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1 product, including an edible cannabis finished product which is manufactured,
2 labeled, or sold by a cannabis establishment in compliance with the Cannabis
3 Regulation Act, Chapter 26, Article 2C NMSA 1978 shall not be considered
4 adulterated solely on the basis of its cannabis content;

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

7 (4) If it has been produced, processed, prepared, packed or held under
8 insanitary conditions, whereby it may have become contaminated with filth, or
9 whereby it may have been rendered diseased, unwholesome, or injurious to
10 health;

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

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

15 **APPROVED.** Acceptable to the enforcement authority based on its
16 determination as to conformance with appropriate standards and good public
17 health practice.

18 **BULK FOOD.** Processed or unprocessed food in aggregate containers from
19 which quantities desired by the consumer are withdrawn.

20 **CORROSION-RESISTANT MATERIALS.** Those materials that maintain
21 sanitary surface characteristics under prolonged influence of the food to be
22 contacted, the normal use of cleaning compounds and bactericidal solutions,
23 and other conditions of the use environment.

24 **EASILY CLEANABLE.** That surfaces are readily accessible and made of
25 such material and finish and so fabricated that residue may be effectively
26 removed by normal cleaning methods.

27 **EDIBLE CANNABIS FINISHED PRODUCT.** Any edible cannabis product that
28 is packaged and labeled for retail sale permitted under the Cannabis
29 Regulation Act, Chapter 26, Article 2C NMSA 1978 and the New Mexico
30 Administrative Code, Title 16, Chapter 8, Section 7. Edible Cannabis Finished
31 Product does not include unprocessed cannabis flowers or other unprocessed
32 cannabis plant parts.

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1 **EDIBLE CANNABIS PRODUCT.** Any food containing cannabis permitted
2 under Cannabis Regulation Act, Chapter 26, Article 2C NMSA 1978 and the
3 New Mexico Administrative Code, Title 16, Chapter 8, Section 7. Edible
4 Cannabis Product does not include unprocessed cannabis flowers or other
5 unprocessed cannabis plant parts.

6 **ENFORCEMENT AUTHORITY.** The Mayor or his designated agent(s).

7 **EMPLOYEE.** An individual permit holder, individuals having supervisory or
8 management duties and any person working in a food establishment.

9 **EQUIPMENT.** All stoves, ovens, hoods, meat saws, slicers, mixers,
10 meatblocks, processing counters or tables, refrigerators, freezers, sinks,
11 warewashing machines, ice makers, and similar items, other than utensils,
12 used in the operation of a food establishment.

13 **EXTENSIVELY REMODELED.** Any remodeling involving structural alteration
14 of walls, replacement or modification of plumbing, or major equipment
15 replacement exclusive of normal maintenance and repairs.

16 **FOOD.** Any raw, cooked, or processed edible substance, beverage or
17 ingredient used or intended for use or for sale in whole or in part for human
18 consumption to include ice, water, gum, confectionery and condiments.

19 **FOOD-CONTACT SURFACES.** Those surfaces of equipment and utensils
20 with which unpackaged foods other than fresh fruits and vegetables normally
21 come in contact, and those surfaces from which food may drain, drip, or
22 splash back onto surfaces normally in contact with food.

23 **FOOD ESTABLISHMENT.** Any commercial establishment where food and
24 food products are processed, prepared, packaged, stored, offered for sale,
25 donated, or distributed for off-the-premise consumption, to include, but not
26 limited to retail food stores, meat markets and warehouses.

27 **FOOD ESTABLISHMENT—CANNABIS.** A specific and limited type of food
28 establishment, which is also a cannabis establishment licensed under the
29 Cannabis Regulation Act, Chapter 26, Article 2C NMSA 1978, where edible
30 cannabis finished products are offered for sale, donated, or distributed for off-
31 the-premise consumption, or where edible cannabis products or edible
32 cannabis finished products are stored, including warehouses.

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1 **FOOD ESTABLISHMENT—CANNABIS PLUS.** A specific and limited type of
2 food establishment, which is also a cannabis establishment with a cannabis
3 consumption area, both licensed under the Cannabis Regulation Act, Chapter
4 26, Article 2C NMSA 1978, where edible cannabis finished products are offered
5 for sale, donated, or distributed for either off-the-premise consumption or in a
6 cannabis consumption area. The term also includes the place where edible
7 cannabis finished products are stored, including warehouses.

8 **GROSS SALES.** The total amount of money or the value of other
9 consideration received from selling food on a calendar year basis by each
10 establishment as defined in §§ 9-6-2-1 et seq.

11 **HAMBURGER.** Chopped fresh beef.

12 **HERMETICALLY SEALED CONTAINER.** A container which is designed and
13 intended to be secure against the entry of microorganisms and to maintain the
14 commercial sterility of its contents after processing.

15 **INFLATION FACTOR.** An index by which established fees are either
16 increased or decreased relative to inflation.

17 **KITCHENWARE.** All multi-use utensils.

18 **LAW.** Federal, state, and local statutes, ordinances and regulations.

19 **MISLABELED.** The presence or absence of any written, printed, or graphic
20 matter upon or accompanying food or containers of food which is false,
21 misleading, or which violates any applicable labeling laws.

22 **PACKAGED.** Bottled, canned, cartoned, or securely wrapped.

23 **PERISHABLE FOOD.** Any food of such type or in such condition as may
24 spoil.

25 **PERSON.** An individual, partnership, corporation, association, or any other
26 legal entity. This term means either the singular or the plural as the case may
27 be.

28 **PERSON IN CHARGE.** The individual present in a food establishment who is
29 the apparent supervisor of the establishment at the time of inspection. If no
30 individual is the apparent supervisor, then any employee present is the person
31 in charge.

32 **POTENTIALLY HAZARDOUS FOOD.** Any food or food ingredient, natural or
33 synthetic, in a form capable of supporting:

1 (1) The rapid and progressive growth of infectious or toxigenic
2 microorganisms; or

3 (2) The slower growth of *C. botulinum*.

4 Exceptions to the above definition include: eggs with shell intact; foods with a
5 water activity value (*A_w*) of .85 or less; foods with a pH value of 4.6 or less; or
6 foods for which laboratory evidence acceptable to the regulatory authority
7 demonstrates that rapid and progressive growth of infectious or toxigenic
8 microorganisms cannot occur.

9 **SAFE MATERIALS.** Articles manufactured from or composed of materials
10 that may not reasonably be expected to result, directly or indirectly, in their
11 becoming a component or otherwise affecting the characteristics of any
12 food. If materials used are food additives or color additives as defined in
13 Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act, they are
14 "safe" only if they are used in conformity with regulations established
15 pursuant to Section 409 or Section 706 of the Act. Other materials are "safe"
16 only if, as used, they are not food additives or color additives as defined in
17 Section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act and are used
18 in conformity with all applicable regulations of the Food and Drug
19 Administration.

20 **SAFE TEMPERATURES.** As applied to potentially hazardous food means
21 temperatures of 45° F. (7° C.) or below and 140° F. (60° C.) or above.

22 **SANITIZATION.** Effective bactericidal treatment of clean surfaces of
23 equipment and utensils by a process that provides enough accumulative heat
24 or concentration of chemicals for enough time to reduce the bacterial count to
25 a safe level.

26 **SEALED.** Free of cracks or other openings that permit the entry or passage
27 of moisture.

28 **SINGLE-SERVICE ARTICLES.** Cups, containers, lids or closures, and
29 packaging materials, including bags and all similar articles designed for one-
30 time, one-person use and then discarded. The term does not include **SINGLE**
31 **USE** articles such as number 10 cans, aluminum pie pans, bread wrappers and
32 similar articles into which food has been packaged by the manufacturer.

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1 **SULFITING AGENTS.** Sulfur dioxide or any chemical which produces sulfur
2 dioxide when used to treat foods, including the following: sodium sulfite;
3 sodium bisulfite; potassium bisulfite; sodium metabisulfite; and potassium
4 metabisulfite.

5 **TEMPORARY FOOD ESTABLISHMENT.** A mobile food establishment
6 vending prepackaged frozen food which operates at a fixed location for a
7 period of time not to exceed seven days.

8 **UTENSIL.** Any approved implement used in the preparation, storage,
9 transportation, or service of food.

10 **WAREWASHING.** The cleaning and sanitizing of food-contact surfaces of
11 equipment and utensils.

12 **WHOLESOME.** In sound condition, clean, free from adulteration, free from
13 insects and insect fragments and otherwise suitable for use as human food.

14 **§ 9-6-2-3 FOOD CARE.**

15 **(A) Food Supplies.** Food shall be free from spoilage, filth, or other
16 contamination as to be safe for human consumption. Potentially hazardous
17 foods and hermetically sealed food shall not be home prepared or obtained
18 from sources other than commercial food processing establishments.

19 **(B) Special Requirements.**

20 **(1)** Fluid milk and fluid milk products used, stored, or sold shall be
21 pasteurized and shall meet the Grade "A" quality as established by law. Dry
22 milk and dry milk products shall be made from pasteurized milk and milk
23 products. Cheese from an approved processing plant that is aged a minimum
24 of 60 days is exempt from this requirement.

25 **(2)** Fresh and frozen shucked shellfish (oysters, clams, or mussels) shall
26 be received and/or repacked in nonreturnable packages identified with the
27 name and address of the original shell stock processor, shucker-packer, or
28 repacker, or the interstate certification number issued according to law. Shell
29 stock and shucked shellfish shall be kept in the container in which they were
30 received until they are used or sold. Each container of unshucked shell stock
31 (oysters, clams, or mussels) shall be identified by an attached tag that states
32 the name and address of the original shell stock processor, the kind and
33 quantity of shell stock, and an interstate certification number issued by the

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1 state or foreign shellfish control agency where applicable. The identification
2 tag shall be kept on file within the establishment for a period of 90 days from
3 receipt of the shell stock.

4 (3) Only clean whole eggs with shell intact and without cracks or checks,
5 or pasteurized liquid, frozen or dry eggs or pasteurized dry egg products shall
6 be used, except that hard-boiled peeled eggs, commercially prepared and
7 packaged, may be used. Eggs with intact shells which have been hard-boiled
8 and air-cooled in the establishment are not considered to be potentially
9 hazardous food.

10 (4) Only ice which has been manufactured and/or packaged in an
11 approved facility shall be used and sold.

12 (5) A variance for a bake sale may be granted provided the grantee meets
13 the bake sale requirements promulgated by the enforcement authority.

