



DEPARTMENT OF HEALTH
HAWAII ADMINISTRATIVE RULES
TITLE 11
DEPARTMENT OF HEALTH
CHAPTER 12
FOOD ESTABLISHMENT SANITATION

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Historical Note: Chapter 11-12, Hawaii Administrative Rules, is based substantially on Public Health Regulations Chapter 1-A, Food Service and Food Establishment Sanitation Code, Department of Health, State of Hawaii. [Eff 9/25/72; am 11/9/75; R 11/22/96]

SUBCHAPTER 1

GENERAL PROVISIONS

§11-12-1 Purpose. The purpose of this chapter is to provide minimum requirements for the protection of the life, health, safety, and welfare of the general public.

- (1) This chapter applies to all food establishments, or portions thereof, used, designed, or intended to be used as a food establishment or food operation within the State.
- (2) The minimum requirements established herein shall not be construed as lowering the standards established by local ordinances or rules.
- (3) Whenever local requirements contain more stringent provisions than any of the minimum requirements of this chapter, the more stringent requirements shall govern.
- (4) No ordinance, rules, ruling, or decision of any municipal body or officer of authority of any county shall repeal, amend, modify, or dispense with any of these minimum requirements. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-2 Definitions. As used in this chapter: "Adequate" means that in the opinion of the director it shall sufficiently fulfill the requirements for a proposed end.

"Adulterated" means the condition of a food:

- (1) If it bears or contains any poisonous or deleterious substance in a quantity which may

render it injurious to health;

- (2) If it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established;
- (3) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption;
- (4) If it has been processed, prepared, packed, or held under insanitary conditions, where it may be contaminated with filth, or where it may have been rendered injurious to health;
- (5) If it is in whole or in part the product of a diseased animal, or an animal which had died otherwise than by slaughter in a U.S. Department of Agriculture inspected facility; or
- (6) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

"Approved" means acceptable to the director based on the director's determination as to conformance with appropriate standards and good public health practice.

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

"Closed" means fitted snugly together leaving no openings large enough to permit the entrance of vermin.

"Commissary" means a permitted food establishment in which food, containers, or supplies are cleaned, handled, prepared, packaged, or stored.

"Communicable disease" means a foodborne illness which develops by the passing of an infectious agent or its products from a source to a susceptible host.

"Compliance schedule" means a written agreement between a food establishment and the department of health that specifies when corrections to deficiencies found during a regular inspection may be expected to be completed. The deficiencies identified on a compliance schedule may only include corrections to deficiencies that do not pose an immediate health risk. The director may approve a written schedule of compliance submitted by the permit holder when no health hazard exists or will result from allowing an extended schedule for compliance.

"Condiment" means any food such as salt, pepper,

mustard, and ketchup used to enhance the flavor of other food.

"Corrosion-resistant material" means a material that maintains its original surface characteristics under prolonged contact with food, cleaning compounds, and sanitizing solutions.

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

"Director" means the director of health of the department of health, State of Hawaii, or a duly appointed agent.

"Dishwashing" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

"Easily cleanable" means that surfaces are readily accessible and of a material and finish fabricated so that residue may be completely removed by normal cleaning methods.

"Embargo" means the legal control exercised by the director over the use, sale, disposal, or removal of any food or equipment.

"Employee" means the permit holder or any person, paid or unpaid, working in a food establishment who transports food or food containers, who engages in food preparation or service, or who comes in contact with any food utensils or equipment.

"Equipment" means all stoves, ranges, hoods, meatblocks, tables, vending machines, counters, refrigerators, sinks, dishwashing machines, steamblocks, and similar items, other than utensils, used in the operation of a food establishment.

"Exempt foods" means foods requiring no temperature control, involving very little food handling and being incapable of supporting the growth of pathogenic microorganisms.

"Food" means any raw, cooked, or processed edible substance, ice, beverage, water, or other ingredient used or intended for use or for sale in whole or in part for human consumption.

"Food-contact surfaces" means those surfaces of equipment and utensils that food normally comes in contact with, and those surfaces that food may come in contact with and drain back into surfaces normally in contact with food.

"Food establishment" means any place or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, manufacturing,

packaging, transporting, or otherwise handling food at

the retail or wholesale level.

- (1) The term includes any place where food is served or provided to the public, with or without charge, regardless of whether the food is consumed on or off the premises.
- (2) The term does not include:
 - (A) Private homes where food is prepared or served for individual family consumption;
 - (B) An establishment that offers only prepackaged non-potentially hazardous foods manufactured and packaged in an approved food establishment;
 - (C) A produce stand that only offers whole, uncut fresh fruits and vegetables;
 - (D) Temporary food establishments that sell or serve only non-potentially hazardous foods;
 - (E) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers only non-potentially hazardous food to guests if the home is owner occupied;
 - (F) A private home that receives catered or home delivered food; and
 - (G) Food establishments that are inspected by another federal, Hawaii state or county regulatory agency, provided that a memorandum of understanding or a memorandum of agreement has been filed with the director and the agency assumes regulatory responsibility for the establishment.

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

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

"Kitchenware" means all multiuse utensils other than tableware used in the storage, preparation, conveying, or serving of food.

"Misbranded" means the presence of any written, printed, or graphic matter, upon or accompanying food or containers of food, that is false or misleading, or that violates any applicable state labeling require-

ments.

"Mobile food establishment" means a vehicle-mounted food establishment capable of being readily moved that operates in conjunction with a commissary. This includes, but is not limited to licensed trailer-type vehicles, push carts, lunchwagons, tour cruise boats and peddlers.

"Natural disaster" means any disaster such as a tsunami, hurricane, volcanic eruption, typhoon, earthquake, or flood.

"New establishment" does not include any food establishment that has met all the requirements of subsection 11-12-5(b).

"Packaged" means bottled, canned, cartoned, bagged, or securely wrapped.

"Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity.

"Person-in-charge" means the individual present in a food establishment who is the supervisor of the establishment at the time of the inspection. If no individual is the supervisor, then any employee present is the person in charge.

"pH" means a measure of the amount of acid in a food product.

"Potentially hazardous food" (PHF) means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of four and six-tenths or below or a water activity (a_w) value of eighty-five hundredths or less.

"Proper washing facilities" means a sink with three compartments or an approved mechanical dishwasher.

"Reconstituted" means dehydrated food products recombined with water or other liquids.

"Regulatory authority" means the state, county, or federal enforcement authorities having jurisdiction over the food establishments.

"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.

- (1) If materials used are food additives or color additives, they shall comply with standards of title 11, chapter 29, entitled "Food and Food Products."
- (2) Other materials are "safe" only if, as used, they are not food additives or color additives and they comply with standards of title 11, chapter 29, entitled "Food and Food Products."

"Safe temperatures" as applied to potentially hazardous food, means temperatures of forty-five degrees Fahrenheit or below, and one hundred forty degrees Fahrenheit or above.

"Sanitize" means effective bactericidal treatment of clean surfaces of equipment and utensils by a process that has been approved by the director as being effective in destroying microorganisms, including pathogens.

"Sealed" means free of cracks or other openings that permit the entry or passage of moisture, liquids, gas, insects, or rodents.

"Single-service articles" means tableware, including flatware and hollowware, carry out utensils and other items such as bags, containers, stirrers, straws, toothpicks, and wrappers that are designed, fabricated, and intended by the manufacturer for one-time use.

"Single-use articles" means bulk food containers or utensils intended by the manufacturer to be used once and discarded.

- (1) The term includes items such as formed aluminum food containers, jars, plastic pudding buckets, bread-wrappers, pickle barrels, and number 10 cans.
- (2) The term does not include "single-service articles" as defined in this chapter.

"State" means the State of Hawaii.

"Tableware" means all multiuse eating and drinking utensils for table use.

"Temporary food establishment" means any food establishment which operates at a fixed location for a limited period of time and does not exceed twenty days in any one hundred twenty day period and does not sell products to other food establishments.

"Transportation or transported" means movement of food within the food establishment or delivery of food from the food establishment to another place while under the control of the person-in-charge.

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"Utensil" means any implement used in the storage, preparation, conveying, or serving of food.

"Vending machine" means any self-service device that upon insertion of a coin, coins, or tokens, or by other similar means, dispenses unit servings of food, either in bulk or in packages without the necessity of replenishing the device between each vending operation.

"Vermin" means insects and rodents.

"Water activity (a_w)" means a measure of the amount of moisture in a food available for bacterial growth.

"Wholesome" means in sound condition, clean, free from adulteration, and otherwise suitable for human consumption. [Eff 11/22/96; am and comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-3 Plan review. (a) When a food establishment is to be constructed or remodeled and whenever an existing structure is to be converted for use as a food establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the director for review and approval before construction, remodeling, or conversion is begun.

(1) Every request for plan review shall be submitted with a form provided by the director.

(b) The applicant shall submit sufficient information to enable the director to make a decision on the plan review. The plans and specifications are to show the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities.

(1) The director shall not act upon nor consider any incomplete application for plan review. An application shall be deemed complete only when all required and requested information, including the application form, plans, specifications, and other information have been timely submitted.

(2) Every application shall be signed by the applicant and shall constitute an acknowledgment and agreement that the applicant will comply with all the terms and conditions of this chapter.

(3) The director may require the submission of

additional information after the application has been submitted, and may ensure that, if an application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied all required information or otherwise corrected the deficiency.

(c) The director shall approve the plans and specifications if they meet the requirements of this chapter.

(1) The failure of the director to act on a completed application within one hundred eighty days of the receipt of such application, shall be deemed an approval of such application; provided that the applicant acts consistently with the application process.

(d) No food establishment shall be constructed, extensively remodeled, or converted except according to plans and specifications approved by the director.

[Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-4 Procedure when infection is suspected.

(a) The director will act when the director has reasonable cause to believe an employee of a food establishment:

- (1) Has transmitted a foodborne disease;
- (2) Is infected with a disease in a communicable form that is transmissible through food;
- (3) Is a carrier of organisms that cause such foodborne diseases; or
- (4) Is affected with a boil, an infected wound, or acute respiratory infection.

(b) The director may require any or all of the following measures:

- (1) A confidential medical history of the suspected employee or making any other investigation as needed;
- (2) Appropriate medical and laboratory examinations of the suspected employee and other employees in the food establishment;
- (3) Restricting the worker's services to specific areas and tasks in the food establishment where there is no risk of transmitting the

disease; or

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- (4) The immediate closing of the food establishment until, in the opinion of the director, no danger of disease outbreak exists. [Eff 11/22/96; comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-5 Permits. (a) No person shall operate a food establishment within the State without a permit issued by the director.

(b) Sanitation permits that have not expired as of July 2, 1997 shall be transferable upon the sale of a food establishment; provided that these transfers are subject to the new owner agreeing to abide by the compliance schedule of the department of health.

(c) A permit shall be posted in every food establishment in a place and manner designated by the director. The permit shall be easily visible to the public.

(d) The owners applying for a food establishment permit shall complete the form provided by the department for this purpose. Along with the food permit application the owners may be required to submit to the director in writing a complete menu of the foods which the food establishment will be serving or any changes in the menu that may require the owners to install or modify equipment, facilities, and operations. The applicant shall submit sufficient information to enable the director to make a decision on the permit application.

- (1) The director shall not act upon nor consider any incomplete application for permit. An application shall be deemed complete only when all required and requested information, including the application form, plans, specifications, and other information have been timely submitted.
- (2) Every application shall be signed by the applicant and shall constitute an acknowledgment and agreement that the applicant will comply with all the terms and conditions of the permit and this chapter.
- (3) The director may require the submission of additional information after the application has been submitted, and may ensure that, if an application is incomplete or otherwise deficient, processing of the application shall

not be completed until such time as the

applicant has supplied all required information or otherwise corrected the deficiency.

- (4) The failure of the director to act on a completed application within one hundred eighty days of the receipt of such application, shall be deemed an approval of such application; provided that the applicant acts consistently with the application process.

(e) The director shall issue a permit only after an inspection of a new establishment reveals that the proposed food establishment has complied with all the requirements of this chapter.

(f) The permit shall be renewed every two years from the permit issuance date.

- (1) Every person holding a permit shall apply for renewal of the permit by submitting the form provided by the director before the expiration of the permit issuance date.
- (2) Failure, neglect, or refusal of any permittee to renew the permit will result in the revocation of the permit. [Eff 11/22/96; am and comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-12-6 Special provisions regarding permits.

(a) Temporary food establishment.

- (1) Any person may operate a temporary food establishment if:
 - (A) That person meets the sanitary requirements of subchapter 3;
 - (B) That person has a copy of an application for a temporary food establishment permit that has been approved and signed by the director; and
 - (C) The period of temporary authorization does not exceed twenty days in any one hundred twenty day period.
- (2) The application for a temporary food establishment permit shall be submitted at least ten working days prior to the opening date of the event. If this requirement is not met, the application for permit may not be reviewed and processed.
- (3) When a temporary food establishment extends

operation beyond twenty days in any one

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hundred twenty day period, the requirements of subchapter 2 shall be met.

- (4) All persons who intend to operate a temporary food establishment shall apply to the department of health to allow a hazard evaluation of the product and proposed operation (or at least to make an informed decision as to whether the food is potentially hazardous food or non-potentially hazardous food). If the food is non-potentially hazardous food and there are no specific hazards which must be addressed, no permit will be issued.

