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AMENDMENT TO PORTLAND CITY CODE
CHAPTER 11 FOOD AND FOOD HANDLERS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE
IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. That Section 11-1 thru 11-49 of the Portland City Code is hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 11-1. Contaminated items of food or drink.

No person shall knowingly sell, offer for sale, or hold for sale in the city any unwholesome, stale, putrid, diseased, or otherwise contaminated items of food or drink, and shall make such immediate disposition of all items found in such condition as shall be ordered by the health authority.
(Code 1968, § 303.1)

State law reference(s)--Sale or possession of unwholesome food or drink, 17 M.R.S.A. § 3451 et seq.

Sec. 11-2. ~~Reserved.~~ State code adopted.

The Maine State Food Code 2001 and any subsequent amendments thereto (hereinafter "Food Code") is hereby adopted by references as if fully set forth herein, except as set forth in this Chapter.

Sec. 11-3. ~~Reserved.~~ Copies on file with Clerk

Pursuant to Title 30-A M.R.S.A. §3003, at least three (3) copies of the Maine State Food Code as adopted by reference by Sec. 11-2 above, have been and shall be on file in the office of the City Clerk for public inspection and use.

Sec. 11-4. Reserved.

Sec. 11-5. Reserved.

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- Sec. 11-6. Reserved.
- Sec. 11-7. Reserved.
- Sec. 11-8. Reserved.
- Sec. 11-9. Reserved.
- Sec. 11-10. Reserved.
- Sec. 11-11. Reserved.
- Sec. 11-12. Reserved.
- Sec. 11-13. Reserved.
- Sec. 11-14. Reserved.
- Sec. 11-15. Reserved.

ARTICLE II. FOOD SERVICE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 11-16. Definitions.

~~Words used in this article shall have their common meaning, except that the definitions set forth in chapter 15 or in this section shall apply unless the context clearly indicates that a different meaning is intended.~~

~~Adulterated shall mean the condition of a food if:~~

- ~~(a) It bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health;~~
- ~~(b) It bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one (1) has been established.~~
- ~~(c) It consists in whole or in part of any filthy, or decomposed animal or vegetable substance, or if it is otherwise unfit for human consumption;~~
- ~~(d) It has been processed, prepared, packed or held under unsanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;~~
- ~~(e) It is in whole or in part the product of a diseased animal, or an animal which has died otherwise than by slaughter; or~~

~~(f) Its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.~~

~~Approved shall mean acceptable to the health authority inspector as meeting the requirements of this article and conforming to good public health practices. In interpreting the provisions of this article and defining and determining compliance with its requirements, the health authority shall be guided by the recommendations of the 1976 Edition of the United States Public Health Service Food Sanitation Service Manual, a copy of the manual is on file in the office of the city clerk.~~

~~Base station shall mean a location use by a mobile food service establishment which shall be considered part of the food service establishment for the purpose of determining compliance with this article. The mobile unit and base station shall comply with all of the requirements of this article except those relating to toilet facilities, and the additional requirements herein set forth except as herein prescribed.~~

~~Food pantries shall mean an organization or entity that acquires, stores and distributes food to the needy in their community. Food pantries are typically supported by community food drives, umbrella organizations, as well as grocery stores, local agriculture, food manufacturers and other distributors. All items are pre-packaged, properly labeled, and no food preparation occurs. If bulk food packages are divided, they shall be in properly labeled, food safe containers.~~

~~Certified Food Protection Manager shall mean a person who is at least 18 years of age and a full time employee of a permanent food service establishment who holds a valid certification necessary to met the requirements of section 11 38(c) of this chapter.~~

~~Closed shall mean fitted together snugly leaving no openings large enough to permit the entrance of vermin.~~

~~Contaminated shall mean the presence of disease causing organisms or poisonous substance or other indication of the potential presence of disease causing organisms on or in a surface, article or substance.~~

~~Corrosion resistant material shall mean a material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds and sanitizing solutions~~

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~~which may contact it.~~

~~Easily cleanable shall mean readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.~~

~~Employee shall mean any person working in a food service establishment, including the proprietor or manager or any member of his or her family, who transports food or food containers, who engages in food preparation or service, or who comes in contact with any food utensils or equipment.~~

~~Equipment shall mean all fixtures, stoves, ranges, hoods, meatblocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of a food service establishment.~~

~~Food shall mean any raw, cooked or processed edible substance, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.~~

~~Food contact surface shall mean those surfaces of equipment and utensils with which food normally comes in contact and those surfaces with which food may come in contact and drain back onto surfaces normally in contact with food.~~

Food processing establishment shall mean a commercial establishment in which food is processed or otherwise prepared and packaged only for sale to food service establishments and other retail outlets.