14 (6) On premise application of sulfiting agents on food is prohibited in any
15 food establishment or by a contractor hired for the final preparation of food for
16 that establishment.

17 (C) *Food Protection.*

18 (1) General. At all times, including while being stored, prepared,
19 displayed, dispensed or transported, food shall be protected from potential
20 contamination by all agents, including dust, insects, rodents, unclean
21 equipment and utensils, unnecessary handling, coughs and sneezes, flooding,
22 draining, and overhead leakage or condensation. The temperature of all
23 potentially hazardous food shall be 45° F. (7° C.) or below, or 140° F. (60° C.), at
24 all times, except as otherwise provided in §§ 9-6-2-1 et seq. Retail food stock
25 should be properly rotated. Hermetically sealed packages shall be properly
26 handled to maintain container integrity. Spoiled, damaged, returned or
27 detained food items shall be segregated in designated areas pending final
28 disposition. The sale of damaged goods is permissible provided the
29 requirements promulgated by the enforcement authority for such sales are
30 met.

31 (2) Emergency Occurrences. In the event of a fire, flood, or similar event
32 that might result in the contamination of food, or which might prevent
33 potentially hazardous food from being held at required safe temperatures, the

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1 person in charge shall immediately contact the enforcement authority. Upon
2 receiving notice of this occurrence, the enforcement authority shall take
3 whatever action that it deems necessary to protect the public health.

4 (D) *Food Storage.*

5 (1) **General.**

6 (a) Food for on-site preparation, whether raw or prepared, if removed
7 from the container or package in which it was obtained, shall be enclosed in a
8 clean, covered container except during necessary periods of
9 preparation. Fresh raw vegetables and fruits shall be exempted from
10 this requirement. Container covers shall be impervious and nonabsorbent. In
11 storage, sub-primal cuts of meat shall be protected by being covered with
12 single use wrapping material except that primal cuts, quarters or sides of meat
13 or processed meats such as country hams, slab bacon, and smoked or cured
14 sausages may be hung uncovered on clean, sanitized hooks or placed on
15 clean, sanitized metal racks in such a manner as to preclude contamination of
16 any food products in storage.

17 (b) Containers of food shall be stored a minimum of four inches above
18 the floor in a manner that permits easy cleaning of the storage area, or stored
19 on dollies, racks or pallets, provided such equipment is easily movable, either
20 by hand or with the use of pallet-moving equipment that is on the premises
21 and used. Cased food packaged in cans, glass or other waterproof containers
22 need not be elevated when the case of food is not exposed to floor moisture.

23 (c) Food and containers of food shall not be stored under leaking sewer
24 or water lines, or leaky automatic fire protection sprinkler heads.

25 (d) Packaged foods shall not be stored in contact with water or
26 undrained ice.

27 (e) A bulk food ingredient shall be stored in a container identifying it by
28 common name if ingredient identity is questionable and shall be dispensed by
29 an appropriate utensil.

30 (f) The storage of food in toilet rooms and vestibules, and garbage or
31 mechanical rooms is prohibited.

32 (2) **Refrigerated/Frozen Storage.**

1 (a) Refrigeration facilities or effectively insulated facilities shall be
2 provided to assure the maintenance of potentially hazardous food at required
3 temperatures during storage. Each mechanically refrigerated facility storing
4 potentially hazardous food shall be provided with a numerically scaled
5 indicating thermometer, accurate to $\pm 2^{\circ}$ F. (1° C.), located to measure the air
6 temperature in the warmest part of the facility and located to be easily
7 readable. Recording thermometers, accurate to $\pm 2^{\circ}$ F. (1° C.), may be used in
8 lieu of indicating thermometers.

9 (b) Potentially hazardous food requiring refrigeration after preparation
10 shall be rapidly cooled from 140° F. (60° C.) to an internal temperature of 70° F.
11 (21° C.) within a two (2) hour period. A maximum internal temperature of 45° F.
12 (7° C.) shall be achieved within the next four hour period and maintained for
13 the duration of the storage. The total cooling period for potentially hazardous
14 food shall not exceed six hours, and shall require utilizing methods such as
15 shallow pans, agitation, quick chilling, or water circulation external to the food
16 container. Potentially hazardous foods to be transported shall be pre-chilled
17 and held at a temperature of 45° F. (7° C.) or below unless maintained in
18 accordance with division (D)(3) below.

19 (c) Frozen foods shall be kept frozen and should be stored at an internal
20 temperature of 0° F. (-18° C.) or below.

21 (d) Ice used as a cooling medium for food storage shall not be used or
22 sold for human consumption.

23 (3) Hot Storage.

24 (a) Hot food storage facilities shall be provided to assure the
25 maintenance of potentially hazardous food at the required temperature during
26 storage. Each hot food storage facility storing potentially hazardous food
27 shall be provided with a numerically scaled indicating thermometer, accurate
28 to $\pm 2^{\circ}$ F. (1° C.), located to measure the temperature in the coolest part of the
29 facility and located to be easily readable. Recording thermometers, accurate
30 to $\pm 2^{\circ}$ F. (1° C.), may be used in lieu of indicating thermometers.

31 (b) The internal temperature of potentially hazardous foods requiring
32 hot storage shall be 140° F. (60° C.) or above, except during necessary periods
33 of preparation. Potentially hazardous food to be transported shall be held at a

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1 temperature of 140° F. (60° C.) or above, unless maintained in accordance with
2 division (2)(b) of this division (D).

3 (E) *Food Preparation and Processing.*

4 (1) General.

5 (a) Food shall be processed with a minimum of manual contact, with
6 suitable utensils, and on surfaces that prior to use have been cleaned, rinsed,
7 and sanitized to prevent cross-contamination.

8 (b) Custards, cream fillings, including synthetics, and similar products
9 shall be kept at a temperature of 45° F. (7° C.) or below during storage, display
10 or transportation. Synthetic filled products may be excluded from this
11 requirement if scientific evidence is on file with the enforcement authority
12 indicating that the specific product will not support the growth of pathogenic
13 microorganisms. These synthetic filled products may be labeled to indicate
14 that refrigeration is not required.

15 (c) Potentially hazardous foods that have been cooked and then
16 refrigerated, shall be reheated rapidly to 165° F. (74° C.) or higher throughout
17 before being placed in a hot food storage facility. Steamtables, bain-maries,
18 "crock pots," warmers, and other hot food holding facilities are prohibited for
19 the rapid reheating of potentially hazardous foods.

20 (d) Potentially hazardous foods shall be thawed:

- 21 1. In a refrigerated unit at a temperature not to exceed 45° F. (7° C.); or
- 22 2. Under running potable water at a temperature not exceeding 70° F.
23 (21° C.) and with sufficient water velocity to agitate and float off loose particles
24 in the overflow; or

25 3. In a microwave oven as part of the continuous cooking process
26 only when the food will be transferred immediately to conventional cooking
27 facilities, or; when the entire cooking process takes place in a microwave
28 oven; or

- 29 4. As part of the conventional cooking process.

30 (e) Product Thermometers. Metal stem-type numerically scaled
31 indicating thermometers, accurate to ±2° F. (±1° C.), shall be provided and
32 used to assure the attainment and maintenance of proper internal cooking,
33 holding, or refrigeration temperatures of all potentially hazardous foods.

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1 **(2) Meat Processing.** Chopped fresh beef, "hamburger," shall not contain
2 more than 30% fat with or without the addition of beef fat. Preservatives or
3 dyes shall not be added to chopped fresh beef or to any other fresh meat.

4 **(F) Food Display.**

5 **(1) Potentially Hazardous Foods.** Potentially hazardous foods shall be
6 kept at an internal temperature of 45° F. (7° C.) or below or at an internal
7 temperature of 140° F. (60° C.) or higher during display except that rare roast
8 beef which is offered for sale hot shall be held at a temperature of at least 130°
9 F. (55° C.).

10 **(2) Frozen Foods.** Foods intended for sale in a frozen state should be
11 stored at an internal temperature of 0° F. (-18° C.) or below with a tolerance of
12 10° F. (-12° C.) for short periods of time incidental to normal and good retail
13 food store operations and practices. Frozen foods on display shall be stored
14 below or behind product food lines according to cabinet manufacturers'
15 specifications.

16 **(3) Display Equipment.** Food on display, other than raw fruits and raw
17 vegetables, shall be protected from contamination by packaging, display
18 cases or similar equipment. All food shall be displayed above the floor in a
19 manner that will protect the food from contamination. Hot or cold food
20 facilities shall be provided to assure the maintenance of potentially hazardous
21 food at the required temperature during display.

22 **(4) Dispensing Utensils.** To avoid unnecessary manual contact with the
23 food, suitable dispensing utensils shall be used by employees or provided to
24 consumers who serve themselves unpackaged bulk food (other than raw fruits
25 or vegetables). These dispensing utensils shall be:

26 **(a)** Stored in the food with the dispensing utensil handle extended out of
27 the food; or

28 **(b)** Stored clean and dry; or

29 **(c)** Stored in running potable water.

30 **(5) Food Sample Demonstrations.** When food sample demonstrations and
31 food promotions are authorized in the retail food store, the person in charge
32 shall ensure that such activities comply with the applicable sanitation
33 provisions of §§ 9-6-2-1 et seq.

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1 (G) *Food Transportation by Retail Food Stores.*

2 (1) **General.** When transporting food, the retail food store shall protect
3 food from contamination by covered containers or packaging. Foods in
4 original individual packages do not need to be overwrapped or covered if the
5 original package has not been torn or broken. During transportation, food
6 shall meet the applicable requirements of §§ 9-6-2-1 et seq. relating to food
7 protection and food storage.

8 (2) **Transport Vehicle Identification.** The name and address of persons
9 transporting food shall be legibly and conspicuously painted or permanently
10 affixed in letters at least three inches high by one-half inch wide on each side
11 of all transportation vehicles operated by such person.