(b) Vending machines may be exempt from the permit requirements of section 11-12-5. [Eff 11/22/96; am and comp] (Auth: HRS §§321-10, 321-11) (Imp: HRS §321-11)

§11-12-7 Fees. (a) Each application for issuance or renewal of a food establishment permit shall be accompanied by payment of a fee.

(b) No food establishment permit shall be issued or renewed unless all fees required by this chapter have been paid.

(c) If an establishment fails to qualify for issuance or renewal of a food establishment permit, no part of the fee will be refunded to the applicant.

(d) A renewal fee for each food establishment permit shall be paid to the department every two years from the permit issuance date.

(e) Failure, neglect, or refusal of any permit holder to pay the fee for issuance or renewal by the required date shall constitute a forfeiture of the food establishment permit. Forfeiture shall become effective thirty days after the delinquent permit holder has been served a written notice.

(f) The fees shall be based on the total number of food operations conducted within the establishment. These food operations include the following:

- (1) Receiving;
- (2) Cold storage, holding, preparation, and thawing;
- (3) Hot storage, holding and preparation;
- (4) Thermal processing;
- (5) Transportation;
- (6) Cooling;

(7) Reheating; and

(8) Display.

(g) The following fees shall accompany each application for a food establishment permit issuance or renewal:

- (1) Category 1 \$150 Any six to eight of the above food operations listed in subsection (f);
- (2) Category 2 \$100 Any four to five of the above food operations listed in subsection (f);
- (3) Category 3 \$50 Any one to three of the above food operations listed in subsection (f); or
- (4) Category 4 \$25 Temporary food establishment permit.

(h) Plan review fee. The fee for food establishment plan review shall be \$200 for new construction and for conversion construction, and \$150 for remodeling. Reviews of site plans for temporary food establishments are exempt from this plan review fee. [Eff 11/22/96; am and comp] (Auth; HRS §§ 321-9, 321-11.5) (Imp: HRS §321-9)

§11-12-8 Inspection of food establishments. (a) The director shall inspect each food establishment in the State in response to complaints; in conjunction with an epidemiological investigation of an alleged foodborne outbreak; and based upon the risk of foodborne illness transmission as determined by, but not limited to:

- (1) Menu;
- (2) Methods of food preparation and service;
- (3) Employee practices;
- (4) Number of meals served; and
- (5) Past history of compliance.

(b) Registered sanitarians or food and drug inspectors of the state health department may make inspections for the director.

(c) The director, after properly identifying him or herself shall be permitted to enter any food establishment within the State, at any reasonable time, to make an inspection of the premises.

(d) The director shall be permitted to examine

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the records of the establishment to get pertinent information regarding food and supplies purchased, received, or used and persons employed.

(e) Whenever the director makes an inspection of a food establishment, the director:

- (1) Shall record the inspection findings on the inspection report form provided for this purpose; and,
- (2) Shall provide a copy of the completed inspection report to the permit holder or person-in-charge.
 - (A) This report form is an official notice of inspectional findings.
 - (B) The report form is a public document that shall be made available for public disclosure to any person who requests it.

(f) Based upon inspection findings or other evidence, the director may embargo or detain any food or utensil believed to be a potential health hazard.

- (1) The director may attach a tag or other appropriate marking to such food, equipment, or utensils that shall be removed only by the director following verification that the condition has been corrected.
- (2) No food, equipment, or utensil embargoed or detained pursuant to this subsection shall be used unless the embargo or detainment has been rescinded.
- (3) Within seventy-two hours of the embargo, the director must find evidence of a health hazard or rescind the action. The director shall make public the findings.

(g) The inspection report form is attached as Exhibit A, Food Establishment Inspection Report, dated October 9, 1998, at the end of this chapter. It may be amended from time to time by the director under section 321-11, HRS. The form shall summarize the requirements of this chapter. [Eff 11/22/96; am and comp] (Auth: HRS §§321-11, 328-25) (Imp: HRS §§321-11, 328-25)

§11-12-9 Notification and correction of violations. (a) Whenever the director inspects a food establishment and discovers any violation of this chapter, the director shall notify the permit holder or person-in-charge of the violations by means of an

inspection report form or other written notice.

- (b) The notification shall:
 - (1) State the specific violations found; and,
 - (2) Establish a specific and reasonable period of time for correction of the violations found. The director may require the permit holder to reply in writing that the violations have been corrected within the specified period of time designated on the inspection form.
 - (3) In the case of temporary food establishments, violations shall be corrected immediately. Failure to comply with this notice shall result in immediate termination of the temporary authorization to operate.
[Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-10 Permit suspension and revocation. (a) The director may suspend a permit whenever an inspection of the establishment reveals that the establishment has not corrected the violations in the required time.

- (b) Permit suspension procedures.
 - (1) The director shall notify the holder of the permit, or the person-in-charge in writing, when a permit is to be suspended;
 - (2) The director shall state in writing, specific reasons for which the permit is to be suspended;
 - (3) The director shall offer an opportunity for a hearing to a person whose permit is to be suspended, provided a written request for a hearing is filed with the director by the permit holder, not later than twenty calendar days, after receipt of the notice;
 - (4) If a written request is filed within the twenty calendar days, an opportunity for a hearing with the director or the director's designated representative shall be offered.
 - (5) If no written request is filed within the twenty calendar days, the permit shall be suspended upon serving of the suspension notice;
 - (6) The establishment shall be closed and shall remain closed until the permit has been reinstated;

(7) A person whose permit has been suspended may

request an inspection, and the permit shall be reinstated if the inspection shows the correction of the violation that led to the suspension;

- (c) The director may revoke a permit whenever:
 - (1) The director is unable to conduct inspections in accordance with this chapter due to circumstances within the control of the permit holder or person-in-charge;
 - (2) The permit has been suspended more than twice within a one-year period; or
 - (3) The permit holder fails to renew the permit.
- (d) Permit revocation procedures.
 - (1) The director shall notify the permit holder or the person-in-charge, in writing, when a permit is to be revoked;
 - (2) The director shall state in writing, specific reasons for which the permit is to be revoked;
 - (3) The director shall offer an opportunity for a hearing to a person whose permit is to be revoked, provided a written request for a hearing is filed with the director by the permit holder, within twenty days after receipt of the notice.
 - (4) If a written request is filed within the twenty calendar days, an opportunity for a hearing with the director or the director's designated representative shall be provided.
 - (5) If no written request is filed within the twenty-day period, the permit shall be revoked upon serving of the revocation notice;
 - (6) A person whose permit has been revoked may reapply thirty days after the date of revocation.

(e) Notwithstanding subsections (a) and (c), where the director finds there exists in an establishment an immediate and substantial hazard to the public health, unless the hazard is immediately corrected, the director may temporarily suspend the permit of the establishment without prior notice and hearing and order the establishment immediately closed

by issuing an order in writing.

- (1) Immediate and substantial hazard to the public health means any condition, based upon inspection findings or other evidence,
 - (A) That can cause foodborne illness or disease transmission;
 - (B) Any hazardous condition including, but not limited to critical control points without adequate control measures, wastewater contamination, nonpotable water supply, no water, no electrical power, flooding, or
 - (C) An employee who is a carrier of a communicable disease transmissible through foods.
- (2) The permit suspension shall be in effect until the opportunity for a hearing is given within twenty four hours after the service of the suspension order. After the hearing, the director or the director's designated representative may affirm, modify, or rescind the order as appropriate.

(f) In the event of a natural disaster, the director has the authority to order an establishment immediately closed if, in the opinion of the director, the establishment cannot operate in a safe and sanitary manner. Conditions for immediate closure can include, but are not limited to the following: No water supply, no electric power, flooding, or significant damage to the establishment. The director shall decide under what conditions the establishment will be allowed to reopen.

(g) All hearings shall comply with chapter 91, HRS, and the department of health regulations, entitled "Rules of Practice and Procedure." [Eff 11/22/96; am and comp] (Auth: HRS §§321-1, 321-9, 321-10, 321-11) (Imp: HRS §§321-1, 321-9, 321-10, 321-11)

§11-12-11 Variances. (a) Every application for a

variance shall be made on forms furnished by the department. The variance application form is attached as Exhibit B, Variance Application, dated October 9, 1998, found at the end of this chapter. The applicant shall submit sufficient information to enable the director to make a decision on the request for variance.

- (1) The director shall not act upon or consider any incomplete application for variance. An application shall be deemed complete only when all required and requested information, including the application form, plans, specifications, and other information have been timely submitted.
- (2) Every application shall be signed by the applicant and shall constitute an acknowledgment and agreement that the applicant will comply with all the terms and conditions of the variance and this chapter.
- (3) The director may require the submission of additional information after the application has been submitted, and may ensure that, if an application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied all required information or otherwise corrected the deficiency.
- (4) The failure of the director to act on a completed application within one hundred eighty days of the receipt of such application, shall be deemed an approval of such application; provided that the applicant acts consistently with the application process.
 - (b) The application will be reviewed by the director based on the effect or probable effect the variance would have upon the food safety standards established pursuant to this chapter.
 - (c) Whenever an application for a variance is approved by the director, the director shall issue a variance authorizing the production, preparation for the safe manufacture, packing, storage, service, sale, or distribution of any food or drink by methods not in compliance with applicable food safety standards from this chapter. No variance shall be granted by the director unless the application and the supporting

information clearly show that:

- (1) The continuation of the function or operation involved in the production, preparation, manufacture, packing, storage, service, sale, and distribution of any food or drink by the granting of the variance poses no threat to public health;
- (2) The proposed changes in the production, preparation, manufacture, packing, storage, service, sale and distribution of the food or drink in question do not not endanger human health or safety.
- (3) Anyone who seeks a variance regarding potentially hazardous food, that does not meet the requirements of section 11-12-21(f) or 11-12-26(a)(2), shall submit to the director challenge test data from a laboratory approved by the director to determine that a specific food product is not potentially hazardous or the specific food product can be displayed or held for service below one hundred forty degrees Fahrenheit or held above forty five degrees Fahrenheit for longer than four hours. The procedure for challenge testing shall include:
 - (A) Each individual food item shall be inoculated with the challenge organisms after final baking, cooking or preparation. If differing food items come in contact with each other, inoculation of the challenge organisms must also be done at the interface between the foods. The processing conditions and the packaging of the foods are of fundamental relevance to food preservation thus must not be ignored when conducting the challenge testing.
 - (B) Staphylococcus, salmonella, Bacillus, and E. coli are the recommended challenge organisms. The type of challenge organism may change with respect to the formulation of the food and its potential to cause illness. The recommended challenge organisms shall be in appropriate strains and concentrations.
 - (C) Known or potential pathogens (as listed

above) shall be inoculated into the food samples. The choice of micro-organisms is determined by the type of food and the conditions likely to occur during handling, storage or display. Organisms of known tolerance to these conditions are to be chosen. The laboratory maintenance of the chosen organisms must be such as to ensure the organisms retain their characteristic behavior.

(d) To allow private industry to submit a Hazard Analysis Critical Control Points (HACCP) plan in conjunction with a variance request for review and approval by the department of health, HACCP, dated October 9, 1998 is incorporated as part of this chapter. Copies of HACCP may be obtained from the department.

(e) Any approved variance shall be granted within the requirements of this section and for time periods and under conditions consistent with this chapter and within the following limitations:

- (1) The director may issue a variance for a period not exceeding two years;
- (2) The director may revoke the variance at any time if the variance becomes a threat to public health and safety; and,
- (3) Every variance granted under this section shall include conditions requiring the grantee to submit to the director information such as plans, procedures, other supporting information such as but not limited to equipment information, laboratory research data, published scientific papers and any follow-up information and analyses as deemed necessary by the director.
- (4) No variance granted under this subsection shall be allowed without a thorough review of known and available means of food safety and protection.

(f) Variance renewal. Any variance granted pursuant to this section may be renewed on terms and conditions and for periods not exceeding two years which would be appropriate on initial granting of a variance; provided that the applicant for renewal has met all of the conditions specified in the immediately preceding variance; and provided further that the renewal, and the variance issued in pursuance thereof,

shall provide for food quality and safety standards not

less than those attained pursuant to the terms of the immediately preceding variance at its expiration. No renewal shall be granted except on application therefor. Any such application shall be made at least one hundred eighty days prior to the expiration of the variance. The director shall act on an application for renewal within one hundred eighty days of the receipt of such application.

(g) The director shall afford a hearing in accordance with chapter 91 in relation to an application for the denial of a variance.

(h) No variance shall be construed to prevent or limit the application of any emergency provisions and procedures provided by law.

(i) Fees. A processing fee of \$200 shall be made payable to the director. [Eff 11/122/96; am and comp] (Auth: HRS §§321-11, 321-11.5, 321-20) (Imp: HRS §§321-11, 321-11.5, 321-20)

§11-12-12 Notice and hearing. The director shall, upon request or otherwise, provide the opportunity for public comment or hearing(s) or both to consider the denial for application or the revocation of a variance. A notice shall be published in accordance with chapters 91 and 92, HRS, in a newspaper of general circulation in the state and in the county where the food establishment is located. All publication costs related to public notification(s) shall be paid by the applicant to the necessary and appropriate newspaper agency or agencies prior to publication date. Failure to do so may result in a delay in the variance process. [Eff 11/22/96; comp] (Auth: HRS §§321-11, 321-11.5, 321-20) (Imp: HRS §§321-11, 321-11.5, 321-20)

§11-12-13 Penalties and remedies. Any person who violates any provision of this chapter or an order of the director thereunder, shall be subject to a fine or imprisonment or both as provided in section 321-18, HRS, or 321-20, HRS, or to injunctions as provided in section 603-23, HRS. Each and every violation of the provisions is a separate offense. [Eff 11/122/96; comp] (Auth: HRS §321-11) (Imp: HRS §§321-10, 321-18, HRS §603-23)

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§11-12-14 Severability. If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of the provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby. [Eff 11/22/96; comp] (Auth: HRS §§321-9, 321-11) (Imp: HRS §321-10)

§§11-12-15 to 11-12-19 (Reserved).

