce the provisions of TFER 228.35, 228.36, and 228.37 ~~229.163(d)~~ with respect to reporting, restriction and exclusion of food establishment employees and ~~applicants for employment opportunities~~ conditional employees, and for the person in charge to manage exclusions and restrictions from opportunities to transmit disease in the establishment. The person in charge shall notify the health officer that a food employee is diagnosed with an illness due to Norovirus, Salmonella typhi or non-typhoidal Salmonella, Shigella spp., shiga toxin-producing Escherichia coli, or hepatitis A virus.

Sec. 20-21.10. - Equipment and utensils.

- (a) *Materials; general*

(1) *Solder and pewter alloys containing lead.* If solder is used, it shall be composed of safe materials and be corrosion-resistant. Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface. Pewter alloys containing lead in excess of 0.05% may not be used as a food contact surface.

- (2) *Wood, use limitations.*

a. Except as specified in subitems b through d of this item, wood and wicker may not be used as a food-contact surface. Hard grained wood; such as but not limited to maple, walnut, mahogany, bamboo and pecan may be used for ~~maple or equivalently nonabsorbent material that meets the general requirements set forth in this subitem may be used for~~ cutting blocks, cutting boards, salad bowls, and baker's tables. Wood may be used for single-service articles, such as chop sticks, stirrers, or ice cream spoons. The use of wooden paddles used in confectionery operations for pressure scraping kettles during confectionary preparation at high temperatures is permitted. ~~Treated~~ W wooden wicker baskets as specified in (d)(2) of this section may be used for proofing of bread, provided the product is fully baked after proofing. The use of wood as a food-contact surface under other circumstances is prohibited. If cutting boards are used, they shall be easily removable in order to facilitate cleaning. The use of wood or wood product shelving, storage racks, or dunnage racks in cold storage units is prohibited.

b. Hard grained wood; such as but not limited to maple, walnut, mahogany, bamboo and pecan may be used for ~~maple or an equivalently hard, close-grained wood may be used for;~~

- [1] Cutting boards, cutting blocks, bakers' tables, and utensils, such as rolling pins, donut dowels, salad bowls, and chopsticks and wooden skewers; and
- [2] Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F (110°C) or above.

- c. Whole, uncut, raw fruits and vegetables and nuts in a shell may be kept in the wood shipping container in which they were received, until the fruits, vegetables, or nuts are used.
- d. If the nature of the food requires the removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:
 - [1] Untreated wood containers; or
 - [2] Treated wood containers if the containers are treated with a preservative that meets the requirements of TFER 228.101(g)(4)(B) ~~229.165(a)(9)(D)(ii)~~.

.....

- (9) *Lead in ceramic, china, and crystal utensils, use limitation.* Ceramic, china, and crystal utensils and decorative utensils, such as hand-painted ceramic or china, that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits as specified in TFER 228.101(c)(1) ~~229.165(a)(3)~~.

.....

- (f) *Temperature and pressure measuring devices.* Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, and accurate to ~~±~~ +± 2°F in the intended range of use if scaled only in Fahrenheit. If a food temperature measuring device is scaled only in Celsius or dually scaled in Celsius and Fahrenheit, it shall be accurate to ±1°C in the intended range of use. Temperature and pressure measuring devices shall be maintained in good repair and calibration. Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy. Food temperature measuring devices shall have a numerical scale, printed record, or digital readout in increments no greater than 2°F (1°C) in the intended range of use. Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to ±1.5°C in the intended range of use. Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to ±3°F in the intended range of use. Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use. 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.

.....

- (i) *Existing equipment.* Equipment that complied with the former provisions of this article at the time of its installation but that does not fully meet all of the design and fabrication requirements of this section shall be deemed acceptable in that establishment as long as there is no change of ownership, if it is in good repair, capable of being maintained in a sanitary condition, and the food-contact surfaces are nontoxic, ~~except that refrigeration units are subject to upgrade or replacement as required by TFER. See section 20-21.3(b)(9)b of this Code.~~ Replacement equipment shall conform to this article and TFER.

.....

- (p) *Molluscan shellfish tanks.*
 - (1)
 - (2) Molluscan shellfish life-support system display tanks may be used to store and display shellfish that are offered for human consumption ~~and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only,~~ if they are operated and maintained in accordance with a HACCP plan that:
 - a. Is submitted by the permit holder and approved by the department as specified under section 20-19(e) of this Code; and

- b. Ensures that:
 - [1] Water used with fish other than molluscan shellfish does not flow into the molluscan tank;
 - [2] The safety and the quality of the shellfish as they were received are not compromised by the use of the tank; and
 - [3] The identity of the source of the shellfish is retained as specified under section 20-21.1(b)(2) of this Code, and the source information is displayed with the shellstock as required in TFER 228.64(e) ~~229.164(e)(8)~~.

Sec. 20-21.11. - Equipment and utensil cleaning and sanitation.

(a) *Cleaning frequency .*

(a)

Cleaning frequency.

(1)

Tableware shall be washed, rinsed and sanitized after each use.

(2)

To prevent cross-contamination, kitchenware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

(3)

Where equipment and utensils are used for the preparation of ~~potentially hazardous foods~~ time/temperature controlled for safety (TCS) food on a continuous or production-line basis, utensils and food-contact surfaces of equipment shall be washed, rinsed and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation. Equipment food contact surfaces and utensils shall be cleaned:

a.

Except as specified in b. of this paragraph, Before~~Before~~ each use with a different type of raw animal food such as beef, fish, pork or poultry,

f. Subparagraph (a)(3)(a.) does not apply if ~~unless~~ the food

contact surface or utensil is in contact with a succession of different raw animal foods- meat and poultry each requiring a higher cooking temperature as specified in Table 20-21.4-1 of this Code than the previous type_ food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.

cb.

Each time there is a change from working with raw foods to working with ready-to-eat foods;

ed.

Between uses with raw fruits or vegetables and with ~~potentially hazardous foods~~ time/temperature controlled for safety (TCS) foods; and

de.

Before using or storing a food temperature measuring device.

(4)

Except as specified in item (5) of this subsection, if used with ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four hours.

(5)

Surfaces of utensils and equipment contacting ~~potentially hazardous foods~~ time/temperature controlled for safety (TCS) foods may be cleaned less frequently than every four hours if:

a.

In storage, containers of ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food and their contents are maintained at temperatures specified under [section 20-21.2\(a\)](#) of this Code and the containers are cleaned when they are empty;

b.

Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in Table [20-21.11](#) of this Code; and:

[1]

The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

• [2]

The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment;

c.

Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food that is maintained at the temperatures specified under [section 20-21.2\(a\)](#) of this Code, 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;

d.

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 in [section 20-21.2\(a\)](#) or [20-21.3\(c\)](#) 2 or [20-21.5\(a\)](#) of this of this Code;

e.

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;

f.

The cleaning schedule is approved based on consideration of:

[1]

The characteristics of the equipment and its use;

[2]

The type of food involved;

[3]

The amount of food residue accumulation; and

[4]

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

g.

In-use utensils are intermittently stored in a container of water in which the water is maintained at 135°C (57°C) 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.

• (6)

The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day; except that this shall not apply to hot

oil cooking and hot oil filtering equipment if it is cleaned as specified in subsection (f) of this section. The food-contact surfaces of all cooking equipment shall be kept free of crusted grease deposits and other accumulated soil.

(7)

Nonfood-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

(8)

Dry cleaning.

a.

If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not ~~potentially hazardous~~ time/temperature controlled for safety (TCS).

b.

Cleaning equipment used in dry cleaning food contact surfaces may not be used for any other purpose.

c.

Except when dry cleaning methods are used as specified in subitems a and b of this item, surfaces of utensils and equipment contacting food that is not ~~potentially hazardous~~ time/temperature controlled for safety (TCS) shall be cleaned:

[1]

At any time when contamination may have occurred;

[2]

At least every 24 hours, for iced tea dispensers and consumer self-service utensils, such as tongs, scoops, or ladles;

[3]

Before restocking consumer self-service equipment and utensils, such as condiment dispensers and display containers; and

[4]

In equipment such as ice bins, beverage dispensing nozzles, 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:

[a]

At a frequency specified by the manufacturer; or

[b]

Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

(9)

Once used for tasting food that is to be sold or served, a spoon or other utensil may not be reused until it has been cleaned and sanitized.