12 (3) **All food transportation shall be in enclosed van-type vehicles.**

13 (H) *Sale of Frozen Food from Temporary Food Establishments.*

14 (1) **General.** Temporary Food Establishments shall dispense only
15 prepackaged, frozen food products and shall comply with the following
16 requirements:

17 (a) **Food shall be from an approved source.**

18 (b) **Breaking of packages and/or packaging of frozen goods in the**
19 **mobile unit is prohibited.**

20 (c) **Products shall be kept at 0° F. (-18° C.) or below.**

21 (d) **Products shall conform with labeling laws.**

22 (e) **All products shall be housed in the mobile unit and shall not be**
23 **removed from it until sold.**

24 (2) **Miscellaneous Requirements.**

25 (a) **On-street vending prohibited.**

26 (b) **All vehicles must be properly identified as required in division (G)(2)**
27 **of this section.**

28 (c) **The noise level created by the refrigeration unit must not exceed the**
29 **standards stipulated by law.**

30 § 9-6-2-4 **PERSONNEL.**

31 (A) **Employee Health.** No person while infected with a disease in a
32 communicable form that can be transmitted by foods or who is a carrier of
33 organisms that cause such a disease or while affected with a boil, an infected

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1 wound, or an acute respiratory infection shall work in a food establishment in
2 any capacity in which there is a likelihood of such person contaminating food
3 or food contact surfaces with pathogenic organisms or transmitting disease to
4 other persons.

5 (B) *Personal Cleanliness.* Employees shall thoroughly wash their hands
6 and exposed portions of their arms with soap and warm water before starting
7 work, during work as often as is necessary to keep them clean, after smoking,
8 eating, or using the toilet, and after handling raw meat, raw poultry or raw
9 seafood. Employees shall keep their fingernails trimmed and clean.

10 (C) *Clothing.*

11 (1) General.

12 (a) Employees shall wear clean outer clothing.

13 (b) Employees shall use effective hair restraints where necessary to
14 prevent the contamination of food or food contact surfaces.

15 (D) *Employee Practices.*

16 (1) Employees shall consume food only in designated areas. An
17 employee eating area shall not be so designated if consuming food there may
18 result in contamination of other food, equipment, utensils, or other items
19 needing protection.

20 (2) Employees shall not use tobacco in any form, while engaged in food
21 handling operations, nor while in warewashing or food preparation
22 areas. Employees shall use tobacco only in designated areas. An employee
23 tobacco-use area shall not be designated for that purpose if the use of
24 tobacco there may result in contamination of food, equipment, utensils or
25 other items needing protection.

26 (3) When food is being manipulated by hand during a preparation
27 process, all hand jewelry, which cannot be adequately sanitized, and all
28 insecure jewelry shall be removed.

29 (4) Employees shall maintain a high degree of personal cleanliness and
30 shall conform to good hygienic practices during all working periods.

31 § 9-6-2-5 EQUIPMENT AND UTENSILS.

32 (A) *Materials.*

1 (1) General. Multi-use equipment and utensils shall be constructed and
2 repaired with safe materials, including finishing materials, shall be corrosion
3 resistant and shall be nonabsorbent; and shall be smooth, easily cleanable,
4 and durable under conditions of normal use. Single-service articles shall be
5 made from clean, sanitary, safe materials. Equipment, utensils, and single-
6 service articles shall not impart odors, color, or taste, nor contribute to the
7 contamination of food.

8 (2) Solder. If solder is used, it shall be composed of safe materials and be
9 corrosion resistant.

10 (3) Wood. Hard maple or equivalent nonabsorbent wood that meets the
11 general requirements set forth in division (A)(1) above may be used for cutting
12 blocks and cutting boards. The use of wood as a food-contact surface under
13 other circumstances is prohibited.

14 (4) Plastics. Safe plastic or safe rubber or safe rubberlike materials that
15 are resistant under normal conditions of use to scratching, scoring,
16 decomposition, crazing, chipping and distortion, that are of sufficient weight
17 and thickness to permit cleaning and sanitizing by normal warewashing
18 methods, and which meet the general requirements set forth in division (A)(1)
19 above are permitted for repeated use.

20 (5) Single-Service. Reuse of single-service articles is prohibited.

21 (B) *Design and Fabrication.*

22 (1) General. All equipment and utensils, including plasticware, shall be
23 designed and fabricated for durability under conditions of normal use and
24 shall be resistant to denting, buckling, pitting, chipping, and crazing.

25 (a) Food-contact surfaces shall be easily cleanable, smooth, and free of
26 breaks, open seams, cracks, chips, pits, and similar imperfections, and free of
27 difficult-to-clean internal corners and crevices. Cast iron may be used as a
28 food-contact surface only if the surface is used for cooking. Threads shall be
29 designed to facilitate cleaning; ordinary "V" type threads are prohibited in
30 food contact surfaces, except that in equipment such as ice makers, hot oil
31 cooking equipment, or hot oil filtering systems, such threads shall be
32 minimized.

1 (b) Equipment containing bearings and gears requiring unsafe
2 lubricants shall be designed and constructed so that the lubricant cannot leak,
3 drip, or be forced into food or onto food-contact surfaces. Only safe
4 lubricants shall be used on equipment designed to receive lubrication of
5 bearings and gears on or within food-contact surfaces.

6 (c) Sinks and drain boards shall be self-draining.

7 (2) Accessibility. Unless designed for in-place cleaning, food-contact
8 surfaces shall be accessible for cleaning and inspection:

9 (a) Without being disassembled; or

10 (b) By disassembling without the use of tools; or

11 (c) By easy disassembling with the use of only simple tools such as
12 mallets, screwdrivers, or open-end wrenches which are kept near the
13 equipment.

14 (3) In-Place Cleaning. Equipment intended for in-place cleaning shall be
15 so designed and fabricated that:

16 (a) Cleaning and sanitizing solutions can be circulated throughout a
17 fixed system using an effective cleaning and sanitizing regimen; and

18 (b) Cleaning and sanitizing solutions will contact all interior food-
19 contact surfaces; and

20 (c) The system is self-draining or capable of being completely
21 evacuated.

22 (4) Pressure Spray Cleaning. Fixed equipment designed and fabricated to
23 be cleaned and sanitized by pressure spray methods shall have sealed
24 electrical wiring, switches, and connections.

25 (5) Nonfood-Contact Surfaces. Surfaces of equipment not intended for
26 contact with food, but which are exposed to splash or food debris or which
27 otherwise require frequent cleaning, shall be designed and fabricated to be
28 smooth, washable, free of unnecessary ledges, projections, or crevices, and
29 readily accessible for cleaning, and shall be of such material and in such
30 repair as to be easily maintained in a clean and sanitary condition.

31 (6) Maintenance of Equipment and Utensils. All equipment and utensils
32 shall be maintained in good repair to comply with the requirements of §§ 9-6-2-
33 1 et seq.

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1 (C) *Equipment Installation and Location.*

2 (1) **General.** Equipment, including ice makers and ice storage equipment,
3 shall not be located under leaking sewer or water lines, open stairwells, or
4 other sources of contamination. This requirement does not apply to automatic
5 fire protection sprinkler heads that may be required by law.

6 (2) **Aisles and Working Spaces.** Aisles and working spaces between units
7 of equipment and between equipment and walls, shall be unobstructed and of
8 sufficient width to permit employees to perform their duties readily without
9 contamination of food or food-contact surfaces by clothing or personal
10 contact. All easily movable storage equipment such as pallets, racks, and
11 dollies shall be positioned to provide accessibility to working areas.

12 § 9-6-2-6 **CLEANING, SANITIZATION AND STORAGE OF EQUIPMENT AND**
13 **UTENSILS.**

14 (A) *Equipment and Utensil Cleaning and Sanitization.*

15 (1) **Cleaning Frequency.**

16 (a) **Utensils and food-contact surfaces of equipment shall be washed,**
17 **rinsed, and sanitized in that order after each use, and following any**
18 **interruptions of operations during which time contamination may have**
19 **occurred and between processing of different animal species or a change in**
20 **processing from raw to ready-to-eat foods and after final use each working**
21 **day.**

22 (b) **Where equipment and utensils are used for the preparation of**
23 **potentially hazardous foods on a continuous or production-line basis, utensils**
24 **and the food-contact surfaces of equipment shall be washed, rinsed, and**
25 **sanitized, in that order, at intervals throughout the day on a schedule based**
26 **on food temperature, type of food, and amount of food particle accumulation.**

27 (c) **Nonfood-contact surfaces of equipment, including all cargo areas of**
28 **transport vehicles, including grocery push carts, shall be cleaned as often as**
29 **is necessary to keep the equipment free of accumulation of dust, dirt, food**
30 **particles, and other debris.**

31 (2) **Wiping Cloths.**

32 (a) **Moist cloths or sponges used for wiping food spills on food-contact**
33 **surfaces of equipment shall be clean and rinsed frequently in one of the**

1 sanitizing solutions permitted in division (A)(3)(e) below and used for no other
2 purpose. These cloths and sponges shall be stored in the sanitizing solution
3 between uses.

4 (b) Moist cloths or sponges used for cleaning nonfood-contact surfaces
5 of equipment shall be clean and rinsed as specified in division (A)(2)(a) above
6 and used for no other purpose. These cloths and sponges shall be stored in
7 the sanitizing solution between uses.

8 (3) Manual Cleaning and Sanitizing.

9 (a) For manual washing, rinsing and sanitizing of utensils and
10 equipment, a sink with not fewer than three compartments shall be provided
11 and used. Sink compartments shall be large enough to accommodate most
12 equipment and utensils, and each compartment of the sink shall be supplied
13 with hot and cold potable running water. Fixed equipment and utensils and
14 equipment too large to be cleaned in sink compartments shall be washed
15 manually or cleaned by pressure spray methods.

16 (b) Easily movable dish tables or drain boards of 18 inches minimum
17 length shall be provided for proper handling of soiled utensils prior to
18 washing and for cleaned utensils following sanitizing and shall be located so
19 as not to interfere with the proper use of the warewashing facilities.

20 (c) Equipment and utensils shall be pre-flushed or pre-scraped and,
21 when necessary, pre-soaked to remove gross food particles and soil.

22 (d) When a three compartment sink is utilized for warewashing, the
23 operation shall be conducted in the following sequence:

24 1. Sinks shall be cleaned prior to use; and

25 2. Equipment and utensils shall be thoroughly washed in the first
26 compartment with a hot detergent solution that is kept clean; and

27 3. Equipment and utensils shall be rinsed free of detergent and
28 abrasives with clean water in the second compartment; and

29 4. Equipment and utensils shall be sanitized in the third compartment
30 according to one of the methods included in divisions (A)(3)(e)1. through 4.
31 below.