SUBCHAPTER 2

FOOD ESTABLISHMENTS

§11-12-20 Food supplies. (a) Food shall be safe for human consumption, in wholesome condition, and free from adulteration.

(b) Food shall be obtained from sources that comply with all federal and state laws and regulations relating to food and food labeling. No food prepared at a private home shall be used, sold, or given away unless the food is prepared in a separate permitted food establishment at the home.

(c) Food containers shall be in good condition and shall maintain the safety and integrity of the contents. There shall be no use of food from hermetically sealed containers whose integrity, and therefore safety, may have been affected.

(d) Food in hermetically sealed containers shall be obtained from approved, regulated food processing establishments; and, upon request, documentation shall be provided to the department of health.

(e) Fluid milk and fluid milk products shall be obtained pasteurized and shall meet the standards of title 11, chapter 15, entitled "Milk." Dry milk and dry milk products shall be made from pasteurized milk and milk products.

(f) Frozen desserts and frozen dessert mixes shall meet the requirements of title 11, chapter 30, entitled "Frozen Desserts."

(g) Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall be packed in nonreturnable packages identified with the name and address of the

original shellstock processor, shucker-packer, or

repacker, and the state certification number issued according to law.

- (1) Each original container of shellstock or unshucked shellfish (oysters, clams, or mussels) shall be labeled or tagged with the name and address of the original shellstock processor, the kind and quantity of shellstock, and a certification number issued by the state or foreign shellfish control agency.
- (2) The label or tag shall be kept on the container until the container is empty and shall be kept on file at the establishment for a period of ninety days from receipt of the shellstock.
- (h) Shell eggs shall be obtained whole with shells clean, intact, and free of cracks or checks.
 - (1) Prepackaged hard-boiled peeled eggs shall be obtained from an approved food processing establishment.
 - (2) Liquid, frozen, or dry eggs and dry egg products shall be obtained pasteurized.
 - (i) Ice used in the establishment shall be manufactured from potable water and shall be of culinary quality. Non-culinary quality ice may be used for nonfood purposes, when it is used in a manner such that the contamination of food and the food-contact surfaces of equipment or utensils by either the ice or its meltwater is precluded.
 - (j) Damaged or salvaged goods that have been reconditioned shall be labeled and identified as being reconditioned. When the integrity of hermetically sealed containers have been compromised, the containers shall be destroyed and not reconditioned. [Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-21 Food protection. (a) Food shall be protected from potential contamination at all times, including and while being stored, prepared, displayed, served, or transported. Food shall be protected against potential contamination by vermin or live animals, employees or consumers, poisonous or toxic materials, unclean equipment or utensils, and any other source of contamination which results in a public health concern.

- (b) Food shall be protected against possible

contamination by environmental or operational conditions at all times, including and while being stored, prepared, displayed, served, or transported.

(1) Food shall be protected against potential contamination by drainage, drippage, or leakage from exposed or unprotected overhead piping and equipment, or from overhead surfaces upon which condensation may collect.

(2) Food shall be protected from potential contamination by flooding, splash, spray, or by air currents laden with dust, aerosols, or any other contaminant or adulterant.

(c) Hermetically sealed containers including cans, bottles, and packages shall be handled so as to maintain container integrity. These containers shall be protected against the unnecessary exposure to any agent or environmental condition that may result in corrosion or damage to the containers or reducing the wholesomeness of the contents.

(d) Food shall be protected against cross-contamination by other foods at all times, including while being stored, prepared, displayed, served, or transported.

(1) Ready-to-eat foods shall be kept completely separated from raw food products.

(2) Raw animal products such as beef, fish, lamb, pork, and poultry shall be segregated and kept completely separated from each other according to product type.

(e) Food that is spoiled, damaged, returned, or otherwise not safe for human consumption shall be segregated pending final disposal. It shall be stored in a specifically designated area that shall be located and maintained to preclude the contamination of food, equipment, and utensils.

(f) The temperature of potentially hazardous food shall be forty-five degrees Fahrenheit or below, or one hundred forty degrees Fahrenheit or above, except as provided in this rule. Scientific evidence may be required to verify any claim that a specific food product is not potentially hazardous as defined in this chapter.

(g) Emergency occurrences. In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall

contact the director immediately or no later than the

next business day. Upon receiving notice of this occurrence, the director shall take whatever action necessary to protect the public health. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-22 Food storage; general. (a) Food, whether raw or prepared, if removed from the container or package in which it was received, shall be stored in a clean, covered container except during necessary periods of preparation or service.

- (1) Meat shall be protected by being covered in storage.
- (2) Primal cuts, quarters, or sides of meat, and processed meats such as country hams, slabbacon, and smoked or cured sausages, need not be covered when hung on clean sanitized hooks or placed on clean sanitized metal racks, in a manner that prevents contamination of the meat or other stored food.

(b) Containers of food shall be stored a minimum of six inches above the floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, with the following exceptions:

- (1) Metal pressurized beverage containers, and cased food packaged in cans, glass, or other waterproof containers need not be elevated when the food container is not exposed to floor moisture; and,
- (2) Containers may be stored on dollies, racks, or pallets, or other storage equipment less than six inches high provided the equipment is easily movable.

(c) Food and containers of food shall not be stored under possible sources of contamination including open stairwells, exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. Food and containers of food shall not be stored under exposed steam pipes, refrigerant lines, refrigeration coils, or any other surface upon or within which condensed water collects unless suitable means are provided to carry off any possible leakage or drippage.

- (d) Food shall not be stored in mechanical rooms,

refuse or garbage rooms, and restrooms or their halls

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or passageways.

(e) Raw fruits and vegetables not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking. Ready-to-eat foods shall not be stored below raw foods unless effectively protected against possible cross-contamination by drippage, leakage, or spills.

(f) Packaged food shall not be stored in contact with water or undrained ice.

(g) Packaged food may be stored in contact with drained ice, if the package is a container that is sealed to prevent moisture from leaking in and adulterating the food, and the package contents from leaking out and soiling the ice.

(h) Unless its identity is unmistakable, food such as cooking oil, syrup, salt, sugar, or flour that has been removed from the original labeled package in which it was obtained shall be stored in a container clearly labeled with the common name of the food.

[Eff 11/22/96; comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-12-23 Food storage; refrigerated.

(a) Refrigeration facilities or effectively insulated facilities shall be conveniently located and sufficient in number and capacity to assure the maintenance of potentially hazardous food at required temperatures during storage.

(b) Each mechanically refrigerated or insulated facility storing potentially hazardous food shall be provided with a numerically scaled indicating or recording thermometer that can be read accurately to plus or minus three degrees Fahrenheit.

- (1) The thermometer's scale shall be designed and located to be easily readable.
- (2) The sensing element shall be located to measure the air temperature in the warmest part of the facility.
- (3) Where it is impractical to install thermometers on equipment such as ice chests or insulated food transport carriers, a product thermometer following the specifications in section 11-12-25(1) shall be readily available and used to check internal food temperature.

(c) The temperature of all parts of potentially

hazardous food during refrigerated storage shall be not higher than forty-five degrees Fahrenheit.

- (1) Prior to storage, potentially hazardous food with a temperature higher than forty-five degrees Fahrenheit shall be rapidly cooled as provided in section 11-12-25(i).
- (2) Potentially hazardous food to be transported shall be pre-chilled to and held at a temperature of forty-five degrees Fahrenheit or below, unless maintained in accordance with section 11-12-24.
- (d) Frozen food shall be kept frozen and should be stored at a temperature of zero degrees Fahrenheit or below.
- (e) Ice used for cooling stored food, food containers, or food utensils shall not be used for human consumption. Ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. [Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-24 Food storage; hot. (a) Heated food storage facilities or effectively insulated facilities shall be conveniently located and sufficient in number and capacity to assure the maintenance of potentially hazardous food at required temperatures during storage.

- (b) Each heated or insulated facility storing potentially hazardous food shall be provided with a numerically scaled indicating or recording thermometer that can be read accurately to plus or minus three degrees Fahrenheit.
 - (1) The thermometer's scale shall be designed and located to be easily readable.
 - (2) The sensing element shall be located to measure the air temperature in the coolest part of the facility.
 - (3) 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 product thermometer complying with the specifications in section 11-12-25(1) shall be readily available and used to check internal food temperature.
- (c) The temperature of all parts of potentially hazardous food during hot storage shall be not less than

one hundred forty degrees Fahrenheit.

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- (1) Potentially hazardous foods requiring reheating prior to hot storage shall be rapidly heated to one hundred sixty-five degrees Fahrenheit or higher as specified in section 11-12-25(j).
- (2) Potentially hazardous food shall be preheated or reheated prior to transport and shall be held at a temperature of not less than one hundred forty degrees Fahrenheit unless maintained in accordance with section 11-12-23. [Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-25 Food preparation. (a) Food shall be prepared with the least possible manual contact, with suitable utensils, on surfaces that prior to use have been cleaned, rinsed, and sanitized to prevent cross-contamination.

(b) Raw fruits and vegetables shall be thoroughly washed with potable water before being cooked or served.

(c) Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.

(d) Dry milk, dry milk products, and nondairy creaming, whitening, or whipping agents reconstituted on the premises shall be stored in sanitized, covered containers not exceeding one gallon in capacity and cooled to forty-five degrees Fahrenheit or below within four hours after preparation.

(e) Whole eggs with shells that have been cracked, checked, or broken during storage or handling shall be used only for purposes such that the egg will be thoroughly cooked or baked.

(f) Potentially hazardous foods shall be maintained at forty-five degrees Fahrenheit or below, or one hundred forty degrees Fahrenheit or above, except during necessary periods of preparation and as provided in subsections (g) through (k). The total cumulative time that potentially hazardous foods are maintained above forty-five degrees Fahrenheit and below one hundred forty degrees Fahrenheit shall not exceed four hours.

(g) Potentially hazardous foods such as eggs, fish, poultry, meat, and foods containing these raw animal foods shall be cooked to heat all parts of the

food to a temperature and for a time of at least:

- (1) One hundred forty five degrees Fahrenheit or above for fifteen seconds for:
 - (A) Shell eggs that are broken and prepared in response to a consumer's order and for immediate service and,
 - (B) Fish and meat that are not specified in subsection (g)(2);
- (2) For pork, comminuted fish and meats, injected meats and eggs that are not prepared as specified in subsection (g)(1)(A), one hundred fifty five degrees Fahrenheit for fifteen seconds or the temperature specified in Table 1 that corresponds to the cooking time.
- (3) As specified in Table 2 for roasts of beef and corned beef;
- (4) One hundred sixty five degrees Fahrenheit or above for fifteen seconds for poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffing containing fish, meat or poultry.
- (5) Beef roasts shall be cooked:
 - (A) In an oven preheated to the temperature specified for their weight in Table 3 and held at or above that temperature; and
 - (B) To a food temperature as specified in Table 2 and held for the corresponding amount of time specified in Table 2 for that temperature.
- (6) Potentially hazardous 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 one hundred sixty five degrees Fahrenheit in all parts of the food, and
 - (D) Allowed to stand covered two minutes after cooking to obtain temperature equilibrium.

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Table 1 Minimum Food Temperature and Holding Time Required for Cooking All Parts of Pork and Exotic Species of Game Animals, Comminuted Fish and Meats, Injected Meats, and Eggs

63_C (145_F)	3 minutes
66_C (150_F)	1 minute

Table 2 Minimum Holding Times Required at Specified Temperatures for Cooking All Parts of Roasts of Beef and Corned Beef

54_C 130_F	121 min	58_C 136_F	32 min	61_C 142_F	8 min
56_C 132_F	77 min	59_C 138_F	19 min	62_C 144_F	5 min
57_C 134_F	47 min	60_C 140_F	12 min	63_C 145_F	3 min

Note: Holding time may include postoven heat rise.

Table 3 Oven Parameters Required for Destruction of Pathogens on the Surface of Roasts of Beef and Corned Beef

Oven Type	Roasts less than or equal to 4.5 kg (10 lbs)	Roasts greater than 4.5 kg (10 lbs)
Still dry	177_C (350_F)	121_C (250_F)
Convection	163_C (325_F)	163_C (325_F)
High Humidity	less than 121_C (250_F)	less than 121_C (250_F)

Note: Relative humidity greater than ninety per cent for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides one hundred per cent humidity.

- (7) Potentially hazardous foods that are raw, rare, or not cooked as specified in this

section may be served or offered for sale in a ready-to-eat form, upon request or with the knowledge of the consumer.

(h) Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of one hundred forty degrees Fahrenheit.

(i) Potentially hazardous food requiring refrigeration shall be rapidly cooled to an internal temperature of forty-five degrees Fahrenheit or below.