(10)

A dishwashing 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 in [section 20-21.12](#)(b) of this Code shall be cleaned:

a.

Before use;

b.

Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

c.

If used, at least every 24 hours.

(11)

If a utensil-washing sink is used to wash wiping cloths, wash produce, or thaw foods, the sink shall be cleaned as specified under item (10) of this subsection before and after each time it is used to wash wiping cloths, wash produce or thaw foods. Sinks used to wash or thaw food shall be sanitized as specified under [section 20-21.12\(e\)](#) of this Code before and after the sink is used to wash produce or wash food.

(12)

A utensil-washing sink may not be used for handwashing, as specified in [section 20-21.8\(b\)](#) of this Code, or dumping mop water.

(13)

Equipment, food-contact surfaces, and utensils shall be clean to sight and touch.

(c)~~(e)~~

(1) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.

(2) Moist cloths used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean and rinsed frequently in one of the sanitizing solutions permitted in [section 20-21.12\(e\)\(2\)](#) through (6) of this Code and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.

(3) Moist cloths used for cleaning nonfood-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean and rinsed frequently in one of the sanitizing solutions permitted in [section 20-21.12\(e\)\(2\)](#) through (6) of this Code and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.

[\(4\) Single-use disposable sanitizer wipes shall be used in accordance with EPA-approved manufacturer's label use instructions.](#)

Sec. 20-21.12. Manual cleaning and sanitizing.

- (a) A three-compartment sink shall be used if washing, rinsing and sanitization of equipment or utensils is done manually, except where a three-compartment sink is not required under [section 20-21.11\(b\)](#) of this Code, in which case the procedure may be performed in the two-compartment sink.
- (b) Drain boards, utensil racks or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.
- (c) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.
- (d) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing, and sanitizing shall be conducted in the following sequence:
 - (1) Sinks shall be cleaned prior to use; then

- (2) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean and maintained at a temperature of at least 110°F (43°C) or the temperature specified on the cleaning agent manufacturer's label instructions. When used for utensil washing, the wash compartment of a sink, dishwashing machine, or wash receptacle of alternative manual utensil-washing equipment as specified in TFER 229.165(g)(2)(c) shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agents according to the cleaning agent's manufacturer's label instructions.
- (3) Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or 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: a three-compartment sink or alternative manual utensil-washing equipment equivalent to a three-compartment sink as specified in TFER ~~229.265(g)(2)(C)~~ 228.107(b)(3); or a three-step washing, rinsing, and sanitizing procedure in a mechanical equipment washing system for CIP equipment;
 - b. Use of a detergent-sanitizer as specified under section 20-21.12(h) of this Code if using:
 - [1] Alternative manual utensil-washing equipment that is approved for use with a detergent-sanitizer as specified in TFER ~~229.265(g)(2)(C)~~ 228.107(b)(3); or
 - [2] A mechanical equipment washing system for CIP equipment;
 - c.

Sec. 20-21.12(4)(e)

- (e) The food-contact surfaces of all equipment and utensils shall be sanitized either manually or mechanically by use of one of the following methods:
 - 1) Immersion for at least 30 seconds in clean, hot water at a temperature of at least 171°F (77°C);
 - 2) Immersion in a chlorine solution* in a manner that complies with the following:

Minimum Concentration ppm (mg/L)	Minimum Temperature F° (C°)		Exposure Time (seconds)
	Ph 10 or less	pH 8 or less	
25	120 (49)	120 (49)	10
50	100 (38)	75 (24)	7
100	55 (13)	55 (13)	10

- 3) Immersion in an iodine solution* in a manner that complies with the following:

Minimum Concentration ppm (mg/L)	Minimum Temperature F° (C°) pH 5 or less	Exposure Time (seconds)
12.5–25	75 <u>68 (24) (20)</u>	30

- 4) Immersion in a quaternary ammonium compound solution* in a manner that complies with the following:

Minimum Concentration ppm (mg/L)	Minimum Temperature °F (C°)	Exposure Time (seconds)
According to the manufacturer's label*	75 (24)	According to the manufacturer's label*

~~*Must be approved and registered with the United States Environmental Protection Agency at a strength and for a period of time as stated on the official approved label, and shall meet the criteria for chemical sanitizers and other chemical antimicrobials as specified in 21 CFR 178.1010, Sanitizing Solutions.~~

* Chemical sanitizers, including chemical sanitizing solutions generated on site, and other chemical antimicrobials applied to food-contact surfaces shall 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), or meet the requirements as specified in 40 CFR 180.2020. Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-food determinations and shall be used in accordance with the EPA-approved manufacturer's label use instructions-

(5) Immersion in other solutions . . .

Sec. 20-21.13. - Mechanical cleaning and sanitizing.

(a)

(b) Mechanical dishwashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure at a location in the supply line immediately before the point where the water enters the dishwashing machine. The flow pressure of the fresh hot water sanitizing rinse in a dishwashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be 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). If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve. Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of 7 kilopascals (1 pound per square inch) or smaller and shall be accurate to 14 kilopascals (2 pounds per square inch) in the range indicated on the manufacturer's data plate. This subsection does not apply to a dishwashing machine that uses only a pumped or recirculated sanitizing rinse.

~~(i) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition. Wash and pump rinse temperatures shall be measured in the respective tanks and final rinse temperature shall be measured both at the entrance of the manifold and at dish level. Testing of the final rinse temperature will be done by means of a registering thermometer or heat sensitive indicating paper traveling through the final rinse chamber in the same manner as equipment and utensils, at the dish level during a normal rinse cycle. The flow pressure of the fresh hot water sanitizing rinse in the dishwashing machine may not be less than 15 pounds per square inch (100 kilopascals) or more than 25 pounds per square inch (170 kilopascals) as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve. Except for dishwashing machines that use only pumped or recycled sanitizing rinse, the machine shall be equipped with a pressure gauge or similar device that measures and displays the water pressure at a point in the supply line immediately before the point where the water enters the dishwashing machine. The temperature of fresh hot water sanitizing rinse as it enters the manifold may not be less than 165°F (74°C) nor more than 194°F (90°C) for a stationary rack, single temperature machine, and for all other machines, not less than 180°F (82°C) nor more than 194°F (90°C).~~

(i) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition. Wash and pump rinse temperatures shall be measured in the respective tanks and final rinse temperature shall be measured both at the entrance of the manifold and at dish level. Testing of the final rinse temperature will be done by means of a ~~registering thermometer~~ irreversible registering temperature indicator or heat sensitive indicating paper traveling through the final rinse chamber in the same manner as equipment and utensils, at the dish level during a normal rinse cycle. ~~The flow pressure of the fresh hot water sanitizing rinse in the dishwashing machine may not be less than 15 pounds per square inch (100 kilopascals) or more than 25 pounds per square inch (170 kilopascals) as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve.~~ The flow pressure of the fresh hot water sanitizing rinse in a warewashing dishwashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be 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) Except for dishwashing machines that use only pumped or recycled sanitizing rinse, the machine shall be equipped with a pressure gauge or similar device that measures and displays the water pressure at a point in the supply line immediately before the point where the water enters the dishwashing machine. The temperature of fresh hot water sanitizing rinse as it enters the manifold may not be less than 165°F (74°C) nor more than 194°F (90°C) for a stationary rack, single temperature machine, and for all other machines, not less than 180°F (82°C) nor more than 194°F (90°C). *

* * * *

(j) *Drying and drying agents criteria.* After sanitization, all equipment and utensils shall be air-dried. Use of towels is prohibited. Drying agents used in conjunction with manual or mechanical sanitization shall meet the requirements of TFER 228.206(d) ~~229.168(f)(4)~~.

(k)

Sec. 20-21.17. - Plumbing.

(a) *General.* . . .

(d) *Grease traps.* Grease traps shall be located to be easily accessible for cleaning, operation, and maintenance. Grease traps shall be of an approved type and in an approved location outside the establishment, unless it is impossible.

* * * *

(g) *Other liquid wastes and rainwater.* . . .

Sec. 20-21.19. - Hand-washing sinks generally.