32 (e) The food-contact surfaces of all equipment and utensils shall be
33 sanitized by:

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- 1 1. Immersion for at least one-half minute in clean, hot water of a
2 temperature of at least 170° F. (77° C.); or
 - 3 2. Immersion for at least one minute in a clean solution containing at
4 least 50 parts per million of available chlorine as a hypochlorite and having a
5 temperature of at least 75° F. (24° C.); or
 - 6 3. Immersion for at least one minute in a clean solution containing at
7 least 12.5 parts per million of available iodine and having a pH not higher than
8 5.0 and at a temperature of at least 75° F. (24° C.); or
 - 9 4. Immersion in a clean solution containing any other chemical
10 sanitizing agent approved by both the city and state health authorities that will
11 provide the equivalent bactericidal effect of a solution containing at least 50
12 parts per million of available chlorine as a hypochlorite at a temperature of at
13 least 75° F. (24° C.) for one minute; or
 - 14 5. Treatment with steam free from materials or additives harmful to
15 human health in the case of equipment too large to sanitize by immersion, but
16 in which steam can be confined; or
 - 17 6. Rinsing, spraying, or swabbing with a chemical sanitizing solution
18 of at least twice the strength required for that particular sanitizing solution in
19 the case of equipment too large to sanitize by immersion.
- 20 (f) When hot water is used for sanitizing, the following facilities shall be
21 provided and used:
- 22 1. An integral heating device or fixture installed in, on, or under the
23 sanitizing compartment of the sink capable of maintaining the water at a
24 temperature of at least 170° F. (77° C.); and
 - 25 2. A numerically scaled indicating thermometer, accurate to ±2° F. (1°
26 C.), convenient to the sink for frequent checks of water temperature; and
 - 27 3. Dish baskets of such size and design to permit complete immersion
28 of utensils and equipment in the hot water.
- 29 (g) When chemicals are used for sanitization, they shall not have
30 concentrations higher than the maximum permitted by Federal regulations and
31 a test kit or other device that accurately measures the parts per million
32 concentration of the solution shall be provided and used by establishment
33 operators.

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1 (4) **Mechanical Cleaning and Sanitizing.** Mechanical cleaning and
2 sanitizing if done shall meet the requirements as set forth in §§ 9-6-1-1 et seq.

3 (5) **Drying.** After sanitization, all equipment and utensils shall be air-
4 dried.

5 (6) **Retail Food Stores Without Proper Cleaning Facilities.** All retail food
6 stores which do not have facilities for proper cleaning and sanitizing of
7 utensils and equipment shall not prepare or package food for sale, or
8 dispense unpackaged food other than raw fruits and vegetables.

9 (B) *Equipment and Utensil Handling and Storage.*

10 (1) **Handling.** Cleaned and sanitized equipment and utensils shall be
11 handled in a way that protects them from contamination.

12 (2) **Storage.**

13 (a) **Cleaned and sanitized utensils and equipment shall be stored at**
14 **least four inches above the floor in a clean, dry location in a way that protects**
15 **them from splash, dust, and other means of contamination. The food-contact**
16 **surfaces of fixed equipment shall also be protected from**
17 **contamination. Equipment and utensils shall not be placed under leaking**
18 **sewer or water lines, or leaky automatic fire protection sprinkler heads.**

19 (b) **Utensils shall be air dried before being stored or shall be stored in a**
20 **self-draining position.**

21 (c) **Stored utensils shall be covered or inverted wherever practical.**

22 (3) **Single-Service Articles.**

23 (a) **Single-service articles shall be stored at least four inches above the**
24 **floor in closed cartons or containers which protect them from contamination**
25 **and shall not be placed under leaking sewer or water lines, or leaky automatic**
26 **fire protection sprinkler heads.**

27 (b) **Single-service articles shall be handled in a manner that prevents**
28 **contamination of surfaces which may come in contact with food.**

29 (4) **Prohibited Storage Areas.** The storage of food, equipment, utensils or
30 single-service articles in locker rooms, toilet rooms and vestibules and
31 garbage or mechanical rooms is prohibited.

32 § 9-6-2-7 **SANITARY FACILITIES AND CONTROLS.**

33 (A) *Water Supply.*

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1 (1) General. The water supply shall be from the city water system or an
2 approved private system. Hot and cold running water, under pressure, shall
3 be provided in all areas where food is prepared, and equipment, utensils, or
4 containers are washed. Ice used for any purpose shall be made from water
5 which comes from an approved source, and shall be used only if it has been
6 manufactured, stored, transported, and handled in an approved manner.

7 (2) Transportation. All potable water not provided directly by a piping
8 system to the food service establishment from the source shall be transported
9 in a bulk water transport system and shall be delivered to a closed water
10 system. Both of these systems shall be constructed and operated according
11 to law.

12 (3) Bottled and Packaged Water. Bottled and packaged potable water
13 shall be obtained from a source that complies with law, and shall be handled
14 and stored in a way that protects it from contamination.

15 (4) Steam. Steam used in contact with food or food-contact surfaces shall
16 be free from any materials or additives other than those specified by law.

17 (B) Sewage.

18 (1) General. All sewage shall be disposed of in the city sewerage system
19 except in those cases where the city system is not available, at which time a
20 private system may be installed meeting all requirements of the law.

21 (C) Plumbing.

22 (1) General. Plumbing shall be sized, installed, and maintained according
23 to law. There shall be no cross-connections between the potable water supply
24 and any nonpotable water supply (as defined within §§ 6-2-1 et seq., Cross-
25 Connection Prevention and Control), questionable water supply or any source
26 of contamination or pollution (as defined within §§ 6-2-1 et seq., Cross-
27 Connection Prevention and Control) except as provided by §§ 6-2-1 et seq.,
28 Cross-Connection Prevention and Control.

29 (2) Nonpotable Water System. A nonpotable water system is permitted
30 only for purposes such as air-conditioning and fire protection and only if the
31 system is installed according to law and the nonpotable water does not
32 contact, directly or indirectly, food, potable water, equipment that contacts
33 food, or utensils. The piping of any nonpotable water system shall be durably

1 identified so that it is readily distinguishable from piping that carries potable
2 water.

3 (3) Backflow. The potable water system shall be installed to preclude the
4 possibility of backflow. Backflow prevention assemblies (as defined within §§
5 6-2-1 et seq., Cross-Connection Prevention and Control) shall be installed to
6 protect against backflow at all fixtures and equipment where an approved air
7 gap separation (as defined within §§ 6-2-1 et seq., Cross-Connection
8 Prevention and Control) is not provided. To be approved, an air gap
9 separation shall be at least twice the diameter of the water supply inlet and the
10 fixture's flood level rim but in no case less than 1 inch (2.54 cm). Hose
11 attachments to faucets are prohibited unless an approved atmospheric
12 vacuum breaker (as defined within §§ 6-2-1 et seq., Cross-Connection
13 Prevention and Control) is installed.

14 (4) Grease Traps. Where grease traps are required they shall be installed
15 and maintained according to law.

16 (5) Garbage Grinders. If used, garbage grinders shall be installed and
17 maintained according to law.

18 (6) Drains. There shall be no direct connection between the sewerage
19 system and any drains originating from equipment in which food is placed.

20 (D) *Toilet Facilities.*

21 (1) Toilet Installation. Toilet facilities shall be installed according to law,
22 shall be the number required by law, shall be conveniently located and shall
23 be accessible to employees at all times.

24 (2) Toilet Design. Toilets and urinals shall be designed to be easily
25 cleanable.

26 (3) Toilet Rooms. Toilet rooms shall be completely enclosed and shall
27 have tight-fitting, self-closing, doors which shall be closed except during
28 cleaning or maintenance. Toilet rooms shall be kept clean, in good repair and
29 free of objectionable odors.

30 (4) Toilet Fixtures. Toilet fixtures shall be kept clean and in good
31 repair. A supply of toilet tissue shall be provided at each toilet at all
32 times. Easily cleanable receptacles shall be provided for waste materials.
33 Toilet rooms used by women shall have covered waste receptacles.

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1 (E) *Handwashing Facilities.*

2 (1) Lavatory Installation. Lavatories shall be located in or immediately
3 adjacent to toilet rooms or vestibules and shall be at least the number
4 required by law. Each lavatory shall be provided with hot and cold running
5 water from a mixing-type faucet. Any self-closing, slow-closing or metering
6 type faucet used shall be designed to provide a flow of water for at least
7 fifteen seconds without the need to reactivate the faucet. A minimum of one
8 lavatory or handwash facility shall be installed in the food processing area of
9 every food establishment. Lavatories shall be accessible to employees at all
10 times. Sinks used for food preparation or for washing equipment or utensils
11 shall not be used for handwashing.

12 (2) Handwashing Supplies. A supply of hand cleansing soap or detergent
13 shall be available at each handwashing facility. A supply of sanitary towels or
14 a hand drying device with heated air shall be conveniently located near each
15 handwashing area. Common towels are prohibited. If disposable towels are
16 used, easily cleanable waste receptacles shall be conveniently located near
17 the handwashing facilities.

18 (3) Lavatory Maintenance. Lavatories, soap dispensers, and all related
19 facilities shall be kept clean and in good repair.

20 (F) *Garbage and Refuse.*

21 (1) Containers.

22 (a) Garbage and refuse shall be kept in durable, easily cleanable, insect-
23 proof and rodent-proof containers that do not leak and do not absorb
24 liquids. Plastic bags and wet strength paper bags may be used to line these
25 containers, and may be used for storage inside the food store.

26 (b) Containers used in food preparation and utensil washing areas shall
27 be kept covered after they are filled and during nonrush business hours.

28 (c) Containers stored outside the establishment, including dumpsters,
29 compactors and compactor systems, shall be easily cleanable, shall be
30 provided with tight-fitting lids, doors or covers, and shall be kept covered
31 when not in actual use. Dumpsters need not have closed lids when contents
32 are bagged or dry. In containers designed with drains, drain plugs shall be in
33 place at all times, except during cleaning.

1 (d) There shall be a sufficient number of containers to hold all the
2 garbage and refuse that accumulates.

3 (e) Soiled containers shall be cleaned at a frequency to prevent insect
4 and rodent attraction. Each container shall be thoroughly cleaned on the
5 inside and outside in a way that does not contaminate food, equipment,
6 utensils or food preparation areas. Suitable facilities, including hot water and
7 detergent, or steam shall be provided and used for washing
8 containers. Liquid waste from compacting or cleaning operations shall be
9 disposed of as sewage. Disposal of these wastes onto open fields, parking
10 lots or streets is prohibited.

11 (2) Storage.

12 (a) Garbage and refuse on the premises shall be stored in a manner to
13 make them inaccessible to insects and rodents. Outside storage of
14 unprotected plastic bags or wet strength paper bags or baled units containing
15 garbage or refuse is prohibited. Cardboard or other packaging material not
16 containing garbage or food wastes need not be stored in covered containers.