(1) During the cooling process, potentially hazardous food shall be cooled from one hundred forty degrees Fahrenheit to seventy degrees Fahrenheit within two hours, then from seventy degrees Fahrenheit to forty-five degrees Fahrenheit within four hours.

(2) Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled by utilizing methods such as:

- (A) Breaking foods down into smaller or thinner portions;
- (B) Placing foods in shallow pans not more than four inches deep;
- (C) Stirring foods in containers placed in an ice water bath;
- (D) Using rapid chilling equipment; or
- (E) Any other means that will ensure that the cooling period does not exceed six hours.

(j) Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to one hundred sixty-five degrees Fahrenheit or higher throughout before being served or being placed in a hot food storage facility.

- (1) The total time to reheat a potentially hazardous food from forty-five degrees Fahrenheit to one hundred sixty-five degrees Fahrenheit shall not exceed two hours.
- (2) Steam tables, bainmaries, warmers, and similar hot food holding facilities shall not be used for the rapid reheating of potentially hazardous foods.
- (3) 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 a food regulatory authority with jurisdiction over the plant, shall be reheated to temperature of one hundred forty degrees Fahrenheit or higher

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for hot holding.

(k) The surface temperature of potentially hazardous food shall not exceed forty-five degrees Fahrenheit during thawing, except as part of a continuous cooking process using a microwave oven, a conventional cooking unit, or a combination of cooking equipment.

(l) Product thermometers. Indicating thermometers that are numerically scaled and accurate to plus or minus two degrees Fahrenheit shall be provided and used to assure the attainment and maintenance of required temperatures of all potentially hazardous food during storage, preparation, display, and service. These thermometers shall be of metal stem-type construction as specified in section 11-12-33(e). [Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-26 Food display and service. (a) Potentially hazardous food shall be maintained at forty-five degrees Fahrenheit or below, or at one hundred forty degrees Fahrenheit or above during display and service, with the following exceptions:

- (1) Rare roast beef shall be displayed or held for service at a temperature of at least one hundred thirty degrees Fahrenheit;
- (2) Potentially hazardous food may be displayed or held for service between forty-five degrees Fahrenheit and one hundred forty degrees Fahrenheit, provided that all of the following requirements are met:
 - (A) The total elapsed time the food is in this temperature range shall include cumulative times for preparation, assembly, cooling, transport, storage, display, and service. The cumulative time shall not exceed four hours;
 - (B) The moment the food is removed from "safe temperature" control, each container or package containing these foods shall be positively and prominently labeled or marked with the date and time by which the food is to be served or discarded; and
 - (C) Foods in unmarked containers or for which the four-hour time limit has expired

shall be discarded. The

salvaging or recycling of these foods is prohibited.

- (b) Foods intended for sale in a frozen state shall be kept frozen.
- (c) Milk and cream dispensing.
 - (1) Milk and milk products for drinking purposes shall be:
 - (A) Provided to the consumer in an unopened, commercially filled package;
 - (B) Drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser; or
 - (C) Dispensed by a method approved by the director.
 - (2) Where a bulk dispenser for milk and milk products is not available, and portions of less than one-half pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container of not more than one-half gallon capacity;
 - (3) Cream, half and half, or any other dairy product used as a creaming or whitening agent shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for that service.
- (d) Nondairy creaming or whitening agents shall be:
 - (1) Provided in an individual service container;
 - (2) Provided in a protected pour-type pitcher; or
 - (3) Drawn from a refrigerated dispenser designed for that service.
- (e) Condiment dispensing.
 - (1) Condiments, seasonings, and dressings for self-service use shall be provided in individual packages:
 - (A) From approved dispensers, or
 - (B) From containers protected in accordance with subsection (h).
 - (2) Condiments provided for table or counter service shall be individually portioned.
 - (A) Catsup and other sauces may be served in an original container designed for dispensing.
 - (B) Sugar for consumer use shall be provided in individual packages or in pour-type

dispensers.

(f) Suitable dispensing utensils and single-service articles shall be used by employees or provided to consumers who serve themselves to avoid unnecessary manual contact with food. Between uses during service, dispensing utensils shall be:

- (1) Stored in the food with the dispensing utensil's handle extended out of the food;
- (2) Stored clean and dry;
- (3) Stored in running water; or
- (4) Stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts.

(g) Once served to the consumer, portions of leftover food shall not be served again. Packaged non-potentially hazardous food that is still in sound condition, free from adulteration, and safe for human consumption may be re-served.

(h) Food on display, other than whole, unprocessed raw fruits and raw vegetables, shall be protected from contamination by packaging, counter-protector devices, display cases or similar equipment.

- (1) Unpackaged processed food, except potentially hazardous food, may be sold in self-service containers.
- (2) All food shall be displayed above the floor as provided in section 11-12-22(b).

(i) Hot and cold food display units that are sufficient in number and capacity shall be provided to maintain potentially hazardous food at the required temperatures specified in subsection (a). Food shall be stored below or behind product food lines according to manufacturer's specifications.

(j) Soiled tableware shall not be reused by self-service consumers returning to the service area for additional food. Beverage cups and glasses may be exempted from this requirement if the refilling process is contamination free.

(k) When food sample demonstrations and food promotions are authorized in the establishment, the person-in-charge shall ensure that those activities comply with the applicable sanitation provisions of this chapter. [Eff 11/22/96; comp] (Auth: HRS §321-11)(Imp: HRS §321-11)

§11-12-27 Food transportation. (a) All prepared or ready-to-eat food being transported shall meet the

requirements of this chapter relating to food protection and food storage.

(b) Food shall be protected from contamination while being transported by the use of packaging or covered containers. [Eff 11/22/96, comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-28 Employee health. (a) No person shall work in a food establishment in any capacity where there is a likelihood of that individual contaminating food or food contact surfaces with foodborne pathogenic organisms, or infecting consumers or other employees with foodborne pathogenic organisms. Persons subject to this restriction include the following:

- (1) Any individual who is infected with, or is a carrier of disease organisms transmissible by food;
- (2) Any individual who is infected with, or is a carrier of foodborne disease organisms transmissible to other persons in the work environment;
- (3) Any individual who is afflicted with a boil, an infected wound, or any open lesion, unless the affected area is covered by a durable moisture-proof barrier;
- (4) Any individual with an acute respiratory illness; and,
- (5) Any individual with symptoms of gastrointestinal illness such as diarrhea, abdominal cramps, nausea, or vomiting which the manager or person-in-charge of the establishment has reason to suspect may be symptoms of a foodborne illness, unless that individual has been cleared for work by a physician.

(b) If the manager or person-in-charge of the establishment has reason to suspect that any employee has contracted any foodborne disease in a communicable form or has become a carrier of the foodborne disease, the employee shall be restricted from work and sent to a physician for examination. [Eff 11/22/96, comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-29 Personal cleanliness. (a) Employees shall thoroughly wash their hands and exposed portions of their arms with good mechanical action using soap

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or detergent and water:

- (1) Before: starting work and during work as often as is necessary to keep them clean;
- (2) Immediately before handling: food, clean equipment, clean utensils, and unwrapped single-service articles; putting on food-handling gloves; or engaging in any food or warewashing operation; and,
- (3) After: eating or drinking; using tobacco; using the restroom; touching the mouth, nose, or hair; handling soiled utensils, wiping cloths or equipment; handling raw animal products such as meat, poultry, seafood, and shell eggs; or after touching anything that may have resulted in the soiling of their hands or arms.

(b) Employees shall keep their fingernails clean and trim.

(c) Employees who handle food, food equipment, and utensils shall not wear jewelry such as rings, bracelets, and wristwatches, or any other item that may interfere with the thorough washing of hands and arms. This requirement shall not apply to approved single-service gloves that are used properly. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-30 Clothing. (a) Clothing of all employees shall be clean.

(b) The director may require that foodhandling employees effectively restrain their head and facial hair to prevent the contamination of food or food contact surfaces. [Eff 11/22/96' comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-31 Employee practices. (a) Employees shall eat and drink only in designated dining areas. An area shall not be designated for employee dining if consuming food there may result in the contamination of food, utensils and equipment.

(b) Employees shall not use tobacco in any form while engaged in food preparation or service, or while in areas used for equipment or utensil washing or for food preparation.

- (1) Employees shall use tobacco only in designated

areas.

(2) An area shall not be designated for tobacco use if the use of tobacco there may result in contamination of food, utensils, and equipment.

(c) Employees shall avoid the careless handling of any article that is soiled or contaminated. Employees who must handle soiled articles shall do so in a way that minimizes contamination of their hands, arms, and clothing.

(d) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food establishment. [Eff 11/22/96; comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-32 Materials. (a) Multi-use equipment and utensils shall be constructed and repaired with materials that, under conditions of normal use, are:

- (1) Nontoxic and safe;
- (2) Relatively inert and do not impart odor, color, or taste to, or contribute to the contamination of food;
- (3) Durable, resistant to corrosion, decomposition, and distortion; and,
- (4) Smooth, nonabsorbent, and easily cleanable.

(b) Single-service and single-use articles shall be made from clean, sanitary, safe, nontoxic materials and shall not impart odor, color, or taste to food, or contribute to the contamination of food.

(c) Solder shall be composed of safe, corrosion-resistant materials.

(d) Cast iron shall be used as a food-contact surface only if the surface is heated for cooking as in grills, griddle tops, skillets, and kettles. These utensils may also be used for serving food, but only where the process from cooking through service is continuous and there is no interruption or delay between the cooking and serving operations.

(e) Galvanized metal shall not be used as a food-contact surface for equipment and utensils that contact beverages, moist food, and hygroscopic food. Galvanized metal may be used as a food-contact surface for equipment and utensils that contact only fresh, whole fruits or vegetables, or only ice and water that are free of any additives.

(f) Wood and wood-like materials such as wicker and bamboo shall not be used as a food contact surface,

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except as follows:

- (1) Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in subsection (a) may be used for cutting blocks, cutting boards, salad bowls, and baker's tables;
 - (2) Wood may be used for single-service articles, such as chopsticks, stirrers, or ice cream spoons;
 - (3) Wood may contact whole raw fruits, whole raw vegetables, and nuts in the shell;
 - (4) Wood may be approved for use by the director where no acceptable substitute materials exist and no public health hazard will result by its use.
- (g) Plastic, rubber, or rubber-like materials used for multi-use equipment and utensils shall meet the general requirements set forth in subsection (a).
- (1) They shall be resistant under conditions of normal use to abrasion such as scratching, scoring and chipping; to decomposition including cracking, crazing, and pitting; and to distortion including denting, curling and buckling.
 - (2) They shall be of sufficient weight and thickness to permit cleaning and sanitizing by normal warewashing methods.
- (h) Mollusk and crustacea shells may be used only once as a serving container. Further reuse of these shells for food service is prohibited.
- (i) Linens and napkins shall not be used as food-contact surfaces. They may be used in contact with breads and rolls.
- (j) Single-use articles shall not be reused unless they are in good repair, and under conditions of use, meet the applicable requirements for multi-use articles set forth in this chapter. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-33 Design, fabrication, and maintenance.

- (a) All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to abrasion, decomposition, corrosion, and distortion.
- (b) Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams,

cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices.

- (1) Threads shall be minimized in food-contact surfaces.
 - (A) Where threads are used, they shall be of sanitary type designed to facilitate cleaning.
 - (B) Ordinary "V" type threads are prohibited in food-contact surfaces, with the exception of equipment such as hot oil cookers and hot oil filtering systems.
- (2) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. In accordance with the requirements of section 11-12-54, only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.
- (3) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice, provided:
 - (A) That the tubing is fabricated from safe materials, is grommited at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean.
 - (B) That the drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.
- (4) Food bins or equipment compartments subject to retention of liquid wastes, including water from condensation, melting ice, and misters or sprayers, shall be self-draining or equipped with a drain or outlet that permits complete draining.
 - (c) Food-contact surfaces of multi-use equipment not designed for in-place cleaning shall be accessible for cleaning, servicing, and inspection:
 - (1) Without being disassembled; or
 - (2) By disassembling without the use of tools; or
 - (3) By easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open-end wrench kept available for use near the equipment.

(d) Equipment intended for in-place cleaning shall be designed and fabricated so that:

- (1) All interior food-contact surfaces, including joints and welds, are smooth, flush, and easily cleanable;
- (2) Cleaning and sanitizing solutions can be effectively circulated throughout a fixed system;
- (3) Cleaning and sanitizing solutions will contact all interior food-contact surfaces;
- (4) The system is self-draining or capable of being completely evacuated; and,
- (5) Convenient access is provided at a sufficient number of points to permit inspections for determining the cleanliness and general condition of the food-contact surfaces being cleaned in place.

(e) The temperature sensing probes of indicating and recording thermometers that are immersed into food or cooking media shall be of metal-stem type construction.

(f) Non-food-contact surfaces of equipment and utensils shall be smooth, cleanable, free of unnecessary ledges, projections, or crevices and readily accessible for cleaning.

- (1) Interior non-food-contact surfaces of food equipment shall be designed and fabricated to permit easy cleaning and to facilitate maintenance operations.
- (2) Fixed equipment to be cleaned by pressure-spray methods shall have sealed electrical wiring, switches and connections.

(g) Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place.

(h) All equipment and utensils shall be in good repair and maintained to comply with the requirements of this chapter.