Food service establishment shall have the same meaning as "food establishment" in the Food Code and shall ~~mean include~~ any permanent, temporary or mobile establishment including any restaurant; caterer; innholder; buffet; lunchroom; grill room; lunch counter; tavern; dining room of a hotel; coffee shop; cafeteria; sandwich shop; soda fountain; in plant feeding establishment; private club; church feeding facility; school feeding facility; institutional feeding establishment; tea room; theater refreshment stand; grocery store; meat market; retail bakery store; delicatessen; bottle club; community kitchen; shelter; food pantry; or any other establishment where food or drink is prepared, served, kept, or stored for retail sale on-site. This definition shall not include as food service establishments private homes with permanent guests.

~~Handle shall mean the actual collecting, keeping, storing, preparing, cooking, processing, dressing, freezing, distributing~~

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~~and transporting of food.~~

Ice cream truck shall mean a motorized vehicle utilized for the sale of prewrapped or prepackaged ice cream or frozen yogurt or ice cream or frozen yogurt products or novelties.

Innholder shall mean and include any person offering to the public, generally, lodgings and food as the occasion requires where the person rents out four (4) or more rooms or cottages.

~~*Kitchenware* shall mean all multi use utensils other than tableware or equipment used in the storage, preparation, conveying or serving of food.~~

~~*Misbranded* shall mean the presence of any written, printed or graphic matter upon or accompanying food or containers of food, which is false or misleading, or which violates any applicable governmental labelling requirements, or the absence of a label indicating the contents of the packaged food.~~

Mobile food service establishment shall mean and include only a food service establishment capable of movement over public or private ways which has all utilities and facilities contained within the unit regardless of whether it needs an outside power source or not which has no fixed location for the operation or transaction of business; and which is moved from one (1) location to a different location not less frequently than once every twelve (12) hours in any twenty-four (24) hour period in order to serve persons otherwise present at such locations at such times. For purposes of this ordinance, mobile food service establishments include, but are not limited to, pushcarts, food vending trucks and ice cream trucks.

~~*Perishable food* shall mean any food of such type or in such condition as may spoil.~~

~~*Poisonous and toxic substance* shall mean any mechanical agent, chemical substance or organism capable of causing poisoning or having an injurious or deadly effect when introduced into the human body by means of breathing, eating, or drinking or absorption or penetration through the skin or mucous membrane.~~

~~*Potentially hazardous food* shall mean any perishable food which consist in whole or in part of milk or milk products, eggs, whole or ground meat, poultry, fish, shellfish, edible crustacea or other ingredients including synthetic ingredients capable of supporting rapid and progressive growth of infection or toxigenic micro-organisms. The term does not include clean, whole, uncracked,~~

~~or odor free shell eggs or foods which have a pH level of 4.6 or below or a water activity value of 0.85 or less.~~

~~Safe temperature as applied to potentially hazardous food shall mean a minimum temperature of forty five (45) degrees Fahrenheit or below, and one hundred forty (140) degrees Fahrenheit or above (except that roast beef may be held for service at a temperature of not less than one hundred thirty (130) degrees Fahrenheit).~~

~~Sanitize shall mean effective bactericidal treatment of surfaces of equipment and utensils by a process which has been approved by the health authority as being effective in destroying micro organisms, including pathogens.~~

~~Sealed shall mean free of cracks or other openings which permit the entry or passage of moisture.~~

~~Shellfish shall mean all fresh or frozen oysters, clams, or mussels, either shucked or in the shell, and any fresh or frozen edible products thereof.~~

Shelters shall mean an establishment providing temporary housing and meals for those in difficult domestic situations, as well as for homeless families and individuals. In addition many shelters provide referrals to other social service agencies. Shelters are often considered agencies of larger food banks or food share operations.

~~Single service articles shall mean cups, containers, lids, or closures; plates, knives, forks, spoons, stirrers, paddles, straws, placemats, napkins, doilies, wrapping materials and all similar articles contacting food which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and which are intended for one (1) person, one (1) usage only, then to be discarded.~~

Stationary food vending unit shall mean any vending unit from which food products are sold and which is licensed for one (1) location on private property and conducts all of its sales from that one (1) location.