(a) *Hand-washing sink installation.*

(b) *Hand-washing sink faucets.* Each hand-washing sink shall be equipped to provide water at a temperature of at least 100°F (38°C) through a mixing valve or combination faucet. Any self-closing, slow-closing or metering faucet used shall be designed to provide a flow of water for at least 20 seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.

Hand-washing sinks in facilities providing custodial care for preschool age children that are used only by the children may provide only cold running water.

(c) *Hand-washing sink supplies.* A supply of hand-cleansing liquid, powder, or bar soap shall be available at each hand-washing sink or group of two adjacent hand-washing sinks. Each hand-washing sink or group of adjacent sinks shall be provided with individual, disposable towels; a continuous towel system that supplies the user with a clean towel; ~~or~~ a hand-drying device providing heated air or a hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the hand-washing facilities.

* * * *

(g) *Hand-washing signage.*

Sec. 20-21.20. - Garbage and refuse.

(a) *Containers.* . . .

(h) *Maintaining refuse areas and enclosures.* A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of items that are unnecessary to the operation or maintenance of the establishment, such as equipment that is nonfunctional or no longer used ~~or~~ , as specified in Section 20-21.28(a)(3) and clean.

Sec. 20-21.21. - Insect and rodent control.

(a) *Controlling pests, generally.*

Effective measures intended to ~~minimize~~ eliminate the presence of rodents, flies, cockroaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents. The presence of insects, rodents, and other pests shall be controlled to ~~minimize~~ eliminate their presence within the physical facility and its contents and on the contiguous land or property under the control of the permit holder by:

- (1) Routinely inspecting incoming shipments of food and supplies;
- (2) Routinely inspecting the premises for the evidence of pests;
- (3) Using appropriate methods of pest control, such as trapping devices or other means of pest control as specified under section 20-21.27 of this Code, if pests are found; and
- (4) Eliminating harborage conditions:

(b) *Openings.* Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by filling or closing holes and other gaps along floors, walls, and ceilings; tight-fitting, self-closing doors, kept closed, closed windows, screening, properly designed and installed air curtains to control flying insects, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts and other openings to the outside shall be tight-fitting and free of breaks. Screening materials shall not be less than sixteen mesh to the

inch (16 mesh to 25.4 mm). Exterior doors used as exits need not be self-closing if they are: solid and tight-fitting; designated by the fire protection authority that has jurisdiction over the food establishment for use only when an emergency exists; and limited-use so they are not used for entrance or exit from the building for purposes other ~~that~~ than the designated emergency exit use. Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

(d) *Removing dead or trapped birds, insects, rodents, and other pests.* . . .

Sec. 20-21.23. - Wall and ceilings generally.

(a) *Maintenance.* . . .

(b) *Construction.* The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, food storage areas, food display areas, equipment-washing and utensil-washing areas, ~~toilet rooms, and vestibules~~ shall be light-colored, smooth, nonabsorbent, and easily cleanable except for ceilings over areas used only for beverage preparation and/or service. The walls, including nonsupporting partitions and wall coverings of toilet rooms and vestibules, shall be smooth, nonabsorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface except in dry storage areas.

(c) *Retail food stores and warehouses.* The ceilings of consumer display areas where only packaged containerized food products, single-service articles or single-use articles are stored or displayed in retail food stores and the ceilings of bulk food storage areas in warehouses and retail food stores shall be light-colored, nonabsorbent, and easily cleanable.

(d) *Wall protection.* The walls within water closet compartments, walls within two feet of the front and sides of urinals, hand-washing sinks, utensil-washing sinks, food sinks, and mop or utility sinks, and walls subject to damage from moisture shall be provided to a height of at least four feet above the finished floor with a smooth, light-colored impervious surface of a type not adversely affected by moisture or grease except that light-colored wall protection is not required in toilet rooms. The walls behind and adjacent to cooking equipment utilizing a ventilation hood, shall, from the floor to the base of the hood, have the same type of material as indicated above for plumbing fixtures. Materials utilized for wall protection shall be fiber-glass reinforced plastic (FRP), nonferrous metal, ceramic tile, plastic laminate or the equivalent for the purpose intended.

* * * *

(i) *Cleaning physical facilities.* . .

* * * *

Sec. 20-23. - Temporary food service.

(a) *General.* A temporary food service establishment shall comply with the requirements of this article, except as otherwise provided in this section. The health officer may impose additional requirements to protect against health hazards related to the conduct of the temporary food service establishment and may prohibit the sale of some or all ~~potentially hazardous food~~

(time/temperature controlled for safety (TCS) food } s where the action is reasonably necessary to protect the public from foodborne illness.

(b) *Restricted operations.*

(1) This section is applicable whenever a temporary food service establishment is permitted, under the general requirements in this section, to operate without complying with all the requirements of this article.

(2) Only those ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) food } s requiring limited preparation shall be prepared.

(3) All food temperature requirements shall be met as pertained in sections 20-21.2 through 20-21.5 of this Code.

(c) *Items of sanitation.* All temporary food service establishments shall comply with the following items of sanitation:

(1) *Item 1. Ice.* Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of this article. The ice shall be obtained only in chipped, crushed, or cubed form and in single-use food grade plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until used, and when used it shall be dispensed in a way that protects it from contamination.

(2) *Item 2. Equipment.*

a. Equipment shall be located and installed in a way that facilitates cleaning the establishment and that prevents food contamination.

b. Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Where helpful to prevent contamination, effective shields for the equipment shall be provided.

c. All equipment, including hot/cold food storage facilities, shall be adequate in number and capacity to provide food temperatures as specified in section 20-21.2(a)(1) of this Code and must meet the requirements of this article regarding food storage and equipment design and fabrication.

d. Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

(3) *Item 3. Single-service articles.* All temporary food service establishments that do not have effective facilities for cleaning and sanitizing tableware shall provide only single-service articles for use by the consumer.

(4) *Item 4. Water.* Potable water from an approved source shall be made available in a temporary food establishment for food preparation, cleaning and sanitizing utensils and equipment and for hand-washing. Water need not be under pressure but shall come from approved sources, which include: commercially bottled drinking water, closed portable water containers, enclosed vehicular water tanks, on-premises water storage tanks, or piping, tubing or hoses connected to an approved source.

a. An approved facility shall be provided for washing, rinsing, and sanitizing equipment and utensils. This facility must consist of at least three containers.

Washing, rinsing, and sanitizing shall be conducted as specified in section 20-21.12(d) and (e) of this Code. Alternative manual warewashing equipment, such as receptacles that substitute for the compartments of a multi-compartment sink, may be used when there are special cleaning needs or constraints and the department has approved the use of alternative equipment.

b. Hand-washing facilities shall include an insulated container with a spigot that can be turned on to allow potable, clean, warm water to flow, a wastewater container, soap, disposable towels, and a waste receptacle. Hand-washing facilities are not required if the only food items offered are commercially pre-packaged foods that are dispensed in their original containers.

(5) *Item 5. Wet storage.* The storage of nonpackaged food in contact with water or ice is prohibited. The storage of packaged food in contact with water or undrained ice is prohibited.

(6) *Item 6. Waste.* Liquid and solid waste shall be disposed of in accordance with all applicable laws.

(7) *Item 7. Floors.* ~~If graded to drain, a~~ A floor should be smooth and easy to clean such as concrete, machine-laid asphalt or plywood. ~~may be dirt, or gravel if it is~~ Dirt or gravel may be used if ~~it is~~ covered with mats, removable platforms, or duckboards, ~~or~~ Other suitable materials that are effectively treated to control dust and mud may be used if approved by the department ~~that are effectively treated to control dust and mud.~~

(8) *Item 8. Walls and ceilings of food preparation areas.* Walls shall be required by the health officer unless he determines, based upon the circumstances, that walls are not needed to protect the public from foodborne illnesses. Walls and ceilings of food preparation areas shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather and other contaminating agents. When required, screening material used for walls shall be at least 16 mesh to the inch.

(9) *Item 9. Food protection; general.* At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination by all agents, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, draining, and overhead leakage or overhead drippage from condensation. Foods for self-service shall be protected from consumer contamination by the use of packaging, sneeze guards, or other devices.