(i) Equipment that was installed in an establishment with a valid permit prior to the effective date of this chapter, but does not fully meet all the design and fabrication requirements of this section shall be deemed acceptable in that establishment if it is in good

repair, capable of being maintained in a sanitary

condition and the food-contact surfaces are nontoxic.

- (1) Replacement equipment and new equipment acquired on or after the effective date of this chapter shall meet the requirements of this chapter.
- (2) When a new permit, other than for renewal is required, all equipment shall meet the requirements of this chapter. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-34 Equipment installation and location.

(a) Equipment shall be installed and located to prevent contamination of food and food-contact surfaces, and to permit the thorough cleaning of the equipment and the adjacent areas.

- (b) Table-mounted equipment.
 - (1) Equipment that is placed on tables or counters, unless portable, shall be:
 - (A) Sealed to the table or counter;
 - (B) Elevated on legs to provide at least a four-inch clearance between the table or counter and equipment;
 - (C) Elevated on legs to provide at least a three-inch clearance space if no part of the table under the equipment is more than eighteen inches from cleaning access; or
 - (D) Elevated on legs to provide at least a two-inch clearance space if no part of the table under the equipment is more than three inches from cleaning access.
 - (2) Equipment is portable within the meaning of paragraph (1) if:
 - (A) It is small, and can be moved easily by one person; or
 - (B) It is equipped with a mechanical means of safely tilting, raising, or moving the unit for cleaning; and,
 - (C) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.
- (c) Floor-mounted equipment.

(1) Floor-mounted equipment, unless readily

movable, shall be:

- (A) Sealed to the floor;
 - (B) Installed on a raised platform of concrete or other smooth masonry in a way that meets all the requirements for sealing or floor clearance;
 - (C) Elevated on legs to provide not less than a six-inch clearance between the floor and equipment; or
 - (D) Elevated on legs to provide not less than a four-inch clearance between the floor and the equipment if no part of the floor under the equipment is more than six inches from cleaning access; and,
- (2) Equipment is easily movable if:
- (A) It is mounted on casters, gliders or rollers; or
 - (B) It is equipped with a mechanical means of safely tilting, raising, or moving the unit for cleaning; and,
 - (C) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.
- (3) Unless sufficient space is provided for easy cleaning around and above fixed equipment, the space between the fixed equipment and adjacent equipment, walls or ceilings shall not be more than one thirty-second of an inch. If exposed to seepage, the equipment shall be sealed to the adjacent equipment, walls or ceilings.
- (d) Equipment shall not be located under possible sources of contamination including open stairwells, exposed or unprotected sewer lines and water lines, except for automatic fire protection sprinkler heads that may be required by law. Equipment shall not be stored under exposed steam pipes, refrigerant lines, refrigeration coils, or any other surface upon which condensed water collects unless suitable means are provided to carry off any possible leakage or drippage.
- (e) Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact.

All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-35 Equipment and utensil cleaning and sanitizing; cleaning frequency. (a) Equipment and utensils shall be thoroughly cleaned and sanitized prior to use. Cleaning frequency shall be as follows:

- (1) Tableware shall be washed, rinsed, and sanitized after each use.
- (2) Utensils and food-contact surfaces of equipment shall be washed, rinsed, and sanitized:
 - (A) Each time there is a change in use from raw to ready-to-eat foods;
 - (B) Each time there is a change in use between types of raw animal products such as beef, seafood, lamb, pork, and poultry;
 - (C) After any interruption of operations during which time contamination may have occurred; and
 - (D) After final use each working day.

(b) Utensils and food-contact surfaces of equipment used for the preparation of potentially hazardous foods on a continuous or production-line basis 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 or residue accumulation.

(c) Food-contact surfaces of grills, griddles, ovens, 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 equipment and hot oil filtering systems.

(d) The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

(e) Non-food-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of any accumulated dust, dirt, food particles or residues and other debris. [Eff 11/22/96, comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

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§11-12-36 Equipment and utensil cleaning and sanitizing; wiping cloths. (a) Cloths used for wiping food spills on tableware from plates or bowls being served to the consumer, shall be clean, dry, and used for no other purpose.

(b) Moist cloths or sponges used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean, rinsed frequently in one of the sanitizing solutions permitted in section 11-12-37 (g)(1) to (7), stored in that solution between uses, and used for no other purpose.

(c) Moist cloths or sponges used for cleaning nonfood-contact surfaces of equipment such as counters, dining table tops, and shelves shall be clean, rinsed frequently in one of the sanitizing solutions permitted in section 11-12-37(g)(1) to (5), stored in that solution between uses, and used for no other purpose.
[Eff 11/22/96; comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-12-37 Equipment and utensil cleaning and sanitizing; manual. (a) For manual warewashing, a sink with not fewer than three compartments shall be provided and used to wash, rinse, and sanitize utensils and equipment.

(1) Sink compartments shall be large enough to permit the complete immersion of the equipment and utensils, and as specified in section 11-12-42(d), each compartment of the sink shall be supplied with hot and cold potable running water.

(2) Fixed equipment shall be cleaned and sanitized manually outside the sink or through pressure-spray methods.

(b) The director may approve alternate cleaning and sanitizing methods for establishments serving food utilizing a limited number of equipment and utensils.

(c) Drain boards or easily movable dish tables of adequate size and number shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing. Drain boards and dish tables shall be located and constructed to permit the proper use of the sink facilities.

(d) Sinks, drain boards, movable utensil tables, and other facilities used for the manual cleaning and sanitizing of equipment and utensils shall be cleaned

before use.

(e) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

(f) The sequence and manner in which equipment and utensils shall be manually washed, rinsed, and sanitized in a three-compartment sink shall be as follows:

- (1) Equipment and utensils shall be thoroughly washed in the first sink compartment with an effective cleaning agent used in accordance with the manufacturer's label instructions.
 - (A) The temperature of the wash solution shall be not less than one hundred ten degrees Fahrenheit, or as specified in the manufacturer's label instructions.
 - (B) The wash solution shall be maintained clean, at the proper temperature and at an effective concentration throughout the warewashing operation;
- (2) Equipment and utensils shall be rinsed free of detergent and abrasives in the second sink compartment. Rinsing shall be done under running potable water.
- (3) Equipment and utensils shall be sanitized in the third sink compartment according to one of the methods in subsection (g)(1) to (7).

(g) The food-contact surfaces of all equipment and utensils shall be sanitized by one of the following methods:

- (1) Immersion for at least one-half minute in clean, hot water at a temperature of at least one hundred seventy degrees Fahrenheit;
- (2) Immersion for at least one minute in a clean solution containing at least fifty parts per million but no more than two hundred parts per million of available chlorine as a hypochlorite and at a temperature of at least seventy-five degrees Fahrenheit;
- (3) Immersion for at least one minute in a clean solution containing at least twelve and five-tenths parts per million but no more than twenty five parts per million of available iodine and having a pH not higher than five and at a temperature of at least seventy-five degrees Fahrenheit;
- (4) Immersion in a clean solution containing two hundred parts per million of active quaternary ammonium compound.

- (5) Immersion in a clean solution containing any other chemical sanitizing agent that has been approved for use by the director and will provide the equivalent bactericidal effect of a solution containing at least fifty parts per million of available chlorine as a hypochlorite at a temperature of seventy-five degrees Fahrenheit and a contact time of one minute;
 - (6) Treatment with culinary steam in accordance with the requirements in subsection (j); or
 - (7) Rinsing, spraying, or swabbing with a chemical sanitizing solution with a strength and contact time that will provide a bactericidal effect equivalent to that specified in paragraph (5) in the case of equipment too large to be sanitized by immersion.
- (h) When hot water is used for sanitizing, the following facilities shall be provided and used:
- (1) An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least one hundred seventy degrees Fahrenheit;
 - (2) A numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit, convenient to the sink for frequent checks of water temperature; and,
 - (3) Dish baskets sized and designed to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.
- (i) When chemicals are used for sanitization, the following requirements shall be complied with:
- (1) Chemicals used for sanitizing shall not exceed the minimum and maximum concentrations permitted in subsection (g);
 - (2) Chemicals used for sanitizing shall be used in strict accordance with the manufacturer's label instructions;
 - (3) Sanitizers or detergent sanitizers used as sanitizing agents shall be of the type that do not require a rinse with potable water after sanitization;
 - (4) A test kit or other device that measures the parts per million concentration of the chemical sanitizer shall be provided and used

to determine the concentration in the working

solution.

- (j) When steam is used for sanitization, the following requirements shall be complied with:
- (1) Steam shall be of culinary quality and shall comply with the requirements of section 11-12-42(e);
 - (2) The steam flow shall be confined in a steam cabinet for sanitizing disassembled equipment and utensils, or within assembled equipment until a temperature of at least one hundred seventy degrees Fahrenheit has been maintained for not less than fifteen minutes, or a temperature of at least two hundred degrees Fahrenheit has been maintained for not less than five minutes. The temperature shall be measured at the coolest part of the steam cabinet or at the outlet end of the assembled equipment; and
 - (3) A numerically scaled indicating or recording thermometer, accurate to plus or minus three degrees Fahrenheit and mounted on the steam cabinet or at the outlet end of assembled equipment shall be provided and used to monitor the temperature. [Eff 11/22/96; am and comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-12-38 Equipment and utensil cleaning and sanitizing; mechanical. (a) Cleaning and sanitizing may be done by spray-type or immersion warewashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils.

- (1) These machines and devices shall be properly installed and maintained in good repair.
- (2) Machines and devices shall be operated in accordance with manufacturers' instructions and utensils and equipment placed in the machine shall be effectively exposed to all operational cycles.
- (3) Automatic feeders, injectors, and dispensers for additives such as detergents and other cleaning compounds, anti-foaming compounds, wetting agents, sanitizers, and drying agents, and other auxiliary components including conveyors shall be properly installed,

maintained, and operated.

(b) The pressure of final rinse water supplies of spray-type warewashing machines shall not be less than fifteen nor more than twenty-five pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A one-fourth inch iron pipe size valve shall be provided immediately upstream from the final rinse control valve to permit checking of the flow pressure of the final rinse water.

(c) Machine or water line mounted numerically scaled indicating thermometers, accurate to plus or minus three degrees Fahrenheit, shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(d) Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in warewashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machine.

(e) Drain boards or easily movable dish tables of adequate size and number shall be provided for the proper handling of soiled utensils prior to washing and cleaned utensils following sanitization. Drain boards and dish tables shall be located and constructed to permit proper use of the warewashing facilities and not interfere with the warewashing operation.

(f) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a warewashing machine unless a prewash cycle is part of the warewashing machine operation. Equipment and utensils shall be placed in racks, trays, baskets, or on conveyors, in a way that will expose all food contact surfaces to the unobstructed application of detergent wash, clean rinse, and sanitizing solutions and that permits free draining.

(g) Machines (single-tank, stationary-rack, door-type machines, and spray-type glass washers) using chemicals for sanitization may be used, provided the following requirements are met:

- (1) The temperature of the wash water shall not be less than one hundred twenty degrees Fahrenheit, or as specified by the cleaning compound manufacturers' label instructions;
- (2) The wash water shall be kept clean;

(3) Chemicals added for sanitization purposes

shall be automatically dispensed;

- (4) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with the manufacturers' specification for time and concentration;
- (5) The chemical sanitizing rinse water temperature shall not be less than seventy-five degrees Fahrenheit, or less than the temperature specified by the machine's manufacturer; and,
- (6) The requirements of section 11-12-37(g)(1) to (5) shall be complied with.

(h) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the temperature stated in paragraphs (1) to (6).

- (1) Single-tank, stationary-rack, dual-temperature machine:
 - Wash temperature.....150_F.
 - Final rinse temperature.....180_F.
- (2) Single-tank, stationary-rack, single-temperature machine:
 - Wash temperature.....165_F.
 - Final rinse temperature.....165_F.
- (3) Single-tank, conveyor machine:
 - Wash temperature.....160_F.
 - Final rinse temperature.....180_F.
- (4) Multi-tank, conveyor machine:
 - Wash temperature.....150_F.
 - Pumped rinse temperature.....160_F.
 - Final rinse temperature.....180_F.
- (5) Single-tank, pot, pan, and utensil washer (either stationary or moving rack):
 - Wash temperature.....140_F.
 - Final rinse temperature.....180_F.
- (6) Spray-type glass washer:
 - Wash temperature.....120_F.
 - Final rinse temperature.....180_F.

(i) All warewashing machines shall be thoroughly cleaned at least once a day or as often as necessary to maintain them in a satisfactory operating condition.
[Eff 11/22/96; comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

sanitizing; drying. Equipment and utensils not used

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immediately after sanitization shall be air dried. Towel drying shall not be permitted. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-40 Equipment and utensil cleaning and sanitizing; special cleaning facilities. (a) Food establishments that do not prepare food but use refrigerators or other equipment that are too large to be normally cleaned in sinks or warewashers, or that do not require sanitization, shall be provided with a utility sink that is conveniently located. Each sink shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet.

(b) Establishments such as large freezer plants and large freezer storage warehouses, where a utility sink is impractical for use as a cleaning facility, may be exempted from the requirements in subsection (a) when other cleaning facilities or cleaning methods acceptable to the director are provided and used.

[Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-41 Equipment and utensil handling and storage. (a) Sanitized equipment and utensils shall be handled in a way that protects them from contamination. Knives, forks, spoons, and similar utensils shall be touched only by their handles. Cups, glasses, bowls, plates, and similar items shall be handled without touching surfaces that contact food or the user's mouth.