17 (b) Garbage or refuse storage rooms, if used, shall be constructed of
18 easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall
19 be insect and rodent proof, and shall be large enough to store all the garbage
20 and refuse containers necessitated by disposal pick-up frequency.

21 (c) Outside storage areas or enclosures shall be large enough to store
22 the garbage and refuse containers that accumulate and shall be kept
23 clean. Garbage and refuse containers, dumpsters and compactor systems
24 located outside, shall be stored on or above a smooth surface that is kept
25 clean and maintained in good repair.

26 (d) Storage areas shall be kept clean and not constitute an odor, fly or
27 any other type of nuisance.

28 (3) Disposal. Garbage and refuse shall be disposed of often enough to
29 prevent the development of objectionable odors and the attraction of insects
30 and rodents.

31 (G) *Insect and Rodent Control.*

32 (1) General. Effective measures shall be utilized to minimize the presence
33 of rodents, flies, cockroaches, or other insects on the premises. The premises

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1 shall be maintained in a condition that prevents the harborage or feeding of
2 insects or rodents.

3 (2) Openings. Openings to the outside shall be effectively protected
4 against the entrance of animals and insects by tight-fitting, self-closing doors;
5 or closed windows or screening. Controlled air currents, or other approved
6 means may be used to prevent the entry of insects during periods of
7 delivery. Screen doors shall be self-closing, and screens for windows, doors,
8 skylights, transoms, intake and exhaust air ducts, and other openings to the
9 outside shall be tight-fitting and free of breaks. Screening material shall not
10 be less than 16 mesh to the inch. Food establishments handling only food
11 which must be pared or peeled before using may be exempt from the
12 screening requirements.

13 § 9-6-2-8 CONSTRUCTION AND MAINTENANCE OF PHYSICAL ACTIVITIES.

14 (A) Floors.

15 (1) Floor Construction.

16 (a) Floors and floor coverings of all food preparation, food storage, and
17 warewashing areas, and the floors of all walk-in refrigerators, dressing rooms,
18 locker rooms, toilet rooms and vestibules, shall be constructed of smooth,
19 durable material such as concrete, terrazzo, ceramic tile, durable grades of
20 linoleum or plastic, or tight-fitting wood impregnated with plastic, and shall be
21 maintained in good repair.

22 (b) Floors which are water flushed or which receive discharges of water
23 or other fluid wastes or are in areas where pressure spray methods for
24 cleaning are used, shall be provided with trapped drains, properly
25 installed. Such floors shall be constructed only of sealed concrete, terrazzo,
26 ceramic tile or similar materials and shall be graded to drain.

27 (c) In all new or extensively remodeled establishments utilizing
28 concrete, terrazzo, ceramic or quarry tile, or similar floor materials, and where
29 water flush cleaning methods are used, the junctures between walls and floors
30 shall be coved and sealed. In all other cases, the juncture between walls and
31 floors shall not present an open seam of more than 1/32 inch.

32 (d) The floor of each walk-in refrigerator shall be graded to drain all
33 parts of the floor to the outside through a waste pipe, or doorway or equipped

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1 with a floor drain. Floor drains shall not have a direct connection to the sewer
2 and shall be installed so as to prevent backflow.

3 (2) Floor Carpeting. Carpeting, if used as a floor covering, shall be of
4 closely woven construction, properly installed, easily cleanable, and
5 maintained in good repair. Carpeting is prohibited in food preparation and
6 warewashing areas where it would be exposed to large amounts of grease and
7 water, in food storage areas, and in toilet room areas where urinals or toilet
8 fixtures are located.

9 (3) Prohibited Floor Covering. The use of sawdust, wood shavings, or
10 similar material as a floor covering is prohibited. Meat markets may use
11 sawdust as an anti-slip covering in the processing area.

12 (4) Mats and Duckboard. Mats and duckboards shall be of nonabsorbent,
13 grease resistant materials, and of such size, design, and construction to
14 facilitate cleaning.

15 (5) Utility Line Installation. Exposed utility service lines and pipes shall
16 be installed in a way that does not obstruct or prevent cleaning of the floor. In
17 all new or extensively remodeled establishments, installation of exposed
18 horizontal utility service lines and pipes on the floor is prohibited.

19 (B) *Walls and Ceilings.*

20 (1) Maintenance. Walls and ceilings, including doors, windows, skylights,
21 and similar closures, shall be maintained in good repair.

22 (2) Construction. The walls, including nonsupporting partitions, wall
23 coverings, and ceilings of walk-in refrigerators, food preparation areas,
24 warewashing areas, toilet rooms and vestibules shall be light colored, smooth,
25 nonabsorbent and easily cleanable. Concrete or pumice blocks used for
26 interior wall construction in these locations shall not be struck and shall be
27 finished and sealed to provide an easily cleanable surface.

28 (3) Exposed Construction. Studs, joists, and rafters shall not be exposed
29 in those areas listed in division (B)(2) above. If exposed in other rooms or
30 areas, they shall be finished to provide an easily cleanable surface.

31 (4) Utility Line Installation. Utility service lines and pipes shall not be
32 exposed on walls or ceilings in those areas listed in division (B)(2)

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1 above. Exposed utility service lines and pipes shall be installed in a way that
2 does not obstruct or prevent cleaning of the walls and ceilings.

3 (5) Attachments. Light fixtures, vent covers, wall mounted fans,
4 decorative materials, and similar equipment attached to walls and ceilings
5 shall be easily cleanable and shall be maintained in good repair.

6 (6) Covering Material Installation. Wall and ceiling covering materials
7 shall be attached and sealed in a manner so as to leave no open spaces and
8 cracks and shall be easily cleanable.

9 (C) *Cleaning Physical Facilities.*

10 (1) General. Floors, mats, duckboards, walls, ceilings, and attached
11 equipment and decorative materials shall be kept clean. Cleaning of floors,
12 walls, and ceilings, except emergency cleaning of floors, shall be done as
13 often as necessary, but preferably during periods when the least amount of
14 food is exposed. Only dustless methods of cleaning floors, walls and ceilings
15 shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-
16 arresting sweeping compounds with brooms.

17 (2) Service Sinks. In new or extensively remodeled establishments, at
18 least one utility sink or curbed cleaning facility with a floor drain shall be
19 provided and used for the cleaning of mops or similar wet floor cleaning tools
20 and for the disposal of mop water or similar liquid wastes. The use of
21 handwashing or warewashing facilities or food preparation sinks for this
22 purpose is prohibited.

23 (D) *Lighting.*

24 (1) General.

25 (a) Permanently fixed artificial light sources shall be installed to provide
26 at least 30 foot candles of light on all food preparation surfaces and at
27 warewashing work levels.

28 (b) Permanently fixed artificial light sources shall be installed to
29 provide, at a distance of 30 inches from the floor:

30 1. At least 20 foot candles of light in sales areas, utensil and
31 equipment storage areas and in handwashing and toilet areas; and

32 2. At least 20 foot candles of light in walk-in refrigerators, dry food
33 storage areas, and in all other areas.

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1 **(2) Protective Shielding.** Shielding to protect against broken glass falling
2 onto food shall be provided for all artificial lighting fixtures located over, by, or
3 within open food preparation, and display facilities, and facilities where
4 utensils and equipment are cleaned and stored.

5 **(E) Ventilation.** All rooms shall have sufficient ventilation to keep them free
6 of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and
7 fumes. Ventilation systems shall be installed and operated according to law
8 and, when vented to the outside, shall not create a harmful or unlawful
9 discharge. Intake and exhaust air ducts shall be maintained to prevent the
10 entrance of dust, dirt, and other contaminating materials.

11 **(F) Dressing Rooms and Locker Areas.**

12 **(1) Dressing Rooms and Areas.** If employees routinely change clothes
13 within the establishment, rooms or areas shall be designated and used for that
14 purpose. These designated rooms or areas shall not be used for food
15 preparation, display, or for warewashing or storage of utensils and equipment.

16 **(2) Locker Area.** Lockers or other suitable facilities may be provided and
17 used for the orderly storage of employee clothing and other
18 belongings. Lockers or other suitable facilities may be located only in the
19 designated dressing rooms or, in food storage rooms or areas containing only
20 completely packaged food or packaged single service articles.

21 **(G) Poisonous or Toxic Materials.**

22 **(1) Materials Permitted.** Only those poisonous or toxic materials
23 necessary for the maintenance of the establishment, including the cleaning
24 and sanitization of equipment and utensils, and the control of insects and
25 rodents, shall be present in retail food stores, except those items being held
26 or offered for retail sale.

27 **(2) Labeling of Materials.** Containers of poisonous or toxic materials shall
28 be prominently and distinctly labeled according to law for easy identification
29 of contents.

30 **(3) Storage of Materials.**

31 **(a) Poisonous or toxic materials necessary for the maintenance of the**
32 **establishment consist of the following two categories:**

33 **1. Insecticides and rodenticides;**

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1 **2. Detergents, sanitizers, related cleaning or drying agents, caustics,**
2 **acids, polishes, and other chemicals.**

3 **(b) Each of the two categories shall be stored and located to be**
4 **physically separated from each other. All poisonous or toxic materials shall**
5 **be stored in cabinets or in similar physically separated compartments or**
6 **facilities used for no other purpose. To preclude potential contamination,**
7 **poisonous or toxic materials shall not be stored above food, food equipment,**
8 **utensils or single service articles, except that this requirement does not**
9 **prohibit the convenient availability of detergent or sanitizers at warewashing**
10 **facilities.**

11 **(4) Use of Materials.**

12 **(a) Bactericides, cleaning compounds, or other compounds intended for**
13 **use on food-contact surfaces shall not be used in a way that leaves a toxic**
14 **residue on such surfaces, nor in a way that constitutes a hazard to employees**
15 **or other persons.**

16 **(b) Poisonous or toxic materials shall not be used in a way that**
17 **contaminates food, equipment, or utensils, nor in a way other than in full**
18 **compliance with the manufacturers' labeling.**

19 **(5) Personal Medications. Personal medications, except unopened**
20 **packages held for sale, shall not be stored in food storage, preparation or**
21 **display areas.**

22 **(6) First Aid Supplies. First aid supplies shall be stored in a way that**
23 **prevents them from contaminating food and food-contact surfaces.**

24 **(7) Display of Materials. Poisonous or toxic materials offered for retail**
25 **sale shall be separated from food.**

26 **(H) Premises.**

27 **(1) General.**

28 **(a) Food establishments and all parts of the property used in connection**
29 **with operations of the establishment shall be kept free of litter.**

30 **(b) The walking and driving surfaces of all exterior areas of food**
31 **establishments shall be surfaced with concrete, asphalt or with gravel or**
32 **similar material effectively treated to facilitate maintenance and minimize**

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1 dust. These surfaces shall be graded to facilitate drainage and kept free of
2 litter.