(d) *Alternatives; waivers.* The health officer may authorize alternatives to particular requirements of this section or any other provisions of this article with respect to a temporary food service establishment. An authorization shall be considered only upon written request, which shall set forth the provision for which an alternative is sought and the nature of the proposed alternative. Approval for the alternative shall be granted if it is determined that, for the purpose intended, the alternative proposed is at least equivalent to the requirement otherwise specified in this article with respect to safety, sanitation and related purposes. The burden of demonstrating compliance with the foregoing standard shall be upon the requestor. Consistent with the foregoing procedures and standards, the health officer may waive any requirement of this article upon demonstration that it has no applicability for the purposes intended herein to the operation of the temporary food service establishment. An approval issued under this section shall be valid only if issued in writing and shall be limited in scope as provided therein.

Sec. 20-24. - Procedure when disease suspected among employees.

(a) The health officer shall, when he has reasonable cause to believe that a food employee has possibly transmitted disease, may be infected with disease in a communicable form that is transmissible through food, or is affected with a boil, an infected wound or acute respiratory infection, secure a morbidity history of the suspected employee or make any other investigation as may be indicated and take appropriate action. The health officer may require any or all of the following measures as he finds necessary to protect the public's health:

- (1) The immediate exclusion of the employee from all food establishments;
- (2) The immediate closing of the food establishment concerned until, in the opinion of the health officer, no further danger of disease outbreak exists;
- (3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;
- (4) Securing of a confidential medical history of the employee suspected of transmitting disease or making other investigations, as deemed appropriate, and requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees.
- (5) The implementation of special employee training for personnel of the establishment as provided in section 20-44 of this Code for the purpose of preventing the transmission of diseases.

(b) Based on the findings of the investigation as specified in this section and to control disease transmission, the health officer may issue an order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, notice of hearing, or a hearing, if the order:

- (1) States the reasons for the restriction or exclusion that is ordered;
- (2) States the evidence that the food employee or permit holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;
- (3) States that the suspected food employee or the permit holder may request an appeal hearing by submitting a timely request; and
- (4) Provides the name and address of the health officer to whom a request for an appeal hearing may be made. Upon request, a hearing shall be provided within 72 hours.

(c) The health officer shall release an employee from restriction or exclusion if:

- (1) On the request of an employer or the health officer, a food employee or a person seeking food handling employment is examined by a licensed physician and receives a signed certificate stating that the physical examination has been performed and that to the best of physician's knowledge, the person examined did not, on the date of examination:
 - a. Have a transmissible condition of a communicable disease;
 - b. Have a local infection commonly transmitted through food handling;
 - c. Reside in a household in which there is a transmissible case of a communicable

foodborne disease; or

d. Appear to be a carrier of the communicable foodborne disease-causing organism;

(2) The employee was infected with *Salmonella typhi* and the food employee's stools are negative for *S. typhi* based on testing of at least three consecutive stool specimen cultures that are taken:

- a. Not earlier than one month after onset;
- b. At least 48 hours after discontinuance of antibiotics; and
- c. At least 24 hours apart.

If one of the cultures taken is positive, repeat cultures are taken at intervals of one month until at least three consecutive negative stool specimen cultures are obtained;

(3) The food employee was infected with *Shigella spp.* or *Escherichia coli 0157:H7* and the food employee's stools are negative for *Shigella spp.* or Shiga toxin-producing *E. coli 0157:H7* based on testing of two consecutive stool specimen cultures that are taken:

- a. Not earlier than 48 hours after discontinuance of antibiotics; and
- b. At least 24 hours apart; or

(4) The food employee was infected with hepatitis A virus and:

- a. Symptoms cease; or
- b. At least two blood tests show falling liver enzymes.

Sec. 20-25. - Construction, remodeling of food establishment generally.

(a) Wherever a food establishment or food establishment addition is constructed or remodeled and whenever an existing structure is converted to use as a food establishment, two sets of properly prepared plans and specifications for each construction, remodeling, or alteration shall be submitted to the health officer for approval before construction, remodeling, or alteration is begun. The plans and specifications shall indicate the proposed layout, arrangement, and construction materials of work areas, and the type of proposed fixed equipment and facilities. The health officer shall approve the plans and specifications if they meet the requirements of this article. No food establishment shall be constructed, remodeled, or altered except in accordance with plans and specifications approved by the health officer. If any changes are to be made concerning proposed layout, arrangement, and construction materials of work areas, and the type of proposed fixed equipment and facilities after the first set of approved plans and specifications have been delivered to the owner or contractor, the changes shall be shown on revised plans and specifications, which shall be reviewed and approved by the health officer before the changes are made; then the approved changes shall be added to both original sets of plans and specifications.

(b) One set of the approved plans and specifications will be given to the owner or contractor responsible for the construction of the establishment. A second set of approved plans and specifications will remain on file with the health officer.

(c) Whenever plans and specifications are required under subsection (a) above to be submitted to the health officer, the health officer or his authorized representative shall inspect the food establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of this article.

(d) The requirements of this section shall be in addition to all applicable requirements of the Construction Code.

(e) The applicant shall pay to the department a nonrefundable plan review fee based on the project valuation for the review of plans required hereunder. The plan review fee shall be paid before plans are reviewed and is stated for this provision in the city fee schedule

In the event that construction, remodeling, or alteration began prior to approval of plans and specifications, the fees described in this subsection shall be doubled. In addition to the fees described in this subsection, there shall be a technology and administrative fee added to each plan review in the amount stated for this provision in the city fee schedule. This technology and administrative fee shall be payable at the time the plan review fee is paid.

(f) The applicant shall pay to the department the nonrefundable preoperational inspection fee ~~based on project valuation stated~~ for this provision in the city fee schedule for each preoperational inspection required hereunder. In the event that the constructed, remodeled or altered space or area is occupied prior to the preoperational inspection approval, the applicant shall pay the nonrefundable inspection fee stated for this provision in the city fee schedule for each preoperational inspection performed while the constructed, remodeled or altered space or area is occupied. No permit shall be issued or renewed if there are any outstanding preoperational fees. {Ord. No. 2010-1016, § 2, 12-15-

(g) Whenever a food establishment changes ownership a preoperational inspection or inspections shall be completed prior to operation under the new ownership. The applicant shall pay to the department a nonrefundable preoperational inspection fee as stated for this provision in the city fee schedule for each preoperational inspection required hereunder. In the event that the food establishment is in operation prior to the preoperational inspection approval, the nonrefundable inspection fee shall be as stated for this provision in the city fee schedule for each preoperational inspection performed. No permit shall be issued if there are any outstanding preoperational fees.

Sec. 20-26. Notices required. _____

~~(a) Heimlich maneuver. Every food service establishment where space is designed or designated for eating purposes shall have posted in a conspicuous place, easily accessible to all employees, or to all customers or to both all employees and all customers, a sign graphically depicting the Heimlich maneuver for dislodging food from a choking person.~~

~~(ab) Presence of food service manager required. Every food service establishment to which the provisions of division 3 of this article are applicable shall have posted in a conspicuous place, easily accessible to all employees, a notice that operation without a food service manager present is unlawful.~~

(eb) Foods containing any sulfite preservative. Every food service establishment that sells or serves food containing any sulfite preservative shall provide notification of the use thereof to persons to whom the sulfite-containing food is sold or served by at least one of the following methods:

- (1) Posting a sign listing the foods containing any sulfite preservative sold or served by the establishment in a place conspicuous to all persons to whom food is served or sold in the establishment. The sign shall conspicuously state that the foods contain a sulfite preservative;
- (2) Listing each food containing any sulfite preservative on a menu or other written notice that is given to each person (other than children under the age of 12 accompanied by an adult) who buys or is served food in the establishment. The menu or other written notice shall clearly state that the foods containing a sulfite preservative do contain the substance; or
- (3) Providing written notice on a label affixed to the container or wrapper of food containing any sulfite preservative that the food does contain the substance.

(ec) Sanitation posters. Within each kitchen of each food establishment there shall be conspicuously posted in an area accessible to all employees thereof a poster that describes basic sanitation methods including, but not limited to, those relating to cross-contamination and temperature control. This requirement shall not apply to mobile food units or temporary food service establishments.