(b) Sanitized equipment and utensils shall be protected from contamination during storage.

- (1) Sanitized equipment and utensils shall be stored at least six inches above the floor;
- (2) Sanitized equipment and utensils shall be stored in a clean, dry location and in a way that protects them from contamination by splash, dust, and other means;
- (3) Utensils shall not be stored under possible sources of contamination including open stairwells, exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler systems that may be required by law.

(A) Utensils shall not be stored under

- exposed steam pipes, refrigerant lines, refrigeration coils, or any other surface where condensed water may collect unless suitable means are provided to carry off any possible leakage or drippage.
- (B) In accordance with the provisions of section 11-12-34, the storage of fixed and portable equipment shall also comply with the requirements of this paragraph;
 - (4) Equipment and utensils shall be stored dry or in a self-draining position;
 - (5) Equipment and utensils shall be covered or inverted during storage whenever practical;
 - (6) Sanitized utensils such as knives, forks, and spoons shall be stored to present the handles of the utensils to employees.
 - (A) At self-service locations, these utensils shall be stored to present handles to customers while protecting food-contact and lip-contact surfaces from contamination.
 - (B) Prepackaged or prewrapped utensils may be exempt from these requirements.
 - (c) Single-service articles shall be protected from contamination while being handled, dispensed, and stored.
 - (1) Single-service articles shall be handled in a way that protects them from contamination.
 - (A) Single-service knives, forks, spoons, and similar utensils shall be touched only by their handles.
 - (B) Single-service cups, bowls, plates, and similar items shall be handled without touching surfaces that contact food or the user's mouth.
 - (2) Handling of single-service articles shall be minimized and done without touching surfaces that contact food or the user's mouth. Knives, forks, spoons, and similar items shall be touched by the handles.
 - (A) Cups, bowls, plates, containers, and similar items shall be handled without touching lip-contact or food contact surfaces.
 - (B) In accordance with the requirements of section 11-12-29, single-service knives,

forks, and spoons packaged in bulk shall

be sorted, wrapped, packaged, inserted into holders, or otherwise handled only by employees whose hands have been washed immediately prior to touching the articles.

- (3) Single-service articles held at dispensing sites shall be prewrapped, prepackaged, or provided in holders or dispensers that protect the articles from contamination and present them to employees and consumers in accordance with the requirements of paragraph (2).
- (4) Single-service articles shall be stored at least six inches above the floor in a clean, dry location.
- (5) Single-service articles, unless individually packaged or wrapped, shall be stored in closed cartons or containers that are sealed to protect them from contamination.
- (6) Single-service articles shall not be placed under possible sources of contamination including open stairwells, exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. Single-service articles shall not be stored under exposed steam pipes, refrigerant lines, refrigeration coils, or any other surface upon or within which condensed water collects unless suitable means are provided to carry off any possible leakage or drippage.

(d) Food equipment, utensils, or single-service articles shall not be stored in mechanical rooms, garbage or refuse rooms, and restrooms or their halls or passageways. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-42 Water supply. (a) A supply of potable water sufficient for the needs of the establishment shall be provided from a source constructed, maintained, and operated according to law and meeting the applicable contaminant standards of title 11, chapter 20, entitled "Potable Water Systems."

(b) All potable water not provided directly by pipe to the establishment shall be transported in a bulk water transport system and shall be delivered to a closed-water system. The bulk water transport system

shall meet the requirements of section 11-20-31.

(c) Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

(d) Running water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

(e) Steam used in contact with food or food-contact surfaces shall be of culinary quality, and manufactured from potable water or water supplies acceptable to the director. Boiler water treatment additives shall be of safe materials and approved by the director. [Eff 11/22/96, am and comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-43 Wastewater disposal. (a) All sewage shall be disposed of by a public wastewater system or by a wastewater disposal system sized, constructed, maintained, and operated according to title 11, chapter 62, entitled "Wastewater Systems." Non-water-carried wastewater disposal facilities are prohibited, except as permitted by sections 11-12-60 and 11-12-61 (pertaining to temporary food establishments) or as permitted by the director in remote areas or because of special situations.

(b) Liquid wastes shall be disposed of as wastewater, except that condensed water from steam, refrigeration and air conditioning units, and other liquids that are free of organic materials may be disposed of in a manner that creates no public health nuisance and is acceptable to the director. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-44 REPEALED. [R]

§11-12-45 Lavatory facilities. (a) In all new and extensively remodeled establishments, lavatories shall be located and sufficient in number to permit convenient use by all employees within the food preparation and warewashing areas. In accordance with section 11-12-31(d), sinks used for food preparation or

for washing equipment or utensils shall not be used for

§11-12-45

handwashing.

(b) Lavatories shall be accessible to employees at all times.

(c) Each lavatory shall be provided with a continuous supply of potable water.

(1) Lavatories in food preparation and warewashing areas shall be provided with water supplied through a faucet.

(2) Any self-closing, slow-closing, or metering faucet shall be designed to provide a flow of water for at least fifteen seconds without the need to reactivate the faucet.

(3) Each lavatory supplied with hot water shall be provided with a mixing valve or combination faucet to temper hot and cold water supplies. Steam-mixing valves on lavatory facilities are prohibited.

(d) A supply of hand-cleaning soap or detergent shall be available at each lavatory.

(e) A supply of properly protected sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory.

(1) The use of common towels is prohibited under the provisions of section 11-12-31.

(2) If disposable towels are used, clean waste receptacles shall be conveniently located near the handwashing facilities.

(f) Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair. [Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-46 Garbage and refuse. (a) Garbage and refuse shall be kept in containers that do not leak and are resistant to the entry of vermin and other animals.

(1) In accordance with the requirements for multi-use equipment in sections 11-12-32 and 11-12-33, these containers shall be durable, easily cleanable, and maintained in good repair.

(2) Plastic bags and wet-strength paper bags may be used to line these containers and may also be used for storage inside the establishment.

(b) Containers used in food preparation and warewashing areas shall be kept covered during non-working hours and after they are filled.

(c) Containers stored outside the establishment,

and dumpsters, compactors, and compactor systems shall be provided with lids, doors, or covers and shall be kept covered when not in actual use.

- (1) In accordance with the requirements for multi-use equipment in sections 11-12-32 and 11-12-33, lids, doors, and covers shall be tight-fitting and the entire container shall be durable, easily cleanable and maintained in good repair.
- (2) In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.
- (d) There shall be a sufficient number of containers to hold all garbage and refuse.
- (e) Soiled containers shall be cleaned at a frequency to prevent the attraction of vermin and other animals.
 - (1) Each container shall be thoroughly cleaned on the inside and outside at a suitable location provided for this purpose.
 - (2) Containers shall be cleaned in a way that does not contaminate food, equipment, utensils, or food preparation areas, or create any public health nuisance.
 - (3) Liquid waste from compacting or cleaning operations shall be disposed of as sewage in accordance with section 11-12-43.
- (f) Garbage and refuse on the premises, other than for pickup, shall be stored in a manner to make them inaccessible to vermin and other animals.
 - (1) Outside storage of unprotected plastic bags, wet-strength paper bags, or baled units containing garbage or refuse is prohibited.
 - (2) Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.
- (g) Garbage and refuse storage rooms shall be constructed to meet vermin control requirements of section 11-12-47 and shall meet the requirements of sections 11-12-48 and 11-12-49 regarding construction, maintenance, and cleanliness.
- (h) Garbage and refuse containers, dumpsters, and compactor systems located outside the establishment shall be stored on or above a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt that is kept clean and maintained in good repair.

(i) Garbage and refuse shall be disposed of often

§11-12-46

enough to prevent the development of odors, and the attraction and breeding of vermin. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-47 Vermin and animal control. (a) Effective measures shall be utilized to minimize the presence of vermin within the establishment. Pesticide treatment for vermin shall be done by a professional pest control company or by a person licensed in accordance with "Hawaii Pesticides Law", chapter 149A, HRS. The premises shall be maintained in accordance with section 11-12-55 to prevent the attraction, harborage, or feeding of vermin such as rodents, flies, cockroaches, and other insects and animals.

(b) Openings to the outside of the establishment shall be effectively protected against the entrance of vermin and other animals. Except as permitted in subsections (c) and (d), the following requirements shall be met to protect these outer openings:

- (1) Doors shall be tight-fitting and self-closing;
- (2) Windows shall be tight-fitting and screened if openable;
- (3) Other intake openings to the outside including intake ducts, skylights, and ventilators shall be tightly screened;
- (4) All screens, including screens for doors and windows, shall be free of breaks and the screening material shall be not less than sixteen mesh to the inch;
- (5) Screen doors that are opened and closed during operating hours shall open outward only and not swing into the establishment;
- (6) Other means may be utilized to protect against the entry of vermin if effective and acceptable to the director.

(c) The requirements of subsection (b) may be waived or modified when alternative controls acceptable to the director are utilized to ensure that all food and food-contact surfaces of equipment and utensils are effectively protected against contamination, and no other public health hazards or nuisances will result from the conduct of the operation.

(d) Pass-through openings or windows may be permitted between an interior area of the establishment from which vermin and pests are to be excluded and the

exterior that is not enclosed, provided all of the following requirements are complied with:

- (1) Pass-through openings shall be provided with approved closing devices;
 - (2) Pass-through openings shall be kept closed except when in actual use;
 - (3) Pass-through openings shall be no larger than five square feet in area;
 - (4) Adjacent pass-through openings shall be located at least twenty-four inches apart;
 - (5) Existing pass-through windows that are located within twenty-four inches of another pass-through window shall be kept closed or sealed permanently.
- (e) Live animals, including birds and turtles, shall be excluded from within the establishment.
- (1) This exclusion does not apply to decorative fish in aquariums, or to edible fish, crustacea, shellfish, and other edible plants and animals properly maintained in approved display or storage facilities.
 - (2) Patrol dogs accompanying security or police officers, and signal or service animals accompanying persons with disabilities shall be permitted in dining, sales, and office areas.
 - (3) Sentry animals shall be permitted to run loose in outside fenced areas that are maintained in accordance with section 11-12-55. [Eff 11/22/96; comp] (Auth: HRS §§321-11, 149A) (Imp: HRS §§321-11, 149A)

§11-12-48 Floors. (a) Floors and floor coverings shall be constructed of materials that are durable, nonabsorbent, smooth, and easily cleanable such as sealed concrete, terrazzo, ceramic tile, quarry tile, durable grades of linoleum or plastic, or sealed tight-fitting wood, except as provided in subsection (b). Nothing in this section shall prohibit the use of approved antislip floor finishes or coverings in areas where necessary for safety reasons.

(b) Dining areas, private offices, utility rooms, and common or nonoperational areas shall be exempt from the requirements of subsection (a); provided that:

- (1) These locations are not used for the preparation of food, the washing of food

equipment and utensils; or the storage of food equipment and utensils with the exception of packaged foods and single-service articles that are still in the original unopened containers.

- (2) This exemption shall not apply to indoor garbage or refuse storage areas, restrooms or their halls or passageways, laundry areas, linen or clothes storage areas, and any area where mops, garbage containers, or refuse containers are washed or dried.

(c) Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, and easily cleanable.

- (1) Carpeting is prohibited in food preparation areas, food storage areas, warewashing areas, counter service, self-service line, handwashing areas, mopwashing areas, restroom areas where urinals or toilet fixtures are located; and

- (2) In any other area that is mopped or flushed for cleaning or where it would be exposed to grease or water.

(d) Sawdust, wood shavings, peanut hulls, or other loose material shall not be used as a floor covering.

(e) Mats and duckboards shall be constructed of nonabsorbent, grease resistant materials and shall be sized, designed, and fabricated to facilitate cleaning. Duckboards shall not be used as storage racks.

(f) Floors that are flushed for cleaning, that receive discharges of water or other fluid wastes, or that are in areas where pressure-spray methods for cleaning are used shall be constructed only of sealed concrete, terrazzo, ceramic tile, quarry tile, or similar materials, shall be graded to drain, and shall be provided with drains.

(g) Junctures between walls and floors shall be coved and sealed in all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile, quarry tile, or similar flooring materials and where flushing or pressure-spray methods are used to clean floors. In all other cases, junctures between the walls and floors shall not have an open seam greater than one thirty-second of an inch.

(h) Exposed utility service lines and pipes shall be installed in a manner that does not obstruct or prevent cleaning of the floor. In all new or

extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor may be prohibited.

(i) Floors and floor coverings, including carpets, mats and duckboards, shall be maintained clean and in good repair. [Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-49 Walls and ceilings. (a) Walls (including nonsupporting partitions), wall coverings, and ceilings within the establishment shall be light-colored, smooth, nonabsorbent, and easily cleanable, except as permitted in subsection (f). Concrete or pumice blocks used for interior wall construction shall be finished and sealed to provide an easily cleanable surface.

(b) Dining areas, private offices, utility rooms, and common or nonoperational areas shall be exempt from the requirements of subsection (a); provided that:

- (1) These locations are not used for the preparation of food, the washing of food equipment and utensils, or the storage of these items with the exception of packaged foods and single-service articles that are still in the original unopened containers.
- (2) This exemption shall not apply to indoor garbage or refuse storage areas, restrooms or their halls or passageways, laundry areas, linen or clothes storage areas and any area where mops, garbage containers, or refuse containers are washed or dried.