3 (c) Only articles necessary for the operation and maintenance of the
4 food establishments shall be stored on the premises.

5 (d) The traffic of unnecessary persons through the food preparation and
6 warewashing areas is prohibited.

7 (2) Living Areas. No operation of a food establishment shall be
8 conducted in any room used as living or sleeping quarters. Food operations
9 shall be separated from any living or sleeping quarters by complete
10 partitioning and solid, self-closing doors.

11 (3) Laundry Facilities.

12 (a) If provided, laundry facilities in a food establishment shall be
13 restricted to the washing and drying of linens, cloths, uniforms, and aprons
14 necessary to the operation. If such items are laundered on the premises, an
15 electric or gas dryer shall be provided and used.

16 (b) Separate rooms shall be provided for laundry facilities except that
17 such operations may be conducted in storage rooms containing only
18 packaged foods or packaged single service articles, provided equipment is
19 properly vented.

20 (4) Linens and Clothes Storage.

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

23 (b) Soiled clothes and linens shall be kept in nonabsorbent containers
24 or washable laundry bags until removed for laundering and shall be stored to
25 prevent contamination of food equipment and utensils.

26 (5) Cleaning Equipment Storage. Maintenance and cleaning tools such as
27 brooms, mops, vacuum cleaners and similar equipment shall be maintained
28 and stored in a way that does not contaminate food, utensils, equipment, or
29 linens and shall be stored in an orderly manner to facilitate the cleaning of that
30 location.

31 (6) Animals. Live animals shall be excluded from within the food
32 operational premises and from immediately adjacent areas under the control
33 of the permit holder. This exclusion does not apply to edible fish, crustacea,

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1 shellfish, or fish in aquariums. Patrol dogs accompanying security or police
2 officers shall also be permitted in offices, storage areas and outside store
3 premises. Sentry dogs may be permitted to run loose in outside fenced
4 areas. Guide dogs accompanying blind or deaf persons shall be permitted in
5 sales areas.

6 **§ 9-6-2-9 INSPECTION OF FOOD ESTABLISHMENTS.**

7 (A) *Inspection Frequency.* The enforcement authority shall determine the
8 frequency of inspections according to past compliance records of a food
9 establishment and the risk presented to consumers by the food items
10 provided by the specific food establishment. The enforcement authority shall
11 inspect each establishment at least once annually and shall make as many
12 reinspections as are necessary for the enforcement of §§ 9-6-2-1 et seq.

13 (B) *Access to Establishments.* The enforcement authority, after proper
14 identification, shall be permitted to enter, at any reasonable time, any food
15 establishment within the city, for the purpose of making inspections to
16 determine compliance with §§ 9-6-2-1 et seq. The operator or person in charge
17 of the establishment shall be given an opportunity to accompany the
18 enforcement representative on his inspection. The enforcement authority
19 shall be permitted to examine the records of the establishment to obtain
20 pertinent information related to food source and supplies purchased, received
21 or used and list of persons employed.

22 (C) *Report of Inspections.* Whenever an inspection of a food establishment
23 is made, the findings shall be recorded on an enforcement authority
24 inspection form. The inspection report form shall summarize the
25 requirements of §§ 9-6-2-1 et seq. and shall set forth a weighted point value for
26 each requirement. The original copy of the inspection report form shall be
27 furnished to the person in charge of the establishment as soon as possible
28 after the inspection. The inspection form shall be signed by both the
29 enforcement authority and the person in charge. The completed inspection
30 report form is a public document that shall be made available for public
31 disclosure at the enforcement authority's office to any person who requests it.

32 (D) *Correction of Violations.* The inspection report form shall specify a
33 reasonable period of time for the correction of the violations

1 found. Correction of the violations shall be accomplished within the period
2 specified.

3 (1) If an imminent health hazard exists, such as complete lack of
4 refrigeration or sewage back-up into the establishment, the establishment
5 shall immediately cease operations. Operations shall not be resumed until
6 authorized by the enforcement authority.

7 (2) The report of inspection shall state that failure to comply with any time
8 limits for corrections will require that the establishment be downgraded.

9 (3) Whenever a food establishment is required under the provisions of
10 this division (D) to cease operations, it shall not resume operations until such
11 time as a reinspection determines that conditions responsible for the
12 requirements to cease operations no longer exist. A reinspection shall be
13 made within three working days following the day on which it is requested.

14 (E) *Service of Notices.* Notices provided for under this division shall be
15 deemed to have been properly served when the original of the inspection
16 report form or other written notice has been delivered personally to the permit
17 holder or person in charge, or such notice has been sent by registered or
18 certified mail, return receipt requested, to the last known address of the permit
19 holder. A copy of such notice shall be filed with the records of the
20 enforcement authority.

21 (F) *Grading of Establishments.* Every food establishment in the city shall
22 display, in a place designated by the enforcement authority, and which is
23 readily visible to the public, a placard stating the grade received at the time of
24 the most recent inspection of the establishment. Grades of establishments
25 shall be as follows:

26 (1) *Approved.* An establishment that is operated in compliance with the
27 requirements of §§ 9-6-2-1 et seq.

28 (2) *Unsatisfactory.* An establishment having two consecutive violations
29 of the same 4 or 5 point item and/or four consecutive violations of the same 1
30 or 2 point item, and/or four or more violations of 4 or 5 point items during any
31 one inspection. "Unsatisfactory" is a temporary grade with a maximum of ten
32 days duration; failure to meet the standards for a higher grade within this
33 period of time shall lead to immediate suspension of the establishment's

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1 operating permit. Immediately following each inspection, the enforcement
2 authority shall post the appropriate grade based upon the inspection findings,
3 and shall issue an appropriate notice to the operator. The permit holder or
4 operator of any establishment, the grade of which has been lowered may,
5 upon correcting all violations, request an inspection for the purpose of
6 regrading the establishment. The enforcement authority shall, within five
7 working days following receipt of a request for reinspection, make an
8 inspection and thereafter as many additional inspections as may be deemed
9 necessary to assure that the applicant is complying with the higher grade
10 requirements; and, if the findings include compliance, shall award the higher
11 grade. The enforcement authority may require the establishment operator, or
12 his management designee, to attend an approved food service seminar.

13 **§ 9-6-2-10 COMPLIANCE PROCEDURES.**

14 (A) *Permits.* It shall be unlawful for any person to operate a food
15 establishment within the city who does not possess a valid permit issued to
16 him by the enforcement authority. Such permit shall be posted in a
17 conspicuous place, and only such persons who comply with the requirements
18 of §§ 9-6-2-1 et seq. and other applicable laws, regulations, and ordinances
19 shall receive and retain such permit. Permits shall not be transferable from
20 one person to another person or place.

21 (B) *Issuance of Permits.* The enforcement authority shall be contacted at
22 least two working days prior to the anticipated opening date of the
23 establishment for an inspection to determine compliance with the provisions
24 of §§ 9-6-2-1 et seq. When the inspection reveals that the requirements of §§
25 9-6-2-1 et seq. and other applicable laws, regulations and ordinances have
26 been met, a permit application is issued. The applicant shall remit payment
27 for the permit within five days of the enforcement authority's approval of the
28 application. If an applicant fails to pay after thirty days following the
29 enforcement authority's approval of the application, the enforcement authority
30 may cancel the application. A permit will be issued after compliance.

31 (C) *Denial of Permit.* The enforcement authority may refuse to issue a permit
32 to any person who fails to demonstrate, to the satisfaction of the enforcement
33 authority, the ability to comply with or who fails to comply with the

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1 requirements of §§ 9-6-2-1 et seq. and other laws, regulations and ordinances
2 applicable to the proposed operation. In the event the enforcement authority
3 denies a permit, the enforcement authority shall notify the applicant in writing,
4 stating the reasons for which the permit application is denied.

5 (1) *Service of Notices.* Notices provided for under this division shall be
6 deemed to have been properly served when the original of the inspection
7 report form or other written notice has been delivered personally to the permit
8 applicant, or such notice has been sent by registered or certified mail, return
9 receipt requested, to the last known address of the permit applicant. A copy
10 of such notice shall be filed with the records of the enforcement authority.

11 (2) An opportunity for a hearing will be provided if a written request for
12 a hearing is filed with the City Clerk's office within fifteen working days. A
13 hearing shall be granted in accordance with the provisions in the IHO
14 Ordinance, ROA 1994, Chapter 2, Article 7, Part 8.

15 (D) *Suspension of Permits.* Permits may be suspended by the
16 enforcement authority for failure of the holder to comply with the requirements
17 of §§ 9-6-2-1 et seq. or of other applicable laws. An establishment's operating
18 permit shall be immediately suspended in lieu of a third downgrading during
19 any 36-month period under the same business management. Whenever a
20 permit holder or operator has failed to comply with any notice issued under
21 the provisions of this section, the permit holder or operator shall be notified in
22 writing that the permit is, upon service of this notice, immediately suspended,
23 and that an opportunity for a hearing will be provided if a written request for
24 hearing is filed with City's Clerk's office within fifteen working days.
25 Notwithstanding the other provisions of §§ 9-6-2-1 et seq., whenever the
26 enforcement authority finds an imminent health hazard or other conditions in
27 the operation of a food establishment which, in his judgment, constitute a
28 substantial hazard to the public health, he may without any prior warning,
29 notice, or hearing, issue a written notice to the permit holder or operator citing
30 such condition, specifying the corrective action to be taken, and specifying
31 the time period within which such action shall be taken; and, if deemed
32 necessary, such order shall state that the permit is immediately suspended
33 and all operations are to be immediately discontinued. Any person to whom

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1 such an order is issued shall comply immediately therewith, and shall be
2 granted a hearing upon written request in accordance with the provisions in
3 the IHO Ordinance, ROA 1994, Chapter 2, Article 7, Part 8.

4 (E) *Reinstatement of Suspended Permits.* Any person whose permit has
5 been suspended, may at any time, make application for a reinspection for the
6 purpose of reinstatement of the permit. Within five working days following
7 receipt of a request of reinspection, the enforcement authority shall make a
8 reinspection. If the applicant complies with the requirements of §§ 9-6-2-1 et
9 seq. and other applicable laws, the permit shall be reinstated.