~~Tableware shall mean all multi use eating and drinking utensils, including flatware (knives, forks and spoons).~~

~~Tavern shall mean and include any food service establishment where malt liquor is sold.~~

Temporary food service establishment shall mean any food service establishment which operates for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory gathering. There shall be two (2) types of temporary food service establishment licenses: One (1) shall be for those establishments that sell ~~or serve~~ unopened prepackaged food, with a license period not to exceed three (3) months, and the other license shall be for establishments that sell or serve either food that is not prepackaged or prepackaged food that is opened prior to its sale, including the opening of one (1) or more prepackaged items for the purpose of providing free samples, with a license period not to exceed two (2) weeks.

~~Utensil shall mean any tableware and kitchenware used in the storage, preparation, conveying or serving of food.~~

~~Wholesome shall mean in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.~~

(Code 1968, § 905.2; Ord. No. 231-80, 12-22-80; Ord. No. 362-82, 1-4-82; Ord. No. 698-82, 6-9-82; Ord. No. 318-93, § 1, 6-9-93; Ord. No. 221-94, § 1, 2-23-94; Ord. No. 294-94, § 1, 5-16-94; Ord. No. 188-02/03, 4-7-03; Ord. No. 63-10/11, 11-1-10)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 11-17. Application to food prepared outside city.

No person shall sell or bring into the city food prepared outside the city for sale by a food service establishment unless such food is prepared and handled in accordance with the requirements of this article. In determining whether such food is prepared or handled in accordance with the requirements of this article, the health ~~authority inspector, shall may inspect the location at which such food is prepared or may~~ accept reports from responsible authorities in such jurisdiction that such location complies with the provisions of this article.

(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)

Sec. 11-18. Right to enter.

The health ~~authority inspector~~ shall be permitted to enter any food service establishment during business hours for the purpose of making inspections and of copying any and all records of food purchases and payrolls. It shall be the duty of every person responsible for the management or control of such establishment to afford free access to every part of such establishment and to render all aid and assistance necessary to enable the health authority to make a full, thorough and complete examination thereof to determine compliance with this article. Records of purchases of

food shall be held for a period of three (3) months following the date of purchase either at the food service establishment or at another place where they are customarily kept and shall be made available to the health authority at the food service establishment within a reasonable time upon request.

(Code 1968, § 905.4; Ord. No. 231-80, 12-22-80)

Sec. 11-19. Reserved.

Sec. 11-20. Reserved.

Sec. 11-21. Reserved.

Sec. 11-22. Reserved.

Sec. 11-19. Physical conditions of premises.

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~~—— (a) *Flooring.* The floor surfaces of kitchens and all other rooms and areas in which food is stored or prepared and in which utensils are washed, and in walk in refrigerators, dressing or locker rooms, and toilet rooms, shall be of smooth, nonabsorbent materials, and so constructed as to be easily cleanable. Suitable materials may be concrete, terrazzo, ceramic tile, tightly laid tongue and groove lumber wood covered with a composition flooring or other suitable material as approved by the health authority. All floors shall be kept clean and in good repair. Floor drains shall be provided in all rooms where floors are subjected to flooding type cleaning or where normal operations release or discharge water or other liquid waste on the floor. All areas where food is served shall be kept clean and dry and surfaces in such areas shall be finished so as to facilitate cleaning and minimize dust. All concrete, terrazzo, tile or ceramic floors hereafter installed in preparation, food storage, and utensil washing rooms, walk in refrigerators, dressing or locker rooms and toilet rooms shall provide a coved juncture between the floor and wall. In all cases, the juncture between the floor and wall shall be closed.~~

~~—— (b) *Walls and ceiling.* The walls and ceilings of all rooms shall be kept clean and in good repair. All walls of rooms or areas in which food is prepared, or utensils or hands are washed, shall be easily cleanable, smooth, and light colored, and shall have washable surfaces up to the highest level reached by splash or spray. Brick, cement blocks, slag blocks and cinder blocks are acceptable if plastered or filled so as to provide a smooth, easily cleanable surface and if painted where necessary, a light color. Acoustical ceiling materials shall be acceptable where effective ventilation prevents the possibility of grease accumulation and absorption.~~

~~—— (c) *Tables and shelves.* All shelves, tables and counters of kitchens shall be smooth and easily cleanable, shall be kept clean, and shall not be covered with paper, oil cloth, or other similar~~