(c) Studs, joists, rafters, and other similar structural members shall not be exposed in food preparation or storage areas, equipment and utensil washing or storage areas, laundry (including linen, wiping cloths, and clothing) washing or storage areas except that:

- (1) These structural members may be exposed if designed and constructed to facilitate cleaning and no ledge, platform, recess, pocket, or other feature is formed where dust, dirt, debris, or other filth may be trapped or may accumulate.
 - (A) An overhead beam with its upper surface sealed to the ceiling and only its underside and vertical sides exposed is

deemed to meet the requirements of this

subsection.

(B) Exposed structural members shall be finished to provide an easily cleanable surface.

(2) This requirement shall not apply to areas used for the storage of packaged foods or utensils in original unopened containers.

(d) Exposed utility service lines and pipes shall be installed in a manner that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, restrooms and their halls or passageways.

(e) Light fixtures, vent covers, wall-mounted fans, decorative materials and similar equipment attached to walls and ceilings shall be easily cleanable.

(f) Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable. This shall not prohibit the use of replaceable acoustical ceiling panels that meet the following requirements:

- (1) The panels shall be of a durable material that is non-shedding and resistant to decomposition under the conditions of use;
- (2) Any perforations in the surface shall not pass completely through the panel;
- (3) Panels shall be designed, sized, located, and installed to be easily replaced upon deterioration or soiling; and
- (4) Panels shall be installed only in areas not subject to splash, spray, or spattering.

(g) Walls and ceilings, including doors, windows, skylights and similar closures, and all attached equipment, shall be maintained clean and in good repair.
[Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-50 Physical facilities; cleaning. (a) Cleaning of floors and walls, with the exception of emergency cleaning, shall be done during periods when the least amount of food is exposed, such as after closing or between meals.

- (1) Floors, mats, duckboards, walls, ceilings and attached equipment and decorative materials

shall be kept clean.

- (2) Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, the use of treated dust mops, or the use of dust-arresting compounds with brooms.

(b) Facilities specified in section 11-12-44(f) shall be used for cleaning mops, squeegees, and other tools used for cleaning floors, and for the disposal of mopwater or similar liquid wastes. The use of lavatories, utensil washing or equipment washing sinks, or food preparation sinks for this purpose is prohibited under the provisions of section 11-12-31.

[Eff 11/22/96; comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-12-51 Lighting. (a) Adequate light sources, either artificial, natural, or a combination of both shall be provided that furnish not less than twenty footcandles of light on all food preparation surfaces and at warewashing work levels.

(b) Permanently fixed artificial light sources shall be installed to provide, at a distance of thirty inches from the floor:

- (1) At least twenty footcandles of light in utensil and equipment storage areas; and
- (2) At least ten footcandles of light in walk-in refrigerating units, dry food storage areas and in all other areas. This shall also include dining areas during cleaning operations.

(c) Lamps and bulbs located over or within food storage areas, food preparation areas, food display areas, food service areas and areas where food equipment and utensils are located or are cleaned shall be shielded, coated, or otherwise shatter resistant. This requirement shall not apply to lamps and bulbs used in areas where only unopened packages of food and single-service items are stored.

(d) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed. [Eff 11/22/96; am and comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-52 REPEALED. [R]

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§11-12-53 Dressing rooms and locker areas. (a)

If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall be separated from any area where food is prepared, stored, or served, or where food equipment or utensils are washed or stored.

(b) Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing or other belongings.

- (1) Lockers or other suitable facilities shall be located only in the designated dressing rooms;
or
- (2) In storage rooms or areas containing only completely packaged food or packaged single-service articles that are completely protected from contamination. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-54 Poisonous or toxic materials. (a)

There shall be present in the establishment only those poisonous or toxic materials necessary for maintaining and operating the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.

(b) Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to law for easy identification of contents.

(c) All poisonous or toxic materials shall be stored in the following manner:

- (1) Poisonous or toxic materials shall be stored and located in closed cabinets, enclosed compartments, or in a similar physically separate place that is used for no other purpose;
- (2) Insecticides, rodenticides, and similar poisonous materials shall not be stored in the same cabinet, compartment, or area used for storing warewashing compounds such as detergents, sanitizers, drying agents, anti-foaming agents and wetting agents; other cleaning compounds such as acid cleaners, caustic cleaners and polishes; and any other substance that may be necessary to the operation such as lubricants, water treatment

compounds, boiler treatment compounds, or

other chemicals.

- (3) To preclude contamination, poisonous or toxic materials shall not be stored above, next to or intermingled with food, food equipment, utensils, or single-service articles.
- (4) Poisonous or toxic materials stored or displayed for retail sale shall be separated from food and single-service articles by spacing, partitioning, or dividers. These materials shall not be stored or displayed above food or single-service articles.

(d) Sanitizers, cleaning compounds, or other substances intended for use on food-contact surfaces shall not be used in a way other than in full compliance with the manufacturer's labeling.

(e) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils nor in a way other than in full compliance with the manufacturer's labeling.

(f) First aid supplies, personal medications, cosmetics, and similar chemical preparations shall be stored and located to preclude any contamination of food, food equipment, utensils, or single-service articles. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-55 Premises. (a) The establishment and all parts of the property used in connection with its operation shall be kept free of unnecessary articles.

(b) The entry of unnecessary persons through the food preparation or utensil washing area is prohibited.

(c) No operation of the establishment shall be conducted in any room used as living or sleeping quarters.

(d) Establishment operations shall be separated from any living or sleeping quarters by complete partitioning and shall have no direct opening into any living or sleeping quarters, except through a solid, tight-fitting and self-closing door.

(e) Clean clothes and linens shall be stored in a clean place and protected from contamination until used.

(f) Soiled clothes and linens shall be stored in nonabsorbent containers or washable laundry bags until removed for laundering.

(g) Maintenance and cleaning tools such as brooms, mops, vacuum cleaners, and similar equipment shall be

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maintained and stored in a manner that does not
contaminate food, equipment, utensils or linen.
[Eff 11/22/96; am and comp] (Auth: HRS
§321-11) (Imp: HRS
§321-11)

§§11-12-56 to 11-12-59 (Reserved).

SUBCHAPTER 3

TEMPORARY FOOD ESTABLISHMENT

§11-12-60 General requirements. A temporary food establishment shall comply with the requirements of this chapter, except as otherwise provided in this subchapter.

- (1) The director may impose additional requirements to protect against health hazards or nuisances related to the conduct of temporary food establishments.
- (2) The director may prohibit the sale of some or all potentially hazardous foods.
- (3) When no health hazards will result, the director may waive or modify requirements of this subchapter. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-61 Special requirements. (a) All temporary food establishment operational sites shall be approved by the director. Temporary food establishment operational sites shall include commissary sites, event sites, vending or distribution sites and any other sites where food is prepared, packaged, stored, served, vended, or distributed.

- (b) All temporary food establishment menus and schematic plans shall be approved by the director.
 - (1) The permit applicant may be required to submit to the director in writing, a complete menu and schematic plan of the proposed operation.
 - (2) This schematic shall clearly detail, step by step, the flow and handling of all foods on

the menu from the initial receipt of ingredients, through the processing or preparation of the foods, to the final distribution of the food to the consumer. [Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-62 Food supplies. (a) All food shall be prepared in an approved kitchen, or obtained from a source approved by the director.

(b) All enclosed packages or containers of potentially hazardous foods shall be clearly and prominently labeled to identify the contents as being perishable and in need of refrigeration.

(c) Ice shall be from an approved source, handled and stored to avoid contamination. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-63 Food protection. (a) All food and drinks shall be protected from customers and insects, rodents, dust, and other contamination.

(b) All potentially hazardous foods shall be maintained at safe temperatures. [Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-64 Personnel. (a) Employee health shall be as provided in section 11-12-28.

(b) Personal cleanliness shall be as provided in section 11-12-29.

(c) Clothing shall be as provided in section 11-12-30.

(d) Employee practices shall be as provided in section 11-12-31. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-65 Food equipment and utensils. (a) Single-service restrictions:

- (1) Food shall be served to customers in, or on, single-service or single-use containers only.
- (2) Only single-service utensils shall be provided to customers.
- (b) All food contact surfaces of equipment,

utensils, and single-service articles shall be

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protected from insects, rodents, dust, and other
contamination. [Eff 11/22/96; comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-66 Sanitary facilities. (a) All
temporary food establishments shall be provided with a
continuous supply of water under pressure through an
approved faucet to a sink, except the director may
approve the use of a minimum ten gallon capacity water
tank supplying potable water through an approved faucet
to sink.

(b) In lieu of lavatories, the director may permit
the use of approved types of waterless handcleaners that
are compounded for use by foodhandlers to wash hands,
but only in those situations where foodhandlers have
either no or only very minimal contact with food or food
contact surfaces.

(c) Wastewater shall be disposed of in a manner
that does not create a nuisance. [Eff 11/22/96; am and
comp] (Auth: HRS §321-11) (Imp: HRS
§321-11)

§11-12-67 Other facilities and operations. (a)
Temporary food establishments shall be located in clean
surroundings.

(b) Temporary food establishments shall be kept in
a clean and sanitary condition.

(c) An approved commissary shall be available and
used to clean and sanitize utensils and equipment before
the event and at the end of each business day.

(d) Equipment and utensil cleaning and sanitizing
shall be as provided in sections 11-12-35 and 11-12-39.

(e) Garbage and refuse from temporary food
establishments shall be stored in tightly covered
leakproof containers until removed.

(f) Refuse containers shall be available on the
grounds at convenient locations.

(g) All garbage and refuse shall be disposed of at
a frequency and in a manner that does not create a
nuisance. [Eff 11/22/96; comp] (Auth:
HRS §321-11) (Imp: HRS §321-11)

§§11-12-68 to 11-12-69 (Reserved).

SUBCHAPTER 4

MOBILE FOOD ESTABLISHMENTS

§11-12-70 General requirements. Mobile food establishments shall comply with the requirements of this chapter, except as otherwise provided in this subchapter.

- (1) The director may impose additional requirements to protect against health hazards or nuisances related to the conduct of food establishments as mobile operations.
- (2) The director may prohibit the sale of some or all potentially hazardous foods.
- (3) When no health hazard will result, the director may waive or modify the requirements of this subchapter. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-71 Commissary. (a) Mobile food establishments shall operate out of an approved commissary. Mobile food establishments shall return to the commissary at least once each operational day for cleaning and servicing.

(b) The commissary shall be used for the following purposes:

- (1) Storage. Food, equipment, utensils, and supplies shall be stored in the commissary unless stored on board mobile food establishments.
- (2) Food preparation. All food preparation not permitted on board mobile food establishments shall take place at the commissary.
- (3) Cleaning. Multi-use equipment and utensils used for the mobile food establishments operations shall be cleaned and sanitized at the commissary at least once each day at the conclusion of the daily operations. Multi-use equipment and utensils that are not permitted to be cleaned on board mobile food establishments shall also be cleaned at the commissary at least once each day at the conclusion of the daily operations.
- (4) Water supply. The water tank(s) of all mobile food establishments shall be drained

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and filled daily with potable water through an approved loading facility at the commissary.

- (5) Wastewater disposal. Wastewater holding tank(s) of all mobile food establishments shall be drained daily and cleaned at an approved sanitary facility provided for this purpose at the commissary.

(c) The names and addresses of all sites used for commissary purposes shall be provided to the director in writing for approval. The director may limit the number of mobile establishments using the same commissary.

(d) A private home kitchen shall not be used as a commissary. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-72 Food supplies. (a) Food supplies shall be as provided in section 11-12-20.

(b) Special requirements. A list of all foods offered shall be submitted to the director for approval. Approval shall be based on a determination by the director that the mobile food establishment is provided with the minimum facilities necessary for a safe and sanitary operation. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-73 Food protection. Food protection shall be as provided in section 11-12-21. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-74 Food storage. (a) General food storage shall be as provided in section 11-12-22.

(b) Refrigerated food storage shall be as provided in section 11-12-23.

(c) Hot food storage shall be as provided in section 11-12-24.

(d) Special requirements.

(1) Excess food not carried on the mobile food establishment shall be stored at the approved commissary.

(2) Potentially hazardous foods that have not been maintained at safe temperatures shall be discarded, and shall not be stored with foods

- that are to be sold.
- (3) The food and lip-contact surfaces of food and beverage containers, including those of beverage cans, bottles and cartons, shall not be submerged in the cooling water or the meltwater of ice. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-75 Food preparation. Food preparation, when permitted on board the mobile food establishment, shall be as provided in section 11-12-25. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-76 Food display and service. (a) Food display and service shall be as provided in section 11-12-26.

- (b) Special requirements:
- (1) Self-service by customers is prohibited with the exception of beverages from approved dispensing units, pre-packaged foods, and condiments, seasonings and dressings that are provided in individually portioned packages, approved dispensers, or original containers that are designed and approved for dispensing.
- (2) Beverages shall not be dispensed manually with a dipper from a bulk container. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-77 Food transportation. Food transportation shall be as provided in section 11-12-27. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-78 Personnel. (a) Employee health shall be as provided in section 11-12-28.

(b) Personal cleanliness shall be as provided in section 11-12-29.

(c) Clothing shall be as provided in section 11-12-30.

(d) Employee practices shall be as provided in

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section 11-12-31. [Eff 11/22/96; comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-79 Equipment and utensils. (a) Materials of equipment and utensils shall be as provided in section 11-12-32.