10 (F) *Revocation of Permits.* For three or more suspensions within a 60-
11 month period under the same business management; for failure of an
12 establishment which has received a Grade of "Unsatisfactory" to meet the
13 requirements of an "Approved" Grade within the required time period; for the
14 fourth downgrading or second suspension in lieu of downgrading within any
15 36-month period under the same business management; for refusal of entry
16 after proper identification has been tendered; or for interference with the
17 enforcement authority in the performance of his duties, the permit may be
18 revoked after an opportunity for a hearing has been provided by the
19 enforcement authority. Prior to such action, the enforcement authority shall
20 notify the permit holder in writing, stating the reasons for which the permit is
21 subject to revocation and advising that the permit shall be revoked at the end
22 of five working days following the service of such notice, unless a written
23 request for a hearing is filed with the City Clerk's office by the permit holder
24 within such five working-day period. The hearing shall be scheduled within
25 five working days following receipt of the written request by the City Clerk's
26 office. A permit may be suspended for cause pending its revocation or a
27 hearing relative thereto. A permit may be revoked after a hearing in lieu of a
28 third suspension within a 60-month period.

29 (G) *Application for a New Permit After Revocation.*

30 (1) After a permit is revoked, the former permit holder may submit a
31 written application to the enforcement authority for a new permit and shall
32 pay all applicable fees.

33 (2) The annual fee due date for the new permit shall be determined by the

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1 date the permit is issued by the enforcement authority.

2 (H) *Hearings.* The hearings provided for in this division shall be conducted
3 by the Independent Hearing Officer in accordance with the provisions in the
4 IHO Ordinance, ROA 1994, Chapter 2, Article 7, Part 8. Any action of the
5 enforcement authority for which a hearing is not otherwise provided for in this
6 ordinance, which action adversely impacts the permit holder, is subject to
7 review under this section if a hearing request is filed within fifteen working
8 days of the action and in accordance with the provisions in the IHO Ordinance,
9 ROA 1994, Chapter 2, Article 7, Part 8.

10 (I) *Judicial Review.* The exclusive remedy for any party dissatisfied with
11 any final decision of hearing officer is to file a petition to the District Court
12 within 30 days after service of written notice of the decision of the concerned
13 party. The petition for review shall be limited to the record.

14 (J) *Injunctive Relief.* As an additional remedy, if any food establishment
15 violates the provisions of §§ 9-6-2-1 et seq., the enforcement authority may
16 seek injunctive relief in a court of competent jurisdiction.

17 (K) *Issuance of Citations.* Citations may be issued by the enforcement
18 authority for failure to comply with any requirement set forth in §§ 9-6-2-1 et
19 seq.

20 (L) A nonrefundable hearing fee of \$50.00 shall accompany each
21 application for hearing conducted by the hearing officer pursuant to this
22 section.

23 **§ 9-6-2-11 EXAMINATION AND CONDEMNATION OF FOOD.**

24 Samples of food, drink, and other substances may be taken and examined
25 by the enforcement authority as often as necessary to determine freedom from
26 unwholesomeness, adulteration or mislabeling. Samples submitted for
27 laboratory analysis shall be submitted to a laboratory approved by and under
28 cognizance of a federal or state agency. The enforcement authority may, upon
29 written notice to the owner or person in charge, place a hold order on any food
30 which he determines or has probable cause to believe to be unwholesome or
31 otherwise adulterated or mislabeled. The enforcement authority shall tag,
32 label or otherwise identify any food subject to the hold order and permit it to
33 be suitably stored unless storage is not possible without risk to the public

1 health, in which case immediate destruction shall be ordered and
2 accomplished. It shall be unlawful for any person to remove or alter a hold
3 order, notice or tag placed on the food by the enforcement authority, and
4 neither such food nor the containers thereof shall be relabeled, repacked,
5 reprocessed, altered, disposed of, or destroyed without permission of the
6 enforcement authority, except on order by a court of competent
7 jurisdiction. The hold order shall state that a request for a hearing may be
8 filed within fifteen working days and that if no hearing is requested, the food
9 shall be destroyed at the owner's expense. A hearing shall be held in
10 accordance with the provisions in the IHO Ordinance, ROA 1994, Chapter 2,
11 Article 7, Part 8. After the owner or person in charge has had a hearing as
12 requested, and on the basis of the enforcement authority's examination in the
13 event a written request for a hearing is not received, the hold order may be
14 vacated or the owner or person in charge of the food may be directed by
15 written order to denature or destroy such food or bring it into compliance with
16 the provisions of §§ 9-6-2-1 et seq. or shall be stayed if the order is appealed
17 to a court of competent jurisdiction within three days.

18 **§ 9-6-2-12 FOOD ESTABLISHMENTS OUTSIDE JURISDICTION OF THE**
19 **ENFORCEMENT AUTHORITY.**

20 Food from food establishments located outside the jurisdiction of the
21 enforcement authority may be sold within the city if such establishments
22 conform to the provisions of §§ 9-6-2-1 et seq. or to substantially equivalent
23 provisions. To determine the extent of compliance with such provisions, the
24 enforcement authority may accept reports from responsible authorities in
25 other jurisdictions where such establishments are located.

26 **§ 9-6-2-13 PLAN REVIEW OF FUTURE CONSTRUCTION.**

27 When a food establishment is hereafter constructed or extensively
28 remodeled, or when an existing structure is converted for use as a food
29 establishment, properly prepared plans and specifications for such
30 construction, remodeling, or alteration showing layout, arrangement, and
31 construction materials or work areas, and the location, size, and type of fixed
32 equipment and facilities shall be submitted to the enforcement authority for
33 approval and to other appropriate city agencies before such work is begun.

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1 § 9-6-2-14 PROCEDURE WHEN INFECTION IS SUSPECTED.

2 When the enforcement authority has reasonable cause to suspect possibility
3 of disease transmission from any food establishment employee, the
4 enforcement authority shall secure a morbidity history of the suspected
5 employee, or make such other investigation as may be indicated, and take
6 appropriate action. The enforcement authority may require any or all of the
7 following measures:

- 8 (A) The immediate exclusion of the employee from the food establishment;
- 9 (B) The immediate closure of the food establishment concerned until, in the
10 opinion of the enforcement authority, no further danger of disease outbreak
11 exists;
- 12 (C) Restriction of the employee's services to some area of the
13 establishment where there would be no danger of transmitting disease; and
- 14 (D) Adequate medical and laboratory examinations of the employee and of
15 other employees.

16 § 9-6-2-15 INSPECTION AND TRANSFER FEES.

17 (A) *Adjustment of Fees.* Fees charged in relation to the Retailers, Meat
18 Markets, and Wholesalers Ordinance shall be established by rules adopted by
19 the enforcement authority. Any such rule shall be adopted under the
20 procedures of Chapter 2, Article 15 ROA 1994.

21 (B) *Temporary Fees.* The enforcement authority is authorized to collect the
22 following fees until such time as they are adjusted as outlined in § 9-6-2-15(A).
23 These fees are for the purpose of paying the costs reasonably incurred in
24 administering and enforcing the Retailers, Meat Markets and Wholesalers
25 Ordinance.

26 (C) *Inspection Fees.*

27 (1) Each permanent food establishment shall pay an annual inspection fee
28 of 2/10 of 1% of its gross sales for the previous 12 months, provided that
29 such fee shall not be less than \$100 nor more than \$400 except that:

30 (a) For the first calendar year of operation or portion thereof, the
31 inspection fee shall be \$100 prorated quarterly, but not less than \$50.

32 (b) In the case where there is, under single ownership or
33 management, more than one food establishment or more than one place

1 within an establishment where food is processed, prepared, packaged, stored
2 or offered for sale, and separate inspections are required, as determined by
3 the enforcement authority, each such food establishment shall pay a separate
4 annual fee. The food establishment with the higher gross receipts shall be
5 considered the primary establishment for the purposes of §§ 9-6-2-1 et
6 seq. The inspection fee for each additional food establishment shall not
7 exceed \$200. Separate permits are required for permanent food
8 establishments and permanent food establishments—cannabis and
9 permanent food establishments—cannabis plus. In no case shall a permanent
10 food establishment—cannabis or permanent food establishments—cannabis
11 plus permit be considered as a primary or secondary permit for the purposes
12 of calculating inspection fees for permanent food establishments.

13 (2) Each permanent food establishment—cannabis or permanent food
14 establishment—cannabis plus shall pay an annual inspection fee of 2/10 of 1%
15 of its gross sales for the previous 12 months, provided that such fee shall not
16 be less than \$100 nor more than \$400 except that:

17 (a) For the first calendar year of operation or portion thereof, the
18 inspection fee shall be \$100 prorated quarterly, but not less than \$50.

19 (b) In the case where there is, under single ownership or
20 management, more than one permanent food establishment—cannabis or
21 permanent food establishment—cannabis plus or more than one place within
22 an establishment where edible cannabis finished product is offered for sale,
23 donated, or distributed for off-the-premises consumption or in a cannabis
24 consumption area, or where edible cannabis products or edible cannabis
25 finished products are stored, including warehouses, and separate inspections
26 are required, as determined by the enforcement authority, each such
27 permanent food establishment—cannabis or permanent food establishment—
28 cannabis plus shall pay a separate annual fee. The permanent food
29 establishment—cannabis or permanent food establishment—cannabis plus
30 with the higher gross receipts shall be considered the primary permanent food
31 establishment—cannabis or permanent food establishment—cannabis plus for
32 the purposes of §§ 9-6-2-1 et seq. The inspection fee for each additional
33 permanent food establishment—cannabis or permanent food establishment—

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1 cannabis plus shall not exceed \$200. Separate permits are required for
2 permanent food establishments and permanent food establishments—
3 cannabis and permanent food establishments—cannabis plus. In no case shall
4 a permanent food establishment—cannabis or permanent food
5 establishment—cannabis plus permit be considered as a primary or
6 secondary permit for the purposes of calculating inspection fees for
7 permanent food establishments.

8 (3) Retail outlets handling only prepackaged milk or milk products shall
9 pay an annual inspection fee of \$15.

10 (4) Temporary food establishments shall pay a fee of \$50 for each
11 location, each time the unit locates or relocates at the same or other location.