(ed) FOG notice. Within of each food establishment registered under 20-38)(d) there shall be conspicuously posted in an area accessible to all employees thereof a notice that describes ordinance requirements of grease traps.

(fe) Form of sign. All signs, notices and listings provided or posted pursuant to this article shall conform to the design specified therefore by the director of public health, including the size, colors, wording and any other elements specified by the director. The department may prepare signs in Spanish, English and other languages as the need may warrant and make them available for purchase at a price equivalent to the production cost thereof.

Sec. 20-38. - Fees; transfer of medallion.

(a) At the time of issuance of an original food dealer's permit and each renewal thereof, the person requesting the permit shall pay to the health officer a permit fee for one complete year from the date of issuance, as well as the applicable technology and administrative fee. Except as otherwise provided, permit fees shall be determined by the total number of persons employed full-time or part-time by the food processing or food service establishment.

(b) Fee amounts shall be determined according to the city fee schedule, as follows:

- (1) *Permit fees.* The nonrefundable annual fee for a food dealer's permit shall be based on the number of employees of the establishment to be licensed.

(1a) In addition to the permit fees described in this item, there shall be a technology and administrative fee payable at the time the food dealer's permit fee is paid.

(1b) Temporary food establishments, as defined, shall be charged a non-refundable base fee for each day that the permit is valid, provided, however, that the total fee for a temporary food service establishment while participating in an event with a duration of ten consecutive days or more at the same location shall be the same fee as for a duration of ten consecutive days. The temporary food service permit fee including the applicable technology and administrative fee shall be paid at the time the application is submitted.

(2) Mobile food unit medallion—Fee; transferability. At the time of issuance of an original medallion to operate a mobile food unit and each renewal thereof, the person requesting the medallion shall pay to the health officer a fee for one complete year from the date of issuance. Medallions are not transferable from one person to another nor from one mobile food unit to another mobile food unit. In addition to the fee described for the operation of a mobile food unit in this item, a technology and administrative fee shall be payable at the time the mobile food unit medallion fee is paid.

(3) *Same—Replacement fee.* An individual who has lost a valid, current food dealer's permit or mobile food unit medallion may obtain a replacement from the health officer upon payment of the replacement fee.

(4) *Special investigative fee.* In addition to the permit fees specified in item (1) above, there is hereby assessed the special investigative fee stated for this provision in the city fee schedule, which shall be payable for any renewal of a food dealer's permit if the renewal application is not received in the offices of the ~~Houston Health Department~~ health and human services department in completed form and accompanied by the permit fee therefor on or before the business day after the date of expiration of the permit to be renewed. For purposes of this fee, any new permit issued to the same person(s) for a food establishment at the same location shall be deemed to be a renewal, unless the person(s) demonstrate to the health officer, by clear and convincing evidence, that the food establishment has not been operated since the prior permit expired. This investigative fee shall also be applicable in the event that the complete application including payment for a temporary food service establishment permit is not received at the department at least seven days prior to beginning of temporary food service operations as specified in paragraph 20-36 (b).

This special investigative fee is imposed to partially defray the additional inspection and administrative costs related to late renewals and applications. It shall not be considered to be a civil or criminal penalty, nor shall its imposition bar or constitute a defense to any prosecution for operation of a food establishment without a food dealer's permit.

(5) Electronic monitoring system fee. A person requesting a medallion for the operation of a mobile food unit, other than a restricted operations mobile food unit, a licensed park vending unit, or a fixed location mobile food unit, shall pay the electronic monitoring system fee stated for this provision in the city fee schedule. Funds from this account may be expended only for activities related to maintenance, operation, and utilization of the electronic monitoring system and for other permitting, inspection, monitoring,

controlling, education and enforcement activities pertaining to environmental health services of the Houston Health Department

(c) The fees otherwise required by this section shall not be imposed by the health officer for the issuance of a food dealer's permit to operate a temporary food service establishment within a city park if each of the following criteria is met:

(1) The temporary food service establishment is being operated by a community-based organization as part of a public gathering for which a permit has been issued under article III of chapter 32 of this Code, and the director of parks and recreation has waived user fees for the gathering pursuant to section 32-69(f) of this Code;

(2) All persons responsible for organizing and working in the temporary food service establishment are unpaid volunteers; and

(3) All proceeds from the operation of the temporary food service establishment are retained to be used for the benefit of the community-based organization or are donated to the city.

The provisions of this subsection shall not be construed to excuse the community-based organization from obtaining a temporary food dealer's permit or from complying with any other applicable provision of this article.

(d) Food service establishments, except mobile food units, shall pay the nonrefundable annual fee stated for this provision in the city fee schedule for each interceptor to obtain a registration certificate, as provided in section 47-423 of this Code.

(e) All fees collected pursuant to this section are not refundable.

DIVISION 3. FOOD SERVICE MANAGER'S CERTIFICATION AND FOOD HANDLER REQUIREMENTS

Sec. 20-52. - Programs established.

(1) There shall be a program of food service manager's certification conducted under the direction of the health officer. The program shall have as its primary goal the training of persons within the food service industry in safe food handling practices, including knowledge of the provisions of this article. Except as otherwise provided in this division, training shall be accomplished by means of a special course that will be made available to those persons seeking certification. Certification shall be provided after all requirements of this division have been met as determined by the health officer.

(2) There shall also be a program of food handler education and training. The program shall include employee knowledge, responsibilities and training as required in this article and TFER. A food handler training or education course shall include the following basic food safety principles.

(a) Foodborne disease outbreak. Instruction on foodborne disease outbreak, shall include the definition of foodborne disease outbreak, the causes and preventative measures, including employee reporting requirements as required in section 20-21.7 of this article.

(b) Good hygienic practices. Instruction on good hygienic practices shall include the procedures as required in sections 20-21.7, 20-21.8, and 20-21.9 of this article.

(c) Preventing contamination by employees. Instruction shall include the training as required in section 20-21.2 (c), regarding the training requirements for contact with ready to eat food

with their bare hands.

- (d) Cross Contamination. Instruction on cross contamination shall include procedures on the prevention of cross-contamination of foods, sanitization methods and corrective actions as required in sections 20-21.2, 20-21.3, 20-21.4, 20-21.5, and 20-21.6 of this article and sections 20-21.11, 20-21.12, 20-21.13, 20-21.14 of this article relating to equipment, utensils, and linens
- (e) Time and Temperature. Instruction shall include time and temperature control of foods to limit pathogen growth or toxin production as required in sections 20-21.2, 20-21.3, 20-21.4, 20-21.5, and 20-21.6 of this article.
- (3) A program under this section may be delivered through the Internet.
- (4) Except in a temporary food establishment and except for the food service manager, all food handlers shall successfully complete a food handler training course.
- (5) The requirement to complete a food handler training course shall be effective September 1, 2016.

Sec. 20-53. - Food service manager and Food handler requirements.

- (a) It shall be unlawful for any person to own, operate or cause to be operated any food establishment unless the person in charge thereof has in his possession a valid and current food service manager's certification issued to him by the department pursuant to this division. It is a defense to prosecution under this subsection:
 - (1) That the food establishment was not engaged at the time of the alleged offense in the manufacturing, production, preparation, processing, packaging, or service of food or in the conduct of any make-ready activities commenced prior thereto or cleanup activities performed afterwards; or
 - (2) That the food establishment is a retail food store in which all food sold or offered for sale is received, kept and sold in the manufacturer's unbroken sealed packages or a packaged-food-only food establishment; or
 - (3) That the food establishment is a restricted bar or a restricted warehouse; or
 - (4) That the food establishment is a temporary food establishment that has been exempted under subsection (c) below.
- (b) It shall be unlawful for any person to own, operate, or cause to be operated any food preparation area unless the food service manager has in his possession a valid and current food service manager's certification issued to him by the department pursuant to this division. It is a defense to prosecution under this section:
 - (1) That the kitchen was not, at the time of the alleged offense, in use for the manufacturing, production, preparation, processing or packaging of food or the conduct of make-ready activities commenced prior thereto or cleanup activities performed afterward; or
 - (2) That the kitchen is a part of a temporary food establishment that has been exempted pursuant to subsection (c) below.
- (c) A person applying for a permit to operate a temporary food service establishment shall be exempted by the health officer from the food service manager's certification requirements if the applicant demonstrates to the health officer evidence of an adequate understanding of this article and an adequate understanding of safe and sanitary operating and food

handling practices and is not simultaneously associated with another food service operation in the city.