~~material.~~

~~(Code 1968, § 905.5; Ord. No. 231-80, 12-22-80)~~

~~**Sec. 11-20. Lighting.**~~

~~At least twenty (20) footcandles of light shall be provided on all working surfaces in food preparation, utensil washing and handwashing areas. Sources of artificial light shall be provided and used to the extent necessary to provide the required amounts of light on these surfaces when in use and when being cleaned. At least ten (10) footcandles of light at a distance of thirty (30) inches from the floor shall be provided in all food storage areas, toilet rooms and dining areas during cleaning operations.~~

~~(Code 1968, § 905.6; Ord. No. 231-80, 12-22-80)~~

~~**Sec. 11-21. Ventilation.**~~

~~All rooms in which food is prepared or served or utensils are washed, dressing, or locker rooms, toilet rooms and garbage and rubbish storage areas shall be well ventilated sufficient to prevent objectionable odors and vapors, condensation, and the accumulation of grease and smoke on walls, ceilings, or fixtures. Ventilation hoods or devices shall be designed to prevent grease or condensation from dripping into food or onto food contact surfaces. Filters shall be provided where deep fat frying, broiling or grilling operations are used and shall be readily removable for cleaning or replacement. Ventilation systems shall discharge in such manner as not to create a nuisance.~~

~~(Code 1968, § 905.7; Ord. No. 231-80, 12-22-80)~~

~~**Sec. 11-22. Toilet facilities.**~~

~~— (a) Facilities to be provided. Each food service establishment shall be equipped with adequate, conveniently located toilet facilities for its employees and patrons within the same building housing the establishment as provided hereinafter. Toilet and other fixtures shall be kept in a clean condition and in good repair. The doors of all toilet rooms shall be self closing. Toilet tissue shall be provided. Easily cleanable receptacles shall be provided for waste materials and such receptacles shall be covered. Toilet rooms shall be completely enclosed from floor to ceiling and shall be vented to the exterior. Except as provided in subsection (c) below, a food service establishment shall comply with the requirements for the minimum number of toilet facilities contained in the Maine State Internal Plumbing Code.~~

~~— (b) Patron facilities. At least two (2) toilets, one (1) designated for use by each sex, shall be provided for the use of patrons in any food service establishment, whether or not seating~~

~~is provided, which is licensed to dispense alcoholic beverages for consumption on the premises, or under chapter 3, article II, division 2, as a bottle club, or under chapter 4, article II, division 2, for more than four (4) amusement devices on the premises. Toilets provided for the use of employees shall be considered to be provided for the use of patrons also, unless patrons cannot gain access to such toilets without passing through any food preparation area. In computing seating capacity under this subsection, each twenty four (24) inches of length of any bench shall be deemed to be one (1) seat.
(Code 1968, § 905.8; Ord. No. 231-80, 12-22-80; Ord. No. 355-81, 12-21-81; Ord. No. 14-06/07, 8-7-06)~~

Sec. 11-23. Handwashing facilities.

Handwashing sinks with hot and cold running water shall be provided in or convenient to toilet rooms and in no instance more than twenty five (25) feet from and easily accessible~~ten (10) feet outside to~~ the toilet room. Soap and sanitary towels or other approved drying facilities in suitable holders or dispensers shall be provided. Common towels are prohibited. No person shall resume work after using the toilet room without first washing his or her hands. If such handwashing sink is not located within ten (10) feet of the entrance to all food preparation rooms or areas, additional handwashing sinks with hot and cold running water, soap, and sanitary towels shall be provided in or within twenty five (25) feet and easily accessible~~ten (10) feet of to~~ such food preparation rooms or areas. Durable, legible signs shall be posted conspicuously at each handwashing facility used by employees directing them to wash their hands before returning to work. Dishwashing vats, vegetable sinks and pot sinks shall not be approved as handwashing facilities for employees. Any self-closing, or metered faucet used shall be designed to provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet. Steam mixing valves are prohibited. Spring type faucets which require two (2) hands to operate are prohibited.
(Code 1968, § 905.9; Ord. No. 231-80, 12-22-80)

Sec. 11-24. Three-bay sink.

A three-bay sink shall be provided for such manual cleaning; each compartment shall be equipped with hot and cold running water and large enough to permit complete immersion of the largest utensil, and must be within twenty five (25) feet of and easily accessible to the food preparation area.

Sec. 11-25. Reserved.

Sec. 11-26. Reserved.