(b) Design and fabrication of equipment and materials shall be as provided in section 11-12-33.

(c) Installation and location of equipment shall be as provided in section 11-12-34.

(d) Single-service restrictions:

(1) Food shall be served to customers in, or on, single-service or single-use containers only.

(2) Only single-service utensils shall be provided to customers. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-80 Equipment and utensil cleaning and sanitizing. (a) The cleaning and sanitizing of equipment and utensils not permitted aboard mobile food establishments shall be done at the approved commissary.

(b) Facilities shall be provided for the storage of soiled equipment and utensils to prevent contaminating food or clean equipment and utensils.

(c) The frequency of equipment and utensil cleaning and sanitizing shall be as provided in section 11-12-35.

(d) The cleaning and sanitizing of wiping cloths shall be as provided in section 11-12-36.

(e) The manual cleaning and sanitizing of equipment and utensils shall be as provided in section 11-12-37.

(f) The mechanical cleaning and sanitizing of equipment and utensils shall be as provided in section 11-12-38.

(g) The drying of cleaned and sanitized equipment and utensils shall be as provided in section 11-12-39. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-81 Equipment and utensil handling and storage. (a) The handling and storage of cleaned and sanitized equipment and utensils shall be as provided

in section 11-12-41.

(b) Equipment, utensils, and single-service articles not carried on mobile food establishments shall be stored at the commissary. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-82 Water system. (a) Mobile food establishments shall be equipped with an approved water system that provides sufficient potable water at the required temperatures to meet the needs of the operation.

(b) The water supply tank and sink requirements for mobile food establishments shall be as follows:

- (1) Mobile food establishments offering only the following items need not have a water system:
 - (A) Prepackaged nonpotentially hazardous foods;
 - (B) Fresh produce such as fresh vegetables, fruits, herbs, shell nuts, and other similar types of nonpotentially hazardous foods that are normally washed, peeled, pared, trimmed, or subjected to any other cleaning process prior to consumption;
 - (C) Clean whole eggs with shells intact that are not cracked or checked; and,
 - (D) Nonpotentially hazardous dry foods that are not hygroscopic and are dispensed from approved bulk food dispensing and storage units.
- (2) The minimum requirements for mobile food establishments that must be equipped with a water system shall be one five gallon water tank that supplies potable water through an approved faucet to a utility sink for handwashing and minor cleaning purposes.
- (3) Mobile food establishments that provide only simple shaved ice or other similar types of food shall be equipped with at least one ten gallon water tank that supplies potable water through an approved faucet to a utility sink for handwashing and minor cleaning purposes.
- (4) Mobile food establishments engaged in the preparation of potentially hazardous foods that do not require substantial handling, or nonpotentially hazardous foods that do require

substantial handling, shall be

equipped with not less than one utility sink for handwashing and minor cleaning purpose and one food preparation sink. These sinks shall be supplied with at least twenty gallons of hot and cold potable water tempered through an approved faucet.

- (5) Mobile food establishments engaged in the limited preparation of foods that do not require substantial handling, but that also conduct limited warewashing on board the establishments, shall be equipped with not less than one utility sink for handwashing and minor cleaning purposes and one three-compartment sink. These sinks shall be supplied with at least forty gallons of hot and cold water tempered through an approved faucet.

- (6) For mobile food establishments with operations not covered under paragraphs (1) through (5), the sink and water supply requirements shall be determined by the director based on the recognized needs of similar types of operations that are conducted in fixed food establishments.

(c) The water system shall comply with the following minimum standards.

- (1) Water supply tanks. Water supply tanks shall be constructed of safe materials that are durable, corrosion resistant, and nonabsorbent.
- (A) They shall be fabricated with interiors that are smooth, free of pockets, recesses and crevices.
- (B) Tank bottoms, except for those tanks that are readily removable, shall be sloped down to an outlet with a shut-off valve or plug to permit complete drainage.
- (C) Inlets and outlets shall be protected against contamination.
- (D) All openings into the tank, including air vents that are required for gravity flow systems, overflow lines, and inspection or service ports shall be protected against the entry of dust and insects by solid tight-fitting caps or appropriately sized screens or filters.

(2) Faucets. Water shall be supplied through a

faucet.

- (A) Self-closing, slow-closing, or metering faucets shall be designed to provide an adequate flow of water for at least fifteen seconds without the need to reactivate the faucet.
- (B) Where both hot and cold water must be supplied to the sink, the faucet shall be a combination type capable of mixing the two supplies to provide tempered water.
- (3) Sinks. Sinks shall be permanently mounted and constructed of easily cleanable and durable materials approved by the director.
 - (A) They shall be suitably sized to hold the largest item to be washed and shall provide the proper number of compartments for the use intended.
 - (B) Drainboards of adequate size and sloped to drain shall be provided where necessary.
- (4) Piping. Piping and tubing used to conduct potable water shall be fabricated of safe materials that are durable, corrosion resistant, nonabsorbent and smooth. Piping and tubing used to conduct wastewater shall be constructed of materials that are durable, corrosion resistant, nonabsorbent and smooth.
- (5) Installation and location. All components of the water system shall be properly installed and located.
 - (A) They shall be stable and remain firmly fixed in place even while the vehicle or cart is being moved.
 - (B) Sinks shall be located to be readily accessible for use.
 - (C) Tanks shall be installed to permit all necessary servicing, maintenance and cleaning operations to be done in a convenient manner.
- (6) Maintenance. Water supply tanks, faucets, sinks, and all plumbing for potable water shall be maintained clean and in good repair. Wastewater tanks and plumbing for wastewater shall be maintained in good repair and relatively clean.
 - (d) The water tank shall be filled only with potable water from an approved source and only at a

§11-12-82

facility approved by the director for this purpose.
[Eff 11/22/96; comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-12-83 Wastewater. (a) All wastewater, including waters of condensation and meltwater, shall be securely contained within an approved wastewater tank located on board the mobile food establishment.

(b) Wastewater tanks shall have a minimum holding capacity of at least fifteen per cent greater than the total water supply to the sinks. Where the tank receives discharge other than that which originated from the water supply tank, such as meltwater from ice bins, overflow from beverage dispensers, or other liquid wastes from operations, the director may require a wastewater tank with a larger minimum holding capacity.

(c) Wastewater tanks shall be constructed of materials that are durable, corrosion resistant and nonabsorbent, and shall be fabricated with smooth interior surfaces and tight-fitting connections to prevent any leaking or the spilling of wastewater during movement. Tank bottoms, except for those tanks that are readily removable, shall be sloped down to an outlet with a shut-off valve to permit complete drainage of the tank.

(d) The wastewater tank shall be drained only at a facility approved by the director for this purpose. All wastewater shall be disposed of as provided in section 11-12-43. [Eff 11/22/96; am and comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-84 REPEALED. [R]

§11-12-85 Lavatory facilities. (a) Mobile food establishments shall have on board handwashing facilities as provided in section 11-12-82 (b). These facilities shall be conveniently located and accessible for use at all times by all mobile food establishment personnel.

(b) A supply of hand cleaning soap or detergent, a supply of single-service towels, and an easily cleanable waste receptacle shall be conveniently available at the lavatory facility.

(c) Lavatories, soap dispensers, single-service

towel dispensers and all related fixtures shall be kept clean and in good repair. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-86 Garbage and refuse. Garbage and refuse shall be as provided in section 11-12-46. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-87 Vermin and animal control. (a) Mobile food establishments shall be kept clean and free of vermin at all times.

(b) Vermin control shall be as provided in section 11-12-47.

(c) Mobile food establishments vending only pre-packaged foods, fresh unprocessed fruits and vegetables, shell nuts, and whole fish that has not been scaled, eviscerated, cut, or processed in any way may be exempted from the requirements of this section, provided that all food items are adequately protected from dust, rain, insects, and other contamination. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-88 Floors. Floors shall be as provided in section 11-12-48. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-89 Walls, ceilings. Walls and ceilings shall be as provided in section 11-12-49. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-90 Physical facilities; cleaning. Physical facilities cleaning shall be as provided in section 11-12-50; except that the utility sink or curbed cleaning facility shall be provided at the commissary rather than on the mobile food establishment. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-91

§11-12-91 Lighting. Lighting shall be as provided in section 11-12-51(a), (c), and (d).
[Eff 11/22/96; comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-12-92 REPEALED. [R]

§11-12-93 Dressing rooms and locker areas. Dressing rooms and locker areas shall be as provided in section 11-12-53. [Eff 11/22/96; comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-94 Poisonous or toxic materials. Poisonous or toxic materials shall be as provided in section 11-12-54. [Eff 11/22/96; comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-95 Premises. Premises shall be as provided in section 11-12-55. [Eff 11/22/96; comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-96 Other requirements. (a) Each mobile food establishment shall obtain its own permit.
(1) The permit shall not be transferable.
(2) It shall be posted in a conspicuous place on the vehicle or cart.
(b) For identification purposes, the number of the permit issued by the director shall be permanently and prominently displayed on two sides of the exterior of the mobile food establishment in characters not less than four inches high, of strokes not less than one-fourth inch wide and of a color that contrasts with the background.
(c) All mobile food establishments shall be capable of being moved from their vending site at any time. They shall be moved from the vending site to the commissary at the end of each business day for cleaning and servicing.
(d) No permanent utility service lines shall be connected to a mobile food establishment. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-12-97 to 11-12-99 (Reserved).

SUBCHAPTER 5

VENDING MACHINE OPERATIONS

§11-12-100 Food, consumer containers, equipment maintenance and operations. Food intended for sale through vending machines and condiments available at vending machine locations shall be obtained from approved sources.

- (1) The food and condiments shall be wholesome, free from spoilage, and shall be processed, prepared, handled and stored in a manner as to be protected against contamination and adulteration.
- (2) All food-contact surfaces of containers and equipment shall be protected from contamination.
- (3) If condiments are provided for service in conjunction with food dispensed by a vending machine, they shall be packaged in individual portions in single-service containers or shall be dispensed from approved sanitary dispensers that are washed, sanitized, and filled at the commissary.
- (4) Relish bowls and similar non-self-closing condiment containers shall not be used.
- (5) Potentially hazardous food shall be held at safe temperatures except during necessary period of preparation.
- (6) Vending machines dispensing potentially hazardous food shall be provided with thermometers that, to an accuracy of plus or minus three 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.
[Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-101 Machine location. (a) The machine shall be located to minimize the potential for

contamination of the food, shall be well-lighted,

§11-12-101

easily cleanable and shall be kept clean.

(b) Conveniently located handwashing and cleaning facilities shall be available for use by employees servicing or loading bulk food machines. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-102 Exterior construction and maintenance.

(a) The exterior of the vending machine shall be constructed to facilitate cleaning and to minimize the entrance of vermin. The exterior of the machine shall be kept clean.

(b) Service connections to machines vending potentially hazardous food or food in bulk shall be connected to protect against unintentional or accidental interruption of service to the machine. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-103 Interior construction and maintenance.

(a) All interior surfaces and component parts of the vending machines shall be so designed and constructed as to permit easy cleaning and shall be kept clean.

(b) All food-contact surfaces of the machine shall be of smooth, nontoxic, corrosion resistant, and relatively nonabsorbent material, and shall be capable of withstanding repeated cleaning and sanitizing by normal procedures.

(c) The surfaces shall be protected against contamination. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11) [§11-12-104]

§11-12-104 Water supply. (a) Water used in vending machines shall be from an approved source, and shall be of a safe and sanitary quality.

(b) Vending machines shall be so installed and operated as to prevent the production of toxic substances in the water. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-105 Waste disposal. All wastes shall be properly disposed of, and, pending disposition, shall be kept in suitable containers in a manner that does not

create a nuisance. [Eff 11/22/96; comp

] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-106 Delivery of food, equipment, and supplies to machine location. (a) Food, food-contact surfaces of containers, equipment, and supplies shall be protected from contamination while in transit to machine location.

(b) Potentially hazardous food, while in transit and in storage on location shall be maintained at safe temperatures. [Eff 11/22/96; comp]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-107 Personal cleanliness. Employees shall maintain a high degree of personal cleanliness and shall conform to hygienic practices while engaged in handling foods, or food-contact surfaces of utensils or equipment. [Eff 11/22/96; comp] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-12-108 Employee health. Employee health shall be as provided in section 11-12-28. [Eff 11/22/96; comp] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§§11-12-109 to 11-12-114 (Reserved).

DEPARTMENT OF HEALTH

Amendments to and compilation of chapter 12, title 11, Hawaii Administrative Rules, on the Summary Page dated March 5, 1999 were adopted on March 5, 1999, following public hearings held on January 19, 1999 in Kona, Hawaii; January 20, 1999 on the island of Oahu; January 21, 1999 on the island of Maui; July 22, 1999 on the island of Kauai; and January 25, 1999 in Hilo, Hawaii; after public notices were given in the Honolulu Advertiser, Honolulu Star-Bulletin, Garden Isle, Maui News, and Hawaii Tribune Herald on December 17, 1998.

They shall take effect ten days after filing with the Office of the Lieutenant Governor.

BRUCE S. ANDERSON, Ph.D., M.P.H.
Director of Health

APPROVED:

BENJAMIN J. CAYETANO
GOVERNOR
STATE OF HAWAII

Dated: _____

Filed: _____

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Deputy Attorney General