- (d) A food service manager's certification or a food handler's certificate is not transferable from one person to another.
- (e) When the person in charge is not required to have in his possession a valid and current food service manager's certification as specified in subsection (a) (1), (2), (3) or (b)(1) above, the person in charge shall demonstrate knowledge.

(f) Except for the certified food service managers, all food employees, shall successfully complete a food handler training course, within 60 days of employment as specified by TFER 228.33 (c).

(g) The food establishment shall maintain on premises a certificate of completion of the food handler course for each food employee. The requirement to complete a food handler training course shall be effective September 1, 2016.

(h) Subsections (f) and (g) pertaining to trained food handlers does not apply to certain types of food establishments deemed by the regulatory authority to pose minimal risk of causing, or contributing to, foodborne illnesses based on the nature of the operation and extent of food preparation.

Sec. 20-54. - Application for food service manager's certification or food handler certificate; training course(s) generally.

(a) Any person desiring ~~an original or renewal~~ food service manager's certification or a food handler's certification shall make written application for certification on forms provided by the health officer. The application shall include: but not be limited to:

- (1) The applicant's full name, mailing address, and telephone number;
- (2) The gender of the applicant;
- (3) The applicant's Texas driver's license or state identification card or other valid form of photographic identification.
- (4) The name, address, and telephone number of the establishment where the applicant is currently employed; if employed; and
- (5) The signature of the applicant; and
- (6) ~~If the application is for a certificate renewal, proof of current City of Houston certification as approved under this division.~~ Date of birth of the applicant.

(b) A completed application for food service manager's certification shall serve as a request to obtain a food service manager's certificate by training, reciprocity, or optional testing under section 20-63 of this Code.

~~(c) Applications for renewals of certifications must be received by the department, accompanied by the applicable fee, and the applicant must attend the renewal course or complete the optional testing, on or before the sixtieth day following the expiration of the City of Houston certification that is to be renewed. Otherwise, the certification shall not be subject to renewal, and the applicant will be required to apply for an initial certification.~~

(c) A completed application for food handler's training shall serve as a request to obtain a food handler certificate by classroom or online training.

(d) All applications for food service manager's certification or food handler training must be accompanied by the appropriate fees as set forth in this division.

(e) The health officer may deny an application for a food service manager's certification or food handler's certificate if the applicant knowingly makes any false, fraudulent, or unlawful statement on the application.

Sec. 20-55. - Duration of certification course and food handler course; passing grade.

(a) The special course of training for food service manager's certification shall be conducted at an appropriate length of time to cover course material, ~~at least 15 hours in length for initial certifications and at least seven hours in length for renewal certifications.~~

(b) A food handler training course length may not exceed two hours.

~~(b)~~ (c) Courses will be scheduled periodically to allow all qualified individuals the opportunity for training.

~~(e)~~(d) All persons completing the applicable course of training for food service manager's certification shall be required to demonstrate by means of an examination that they possess a minimum essential knowledge of safe food handling practices, including an acceptable knowledge of this article. A passing score for this examination shall be at least 70 points out of a possible 100.

~~(d)~~(e) If an applicant for food manager's certification~~for initial certification or for renewal certification~~ fails to pass the required examination after taking the applicable training course, he ~~must~~ may take the ~~initial~~ certification course before taking another examination. In order to take the training course an applicant must submit another completed application accompanied by payment of the full applicable fee for an initial application.

~~(e)~~(f) An applicant for a food handler's certificate may be required to pass an examination to successfully complete the course.

~~(f)~~(g) All persons successfully completing the course of training for food handlers shall receive a food handler's certificate.

Sec. 20-57. - Fees.

Fees for food service manager's certification:

(1) *Food service manager's certification.* Except where another fee amount is established in this division, the application fees stated for this provision in the city fee schedule shall be required to be paid to the health officer at the time of filing of an application for ~~an initial certification for renewal~~. In addition to the food service manager's certification application fee there shall be a technology and administrative fee added to each food service manager's application in the amount stated for this provision in the city fee schedule. This technology and administrative fee shall be payable at the time the food service manager's application is paid. The application and technology and administrative fees are nonrefundable ~~unless incorrectly charged and/or paid more than once.~~

- (2) *Replacement of certification card.* An individual who has lost a valid, current food service manager's certification card may obtain a replacement wall certificate and corresponding certification card from the health officer for the fee stated for this provision in the city fee schedule

Sec. 20-58. – Expiration of Food Managers Certification and Food Handler Certificate.

- a) A food service manager's certification shall be valid for a period of five years from the date of its issuance except as specified in Section 20-63. ~~Unless a duly completed application for renewal is timely filed as provided in section 20-54(c) of this Code, a certification shall not be subject to renewal.~~ An individual may obtain a new food manager's certificate by completing the course, or completing the examination, or by reciprocity in accordance with sections 20-54 (b) and 20-63. ~~The filing of an application for renewal shall not be construed to extend the expiration of a certification, and the filing of an application for renewal shall not constitute any authority to act as a food service manager pending the actual issuance of the renewal certification~~
- b) A food handler's certificate shall be valid for a period of two years from the date of issuance..

Sec. 20-65.Group Residences.

A group residence shall comply with the requirements of this article, except as otherwise provided in this section. The health officer may impose additional requirements to protect against health hazards related to the conduct of the group residence and may prohibit the sale or distribution of some or all potentially hazardous food (time/temperature controlled for safety (TCS) food)-s where the action is reasonably necessary to protect the public from foodborne illness. A group residence operator may submit a written request for a variance from any requirements of this article and the health officer may grant a variance by modifying or waiving any of the requirements of this article if in the opinion of the health officer a health hazard or nuisance will not result from the variance as specified in Sec.20-19 (e). The group residence permit holder shall ensure that the group residence is in full compliance with this article at all times as well as with the conditions of any variance granted under subsection (e)(2) as specified in Sec. 20-19 (d).

Sec. 20-161. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certified farmers market means a farmers market that has been certified by the Texas Department of Agriculture pursuant to Subchapter D of Title 4 of the Texas Administrative Code.

Department means the ~~Houston Health Department~~ department of health and human services.

Director means the director of the department.

Establishment means any building, structure or stand where only farm produce is sold or offered for sale, or, within a certified farmers market, a building, structure or stand where only farm products are sold or offered for sale.

Farm produce means herbs and spices in their natural or dried state, and vegetables, fruits, nuts, berries, grains, honey, watermelons and other melons, and cantaloupes and other edible plant materials in their natural state.

Farm products means farm produce, shelled peas or legumes, yard eggs, and packaged foods processed or manufactured by a vendor in a licensed food establishment and packaged and labeled according to all applicable laws.

Food shall have the meaning ascribed in article II of this chapter.

Market manager means a person who is designated as the person-in-charge of a certified farmers market.

Peddler means all persons, as well as their agents and employees, who engage in the temporary or transient business in the city of selling or offering for sale farm produce, or exhibiting the same for sale or exhibiting the same for the purpose of taking orders for the sale thereof, or who sell or offer for sale upon the public streets from any vehicle, conveyance or instrumentality making delivery at the time of sale of such farm produce and who have no established place of business for the sale and distribution of such farm produce within the city.

~~*Potentially hazardous food (time/temperature controlled for safety (TCS) food)* shall have the meaning ascribed in article II of this chapter.~~

Sampling means the demonstration or promotion of a food and its characteristics via the on-site preparation and offering of the food in small servings which cannot be sold and which may not consist of a whole meal, an individual portion or a whole sandwich.

Temporary or transient means any such business transacted or conducted in the city for which definite arrangements have not been made for the hire, rental or lease of premises for at least one month in or upon which such business is to be operated or conducted.

Time/temperature controlled for safety (TCS) food shall have the meaning ascribed in article II of this chapter.

Vendor means any person who sells or offers for sale farm products or engages in sampling in a certified farmers market.

Yard eggs means ungraded shell eggs from a producer defined in Chapter 15 of Title 4 of the Texas Administrative Code.

Sec. 20-162. - Requirements as to sales establishments.