~~Sec. 11-27. Reserved.~~
~~Sec. 11-28. Reserved.~~
~~Sec. 11-29. Reserved.~~
~~Sec. 11-30. Reserved.~~
~~Sec. 11-31. Reserved.~~
~~Sec. 11-32. Reserved.~~
~~Sec. 11-33. Reserved.~~

~~Sec. 11-24. Water.~~

~~— (a) Food preparation. The water supply shall be adequate, of a safe sanitary quality and from the Portland Water District or a private water supply system which is constructed, protected and maintained in conformity with applicable state law. Hot and cold running water, under pressure, shall be provided in all areas where food is prepared, and where equipment, utensils or containers are washed.~~

~~— (b) Drinking water. The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and back siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet and the fixture's flood level rim does not exist. A hose shall not be attached to a faucet unless a backflow prevention device is installed.
(Code 1968, § 905.10; Ord. No. 231-80, 12-22-80)~~

~~Sec. 11-25. Ice.~~

~~— (a) Human consumption. Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers or food utensils; except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.~~

~~— (b) Storage. Packaged food, including canned or bottled drink shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.
(Code 1968, § 905.11; Ord. No. 231-80, 12-22-80)~~

~~Sec. 11-26. Disposal of wastes.~~

~~— (a) Liquid waste. All sewage shall be disposed of in a public sewerage system or, in the absence thereof, in a sewage disposal system constructed and operated in conformity with applicable state and local laws, ordinances, and regulations. Plumbing shall be sized, installed and maintained so that it does not constitute a~~

~~source of contamination of food, water supply, equipment or utensils, or create an unsanitary condition.~~

~~(b) Solid waste. All garbage and rubbish containing food wastes shall, prior to disposal, be kept in leakproof, nonabsorbent containers which shall be kept covered with tight fitting lids when filled or stored, or not in continuous use. Such containers need not be covered when stored in special vermin proofed rooms, or enclosures, or in a food waste refrigerator. All other rubbish shall be stored in containers, rooms, or in an approved manner. The rooms, enclosures, areas and containers used shall be adequate for storage of all food waste and rubbish accumulating on the premises. Each container, room or area shall be thoroughly cleaned after the emptying or removal of garbage and rubbish. Liquid waste from cleaning operation shall be disposed of as sewage. Food waste grinders, if used, shall be installed in compliance with state laws and this Code and shall be of suitable construction. All garbage and rubbish or other material shall be removed from the premises at frequent intervals which shall in no case exceed four (4) days and shall be so handled as to prevent the attraction to and/or breeding therein to insects, rodents and other animals.~~

~~(Code 1968, § 905.12; Ord. No. 231 80, 12-22-80)~~

~~Cross reference(s) -- Garbage, wastes and junk, Ch. 12; sewers, Ch. 24.~~

~~Sec. 11-27. Kitchen equipment.~~

~~(a) Design. All equipment and utensils shall be so designed and of such material and workmanship as to be smooth, easily cleanable and durable, and shall be in good repair; and the food contact surfaces of such equipment and utensils shall, in addition, be easily accessible for cleaning, nontoxic, corrosion resistant, and relatively nonabsorbent. All equipment shall be so installed and maintained as to facilitate the cleaning thereof and of all adjacent areas. Single service articles shall be made from nontoxic materials. Equipment, utensils and single service articles shall not impart odors, color or taste, nor contribute to the contamination of food. Reuse of single service articles is prohibited. Mollusk and crustacea shells for food service is prohibited.~~

~~(b) Materials. Materials used as food contact surfaces of equipment and utensils shall, under use conditions, be corrosion resistant, relatively nonabsorbent and nontoxic; provided that corrosion resistant requirements shall not preclude the use of cast iron as a food contact surface material. Wood may be used for single service articles such as chop sticks, stirrers or ice cream spoons. The use of wood as a food contact surface under other~~

~~circumstances is prohibited except as permitted by subsection (c).~~

~~(c) Food contact surfaces. Food contact surfaces of equipment and utensils shall be free of difficult to clean internal corners and crevices. Threads which routinely contact food shall be of a sanitary design, and no V type threads shall be used. Cutting blocks and boards, and bakers' tables may be of hard maple or equivalent material which is nontoxic, smooth, and free of cracks, crevices and open seams. Cutting boards shall be easily removable.~~

~~(d) Noncontact surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash, food debris, or otherwise require frequent cleaning, shall be reasonably smooth, washable, free of unnecessary ledges, projections or crevices; readily accessible for cleaning; and of such material and in such repair as to be readily maintained in a clean and sanitary manner.~~

~~(e) Lubricants. Lubricated bearings and gears of equipment shall be so constructed that lubricants cannot get into the food or onto food contact surfaces.~~