12 (D) *Payment of Fees.*

13 (1) Inspection fees are due annually; provided, however, that no person
14 shall engage in the operation of a food establishment without first paying an
15 inspection fee. The first year's fee shall be the amount of \$100 prorated on a
16 quarterly basis but shall not be less than \$50 except for those which are
17 subject to a fixed fee as provided in divisions (A)(3) and (4) and (B) of this
18 section. Thereafter, fees based on gross sales will be calculated on the actual
19 gross sales for the previous 12 months. A late charge of 1½% of the
20 inspection fee shall be assessed for each month or fraction thereof that the
21 inspection fee remains unpaid after the due date; provided, however, that the
22 minimum late charge shall be \$15.

23 (2) In the event that any person fails to pay the inspection fee or transfer
24 fee by the due date, or remits an amount less than the correct amount of
25 inspection fee, the Mayor shall determine the amount of the inspection fee
26 due, using such statement or other available information. The Mayor shall
27 thereupon give written notice to such person of the amount due, which
28 amount shall be paid within five working days of receipt of such notice. Any
29 such person may protest the amount so determined by the Mayor within
30 fifteen working days of receipt of such notice pursuant to the provisions in the
31 IHO Ordinance, ROA 1994, Chapter 2, Article 7, Part 8.

32 (3) In the event that the inspection fee is not paid by the due date or
33 within fifteen working days of the Mayor's determination on any protest filed,

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1 the Mayor may file a complaint before the Metropolitan Court, alleging a
2 violation of §§ 9-6-2-1 et seq. and may also take such action as necessary to
3 collect the inspection fee including any late charges.

4 (4) The Mayor is authorized and empowered to make inspections and
5 audits of the books and related records of any person subject to the
6 provisions of §§ 9-6-2-1 et seq.; and every such person shall maintain good
7 and accurate books and related records of the gross sales of business done,
8 which books and records shall be made available for inspection and audit as
9 may be deemed necessary by the Mayor in the administration of any of the
10 provisions of §§ 9-6-2-1 et seq.

11 (5) Notices provided for under this division shall be deemed to have been
12 properly served when written notice has been delivered personally to the
13 permit holder or person in charge, or such notice has been sent by registered
14 or certified mail, return receipt requested, to the last known address of the
15 permit holder. A copy of such notice shall be filed with the records of the
16 enforcement authority.

17 (6) In addition to the remedies provided above, the Mayor may suspend or
18 revoke any permit issued pursuant to §§ 9-6-2-1 et seq. for failure to pay that
19 inspection fee including any late charges. Upon suspension or revocation of
20 any permit, the permit holder may appeal a suspension or revocation by filing
21 written notice of appeal to the City Clerk's office within fifteen working days of
22 service of notice. A hearing shall be granted in accordance with the
23 provisions in the IHO Ordinance, ROA 1994, Chapter 2, Article 7, Part 8. Any
24 permit that has been suspended or revoked for nonpayment of the inspection
25 fee including any late charges shall be reinstated upon payment of the
26 inspection fee including any late charges.

27 (7) Lien. The city may file a lien against the personal and real property of
28 the permit holder for any delinquent permit fee and/or penalty.

29 (8) Administrative Review. An administrative review shall be conducted
30 by the Mayor of the costs of services and fees every even-numbered
31 year. Recommendations on these costs shall be made to the Council for
32 necessary and appropriate adjustments in fees.

33 § 9-6-2-16 DISCLOSURE OF INFORMATION.

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1 It is unlawful for any present or previous city official, employee or agent to
2 reveal the New Mexico Gross Receipts Tax Identification Number, any gross
3 receipts information, or any payment information pertaining to any person or
4 entity regulated by city ordinance to anyone except as provided by Section 7-
5 1-8 NMSA 1978.

6 **§ 9-6-2-17 ADMINISTRATION AND INTERPRETATION.**

7 The enforcement authority shall be responsible for the administration and
8 enforcement of §§ 9-6-2-1 et seq. Rules and regulations to carry out the intent
9 and purpose of §§ 9-6-2-1 et seq. shall be prescribed by the enforcement
10 authority pursuant to standards created in §§ 9-6-2-1 et seq.

11 **§ 9-6-2-18 VARIANCES.**

12 The enforcement authority may grant an individual variance from the
13 limitations prescribed in §§ 9-6-2-1 et seq. whenever it is found upon
14 presentation of adequate proof, that compliance with that specific part of §§ 9-
15 6-2-1 et seq. will impose an undue economic burden or hardship upon the
16 business and that granting of the variance will not result in a condition
17 injurious to health or safety. Any person seeking a variance shall do so in
18 writing, setting forth their reasons for the variance and stating the length of
19 time for which they seek the variance. The enforcement authority shall
20 promptly investigate the petition and make a determination as to the
21 disposition thereof. The party seeking this variance shall be given a decision
22 within ten working days following receipt of the request by the enforcement
23 authority.

24 **§ 9-6-2-19 AVAILABILITY OF ORDINANCE.**

25 A copy of the "Retailer, Meat Market and Wholesaler Ordinance" i.e., §§ 9-6-
26 2-1 et seq. is now on file in the Office of the City Clerk and is available for
27 inspection by the public during regular business hours. A copy of the
28 ordinance i.e., §§ 9-6-2-1 et seq. shall be available to any individual upon
29 request and the payment of a reasonable charge as set forth by the Chief
30 Administrative Officer, to be not less than the actual cost per copy.

31 **§ 9-6-2-99 PENALTY.**

32 Every person convicted of a violation of any provision of §§ 9-6-2-1 et seq.
33 shall be guilty of a misdemeanor and shall be subject to the penalty provisions

1 set forth in § 1-1-99 of this code of ordinances. Every violation of §§ 9-6-2-1 et
2 seq. shall be a misdemeanor. Each day such violation is committed or
3 permitted to continue shall constitute a separate offense and shall be
4 punishable as such hereunder.

5 SECTION 2. Severability Clause. If any section, paragraph, sentence,
6 clause, word or phrase of this ordinance is for any reason held to be invalid or
7 unenforceable by any court of competition jurisdiction, such decision shall
8 not affect the validity of the remaining provisions of this ordinance.

9 SECTION 3. Compilation. Section 1 of this ordinance shall amend, be
10 incorporated in and made part of the Revised Ordinances of Albuquerque,
11 New Mexico, 1994.

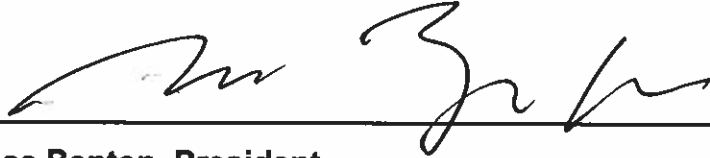
12 SECTION 4. Effective Date. This ordinance shall take effect five days after
13 publication by title and general summary except for permits associated with
14 edible cannabis products which shall take effect sixty days after publication
15 by title and general summary.

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1 PASSED AND ADOPTED THIS 22nd DAY OF June, 2022
2 BY A VOTE OF: 9 FOR 0 AGAINST.

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Isaac Benton, President
City Council

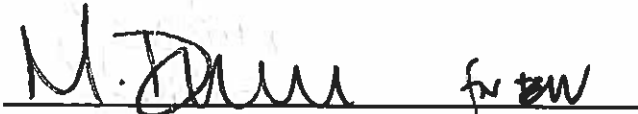
APPROVED THIS 29 DAY OF June, 2022

Bill No. O-22-18



Timothy M. Keller, Mayor
City of Albuquerque

ATTEST:



Ethan Watson, City Clerk

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Mayor Timothy M. Keller

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Office of the Mayor

INTER-OFFICE MEMORANDUM

March 17, 2022

TO: Isaac Benton, President, City Council

FROM: Timothy M. Keller, Mayor

A handwritten signature in black ink, appearing to be 'TK' or similar initials, written over the printed name of the Mayor.

SUBJECT: Proposed Revisions to Food Sanitation Ordinance and Retailer Meat Markets and Wholesalers Ordinance to Accommodate Legalized Cannabis Industry


The attached set of proposed ordinance revisions is intended to accommodate changing regulatory requirements pursuant to the legalization of recreational cannabis in New Mexico.

Amendments to the Food Sanitation Ordinance and the Retailers, Meat Markets and Wholesalers Ordinance will create new categories of permits that are specific to the manufacture and sale of edible cannabis products within the City's jurisdiction. In addition, these amendments are necessary to clarify that cannabis added to food products for human consumption will not be considered an adulterant as is stated in the Federal Food Code that the City of Albuquerque has adopted.

The following improvements are anticipated:

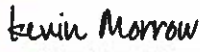
- Regulatory oversight of specific elements of the cannabis industry pertaining to edibles, not otherwise covered by State regulation
- Clarification of existing food ordinance applicability to the emerging cannabis industry
- Improvement to compliance and permitting language to ensure that enforcement is consistent and straightforward

Approved:


Sarita Nair
Chief Administrative Officer

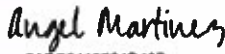
3/25/22
Date

Approved as to Legal Form:

DocuSigned by:

Kevin A. Morrow
Acting City Attorney

3/21/2022 | 5:33 PM MDT
Date

Recommended:

DocuSigned by:

Angel Martinez Jr.
Director, EHD

3/21/2022 | 8:03 AM MDT
Date

Cover Analysis

1. What is it?

Amendments to the Food Sanitation Ordinance and the Retailers, Meat Markets and Wholesalers Ordinance to accommodate legalized cannabis edibles in New Mexico

2. What will this piece of legislation do?

This legislation amends the existing ordinances to ensure that regulatory requirements are clear and consistent and will accommodate changes in regulation pursuant to legalized cannabis. New categories of food permits are also created that are specific to the emerging cannabis edibles industry.

3. Why is this project needed?

The City needs this legislation to ensure that existing food ordinance requirements do not interfere with the implementation of legalized recreational cannabis, especially in the edibles market, and to provide for safety considerations related to the manufacture and sale of cannabis products not otherwise covered under State regulation.

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

No new costs are anticipated as a direct result of this legislation; however, new enforcement resources will be required for the enforcement of all time, place and manner local regulations. These costs will be reflected in the proposed FY23 budget.

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

The implementation of new local food permits that are specific to manufacture and sale of cannabis edibles is expected to generate some revenue; however, it is not yet possible to estimate the amount of this revenue as the interest in this type of industry is not yet established.

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

Business owners entering the cannabis industry will be faced with conflicting regulatory language, and the community will be less protected from health and safety considerations related to the industry. In addition, the community at large would be dependent on the State for all regulation related to this industry, which does not cover all aspects that could pose hazards to consumers and constituents.

7. Is this service already provided by another entity?

No.