(a) Each establishment from which farm produce is displayed, sold or offered for sale shall be provided with floors constructed of a substance or material that is capable of being washed, cleaned and kept in a sanitary condition. The establishment shall have a roof; provided, however, this particular provision pertaining to a roof shall not apply to trucks, wagons, any other conveyances or other vehicles. The farm produce contained in such establishment shall be kept, stored or displayed on a counter or structure which is not less than 18 inches above the floor (with the exception of watermelons). There shall be available to each of such establishments running water and rest room facilities.

(b) Wild mushrooms, if offered for sale, must conform to requirements of Section 20-21.1 (b)

(14) of this Code.

Sec. 20-177. - Issuance or denial generally; term.

Upon receiving the application for a license under this division, the health officer shall make an inspection of ~~the~~ any vehicles to be used by the applicant or of the establishment for which a license is desired, and if such establishment or vehicles comply with the provisions and requirements of this article, as well as other ordinances of the city which pertain to the operation of such establishment or vehicles, then the health officer shall approve the application upon the payment of the license fee and a license shall be issued to such applicant which shall be effective for one year from the date of issuance. In the event the health officer shall determine that such establishment of the applicant or any vehicle does not comply with the provisions of this article and other ordinances of the city which pertain to the operation of such establishments or vehicles, then the director shall disapprove such application.

• **Sec. 20-188. - Additional requirements.**

All vendors shall comply with the applicable requirements of article II of this chapter in addition to the provisions of this division. The health officer may impose additional requirements to protect against health hazards related to the conduct of a certified farmers market and may prohibit the sale of some or all ~~potentially hazardous foods~~ time/temperature controlled for safety (TCS) foods where such action is reasonably necessary to protect the public from food borne illness.

Sec. 20-189. - Sanitation requirements.

All vendors shall comply with the following sanitation requirements:

- (1) *Refrigeration.* Mechanical refrigeration shall be provided as required in section 20-21.3(b)(1) of this Code for the storage of all ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food } s. The use of dry ice or cold packs as a substitute for mechanical refrigeration of ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food } s shall be acceptable only if used for six hours or less during a single day.
- (2) *Equipment.* All equipment, including hot/cold food storage facilities must meet the requirements of article II of this chapter regarding food storage and equipment design and fabrication.
- (3) *Toilet facilities.* Approved toilet facilities shall be available at all times for vendors, their employees, and volunteers. All toilet rooms approved for use by vendors, employees and workers shall conform to the requirements of section 20-21.18 of this Code.
- (4) *Hand-washing.* A hand-washing sink provided with hot and cold water under pressure and tempered through a mixing valve shall be provided in or immediately adjacent to each toilet room used by vendors. A supply of soap and paper towels or other approved hand-drying device shall be provided adjacent to each hand-washing sink.
- (5) *Food protection; general.* At all times, food shall be protected from potential contamination by all agents, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, draining, and overhead leakage. Delivery vehicles or other equipment used for food transportation shall be kept

clean and shall be constructed so as to protect the food from contamination. Food samples for self-service shall be protected from consumer contamination by the use of packaging, sneeze guards, or other devices. Clean, disposable plastic gloves shall be worn by the vendor during sampling. Food intended for sampling shall be prepared, handled, and dispensed so as to be wholesome and safe for human consumption.

(6) *Wet storage.* The storage of unpackaged and packaged food in contact with water or ice is prohibited, except that produce and packaged farm products may be stored in contact with continuously drained ice obtained from an approved source.

(7) *Waste.* Liquid and solid waste shall be disposed of in accordance with all applicable laws.

(8) *Garbage and rubbish.* All garbage and rubbish shall be stored and disposed of in a manner approved by the health officer.

(9) *Live animals.* No live animals, birds, or fowl shall be kept or allowed within 20 feet of any area where food is stored, displayed or held, excluding patrol dogs or ~~support animals~~ service animals when used in the manner specified in section 20-21.28(f) of this Code.

Sec. 20-190. - Sampling operations.

All vendors conducting sampling shall comply with the following sanitation requirements:

(1) *Limited preparation.* Only those ~~potentially hazardous food~~ (time/temperature controlled for safety (TCS) food)s approved by the health officer and foods requiring limited preparation shall be prepared, displayed, served or sampled.

(2) *Temperature maintenance.* ~~Potentially hazardous food~~ (time/temperature controlled for safety (TCS) food)s requiring limited preparation shall be served and maintained at the internal temperature of 41°F (5°C) or below or ~~140°F (60°C)~~ 135°F (57°C) or above in facilities that meet the requirements of this article except for shell eggs, as described in section 20-21.1(b) (3), which shall be stored at 45°F (7°C) or below according to all applicable laws. If the United States Department of Agriculture and the United States Food and Drug Administration determine by law that a lower temperature must be maintained, the lower temperature shall prevail.

(3) *Disposal.* All food samples shall be disposed within four hours after beginning of the operation, if not served or consumed.

(4) *Food service manager's certification.* The market manager or the operator of the establishment shall attend the food service manager's certification course in accordance with sections 20-52 and 20-53 of this Code. At least one certified manager shall be present when sampling operations are being conducted.

(5) *Water.* Vendors shall have sufficient hot and cold potable water for cleaning foods and for cleaning and sanitizing equipment and utensils.

(6) *Single use articles.* Only single use articles as defined in article II of this chapter shall be provided for use by consumers.

(7) *Hand-washing.* An approved facility for employee hand-washing, consisting, at a

minimum, of warm, clean running water, soap, and individual paper towels or other approved hand drying device shall be provided near the vendors' establishments.

(8) *Single-use gloves.* Single-use gloves shall be used when the samples are being cut or prepared. Single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food. They shall be used for no other purpose and discarded when interruptions occur in the operation or when damaged or soiled.

(9) *Hair restraints.* While handling food or utensils, vendors shall wear effective hair restraints and clothing that covers body hair to prevent the contamination of food or food-contact surfaces as specified in Sec. 20-21.8 (f).

~~(10)~~(8) *Equipment and utensil cleaning and sanitation.* An approved facility shall be provided for washing, rinsing and sanitizing of equipment and utensils used in the preparation and service of samples. The facility must consist of at least three containers or compartments, each of adequate size so as to permit the total immersion of all utensils used in the vendor's establishment. Washing, rinsing and sanitizing shall be conducted as specified under subsections (d) and (e) of section 20-21.12 of this Code.

~~(11)~~(9) *Walls and ceilings.* Walls and ceilings, where required by the health officer to protect food from contamination and to protect the public from food borne illness, shall be made of wood, canvas, or other similar material that protects the establishment from the weather and other contaminating agents. When required, screening material used for walls shall be at least 16-mesh to the inch.

Sec. 20-193. - Fees.

(a) At the time of application for a certified farmers market license and each renewal thereof, the applicant shall pay to the health officer a nonrefundable annual fee, which shall be based on the number of vendors. The fee ~~shall~~ is stated for this provision in the city fee schedule.

(b) Replacement fee. A license holder who has lost his valid, current certified farmers market license may obtain a replacement from the health officer for the fee stated for this provision in the city fee schedule.

Sec. 20-200. - Definitions.

As used in this article, the following words and phrases shall have the meanings set forth in this section unless otherwise clearly indicated in the text. Words not defined shall be interpreted in their usual sense:

Bulk food means any food that, when it is dispensed to the customer, is not packaged, wrapped, or otherwise enclosed.

Condiment means any food, such as salt, pepper, mustard and ketchup, that is used to enhance the flavor of other food.

Commissary means a catering establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged, or stored with the intent that some or all of the items will be used in vending machines. The term shall not be construed to include an area or conveyance at a vending machine location that is used for the

temporary storage of packaged food or beverages.

Controlled location vending machine (limited service vending machine) means a vending machine that:

- (1) Dispenses only ~~nonpotentially hazardous~~ non-time/temperature controlled for safety (non-TCS) packaged food;
- (2) Is designed so that it can be filled and maintained in a sanitary manner by untrained persons at the location; and
- (3) Is intended for and used at locations in which protection is assured against environmental contamination.

Corrosion-resistant means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

Easily cleanable has the meaning ascribed in section 20-18 of this Code.

Employee means the permit holder, person in charge, person having the 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, and any other person who handles any food that is intended to be dispensed through vending machines, or who comes into contact with food-contact surfaces of containers, equipment, utensils, or packaging materials used in connection with vending machine operations, or who otherwise services or maintains the machines.

Equipment means vending machines, ovens, tables, counters, sinks, and similar items, other than utensils used in vending operations.

Filth means dust, dirt, insect excretions or other secretions, insect body parts, rodent hairs or excretions, feathers, or any other foreign or injurious contamination.

Food means any 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, including chewing gum.

Food-contact surfaces means those surfaces with which food normally comes into contact, and those surfaces from which food may drain, drip or splash back into a food or onto a surface normally in contact with food.

Garbage means every accumulation of animal, vegetable, and other waste matter that attends the preparation, handling, consumption, storage, or decay of plant and animal matter, including meats, fish and seafoods, birds, fruit, vegetable or dairy products and the waste wrappers or containers thereof.

Hermetically-sealed container means a container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

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

Machine location means the room, enclosure, space or area where one or more vending machines are installed and operated.

Operator means any person who takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more vending machines.

Packaged means bottled, canned, cartoned, or securely bagged or securely wrapped, whether packaged in a food establishment or a food processing plant. Packaged does not include a wrapper, carry out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

Person includes an individual, partnership, corporation, association, or other legal entity.

Potable water shall have the meaning ascribed in section 20-18 of this Code.

~~*Potentially hazardous food (time/temperature controlled for safety (TCS) food) (PHF)* shall have the meaning ascribed in section 20-18 of this Code.~~

Poultry shall have the meaning ascribed in section 20-18 of this Code.

Readily accessible means exposed or capable of being exposed for cleaning and inspection without the use of tools.

Restrict shall have the meaning ascribed in section 20-18 of this Code.

Safe materials means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If materials are food additives or color additives as defined in Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act as used, they are "safe" only if they are used in conformity with regulations established pursuant to Section 409 or Section 706 of the act. Other materials are "safe" only if they are not food additives or color additives as defined in Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act and are used in conformity with regulations issued under the act.

Safe temperatures for ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food means temperatures of 41°F (5°C) or below or 135°F ~~(60°C)~~ (57°C) or above.

Sanitized means having received effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

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

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.

Time/temperature controlled for safety (TCS) food shall have the meaning ascribed in section 20-18 of this Code.

Utensil means shall mean any multi-use or single-service food-contact implement or container used in the storage, preparation, transportation, dispensing, sales or service of food, such as kitchenware or tableware; 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.

Vending machine means any self-service device that, upon insertion of a coin, paper currency, token, card or key or by optional manual operation, dispenses unit servings of food, either in bulk or in packages, without the necessity of replenishing the device between each vending operation. It shall also include self-service dispensers equipped for coin, paper currency, token, card, or key operation and optional manual operation. Unless otherwise stated, vending machine includes controlled location vending machines.

Vending machine location shall mean the room, enclosure, space, or area where one or more vending machines are installed or operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

Sec. 20-203. - Temperatures.

The temperature of ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) foods shall be 41°F (5°C) or below or ~~140°F (60°C)~~ 135°F (57°C) or above at all times, except as otherwise provided in subsection 20-204(g) of this Code.

Sec. 20-204. - ~~Potentially hazardous foods.~~ Time/temperature controlled for safety (TCS) foods.

- (a) Milk and fluid milk products offered for sale through vending machines shall be pasteurized, shall meet the Grade A quality standards as established by applicable laws, and shall be dispensed only in individual original containers.
- (b) Milk and fluid milk products and fluid nondairy products (creaming agents) shall not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.
- (c) When condiments are provided in conjunction with food dispensed by a vending machine, they shall be:
 - (1) Packaged in individual portions in single-service containers; or
 - (2) Made available from condiment self-service dispensing equipment at those locations having an on duty attendant if sanitary facilities are provided in accordance with article II of this chapter.
- (d) Fresh fruits which may be eaten without peeling shall be thoroughly washed in potable water at the packing plant by the processor or at the commissary before being placed in the vending machines for dispensing. The washed fruit shall be protected from contamination after the washing process.
- (e) All food, other than fresh fruit, shall be stored or packaged in clean protective containers, and all food shall be handled and vended in a sanitary manner.
- (f) ~~Potentially hazardous food~~ Time/temperature controlled for safety (TCS) foods offered for sale through vending machines shall be dispensed to the consumer in the individual, original container or package into which it was placed at the commissary or at the manufacturer's or processor's plant.

~~Potentially hazardous food~~ Time/temperature controlled for safety (TCS) foods shall not be dispensed from bulk food machines.
- (g) ~~Potentially hazardous food~~ Time/temperature controlled for safety (TCS) foods food shall be maintained at safe temperatures except as follows:
 - (1) During necessary periods of preparation and packaging; and

- (2) During the actual time required to load or otherwise service the machine not to exceed ten minutes and for a maximum machine ambient temperature recovery period of 30 minutes following completion of loading or servicing operation.
- (h) Vending machines dispensing ~~Potentially hazardous food~~ Time/temperature controlled for safety (TCS) foods shall be provided with adequate refrigerating or heating units and thermostatic controls to ensure the maintenance of safe temperatures at all times. Such vending machines shall also have automatic controls which prevent the machine from vending ~~Potentially hazardous food~~ time/temperature controlled for safety (TCS) foods until serviced by the operator in the event of power failure, mechanical failure or other condition which results in noncompliance with temperature requirements in the food storage compartment.
- (i) ~~Potentially hazardous food~~ Time/temperature controlled for safety (TCS) foods that has failed to conform to the time-temperature requirements of this article shall be removed from the vending machine and be denatured or otherwise rendered unusable for human consumption.
- (j) Vending machines dispensing ~~Potentially hazardous food~~ Time/temperature controlled for safety (TCS) foods shall be provided with one or more thermometers which, to an accuracy of 3 degrees Fahrenheit, indicate the air temperature of the warmest part of the refrigerated food storage compartment, or the coldest part of the heated food storage compartment, whichever is applicable.
- (k) **Sec. 20-214. - Machine identification, required lettering; records.**
- (a) On each vending machine there shall be conspicuously and permanently displayed, in letters of at least one-fourth inch in height, the business name, service telephone number and information notifying users of the machine of the telephone number of an agent of the operators where persons can report malfunctions of the machine and request refunds of money put into the machine when the machine has malfunctioned. The telephone number of the health department to which consumers may call to register complaints regarding the sanitation of the machine shall also be conspicuously and permanently displayed on each vending machine other than those machines described in [section 20-216](#) of this Code which do not dispense any ~~potentially hazardous foods~~ time/temperature controlled for safety (TCS) foods. Such information shall be posted in numbers and letters of at least one-fourth inch in height. The health officer may designate the location, wording and manner in which the information required under this section shall be posted on vending machines if he finds that such requirements will aid in notifying consumers of the information, and operators shall comply with such requirements.
- (b) All operators of vending machines, except as provided in [section 20-216](#) of this Code, shall:
- (1) Maintain, at the operator's headquarters or at some other designated location within the city, a current list of all vending machines operated by such operator within the city and the complete address of each machine location and of all commissaries or other establishments from which his machines are serviced.
- This information shall be furnished to the health officer as a requirement for the renewal of the food dealer's permit and shall be available for inspection by the health officer during regular business hours;
- (2) Notify the health department, in writing, within 30 calendar days of each new location at which vending machines that dispense ~~potentially hazardous food~~ time/temperature controlled for safety (TCS) food, hot or cold cup beverages or bulk foods have been placed in operation; and
- (3) Notify the health department, in writing, within 30 calendar days of any change in operations involving new types of vending machines or conversions of existing machines to dispense products other than those for which the machines were originally designed and constructed.

- **Sec. 20-216. - Controlled location machines.**

All controlled location vending machines and vending machines which dispense exclusively bottled or canned soft drinks, prepackaged ice, water, candy, cookies, crackers, or similar prepackaged, ~~nonpotentially-hazardous~~ non-time/temperature controlled for safety (TCS) snacks; or, ballgum, nuts, and panned candies are exempt from the requirements of sections [20-214](#)(b) and [20-215](#) of this Code, but shall meet all other applicable requirements of this article.