~~(f) Equipment installation.~~

~~(1) Equipment which is placed on tables or counters, unless readily movable, shall be sealed thereto or mounted on legs or feet at least four (4) inches high.~~

~~(2) Floor mounted equipment, unless readily movable, shall be sealed to the floor; or shall be installed on raised platforms of concrete or other smooth masonry in such a manner as to prevent liquids or debris from seeping or settling underneath, between, or behind such equipment in spaces which are not fully open for cleaning and inspection; or such equipment shall be elevated at least six (6) inches above the floor. The space between adjoining units, and between a unit and the adjacent wall, shall be closed unless exposed to seepage, in which event it shall be sealed, or sufficient space shall be provided to facilitate easy cleaning between, behind and beside all such equipment.~~

~~(3) Aisles or working spaces between equipment, and between equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties without contamination of food or food contact surfaces by clothing or through personal contact.~~

~~(g) Equipment installed before April 1, 1968. Major equipment installed prior to April 1, 1968, and which complied with the provisions of this Code on that date, may be continued in use, although not complying with the provisions of this article, so long as it is in good repair, is capable of being maintained in a sanitary condition and the food contact surfaces are nontoxic.~~

~~(h) New equipment. Equipment installed in food service establishments after April 1, 1968, shall bear the National Sanitation Foundation Seal of Approval or be of design and construction substantially equivalent to the minimum standards of the National Sanitation Foundation.
(Code 1968, § 905.13; Ord. No. 231 80, 12 22 80)~~

~~Sec. 11-28. Cleaning of premises.~~

~~(a) Methods. All eating and drinking utensils shall be thoroughly cleaned and sanitized after each use. All kitchenware, and food contact surfaces of equipment, exclusive of cooking surfaces of equipment, and all food storage utensils shall be thoroughly cleaned after each use. Cooking surfaces of equipment shall be thoroughly cleaned at least once a day, or as often as necessary. All utensils and food contact surfaces of equipment used in the preparation, service, display or storage of potentially hazardous food shall be thoroughly clean and sanitized prior to such use. Nonfood contact surfaces or equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition. Moist cloths or sponges used for wiping food spills on kitchen ware, food contact surfaces of equipment or for cleaning nonfood contact surfaces such as counters, table tops and shelves shall be clean and rinsed frequently in one (1) of the sanitizing solutions permitted in this article and used for no other purpose. Cloths or sponges must be designated for use on food or nonfood surfaces and their intended use will not be interchanged. These cloths and sponges shall be stored in the sanitizing solution between uses.~~

~~(b) Solutions. A manual cleaning and sanitizing process shall consist of thoroughly removing gross food particles by washing in a detergent solution of at least one hundred thirty (130) degrees Fahrenheit, rinsing free of such solution and sanitizing by an approved bactericidal process. Approved bactericidal processes for sanitizing shall include:~~

- ~~(1) Immersion in hot water at a minimum temperature of one hundred seventy (170) degrees Fahrenheit for thirty (30) seconds in the final rinse section of manual dishwashers, with adequate baskets provided for dipping utensils.~~

- ~~(2) All cleaning and sanitizing shall be done by an approved process. Adequate numerically scaled indicating thermometers accurate to within plus or minus two (2) degrees Fahrenheit shall be installed or readily available where water temperatures must be maintained. Sanitizing shall be by immersion in a solution at a minimum temperature of seventy five (75) degrees Fahrenheit containing hypochlorite compounds of equal efficiency of two hundred (200) pounds per minute available concentration for no less than one (1) minute. At no time during the sanitizing process shall the concentration of the available chlorine be reduced below fifty (50) pounds per minute, and approved test for chlorine concentration level shall be available and utilized. Any other chemical sanitizing agent may be used which complies with the Food Service Sanitation Manual of the Food and Drug Administration, 1976 Edition, Appendix D, Section 178-1010 and amendments thereto on file in the office of the city clerk, or which has been demonstrated to the satisfaction of the health authority to be effective and nontoxic under use conditions, and for which a suitable test is available. The original container in which the chemical sanitizer was received from the distributor shall be kept available on the premises of the food service establishment while such sanitizer remains on the premises.~~
- ~~(3) When chemicals are used for sanitization, they shall not have concentrations higher than the maximums permitted by this article.~~
- ~~(4) A three (3) compartment sink shall be provided for such manual cleaning; each compartment shall be equipped with hot and cold running water and large enough to permit complete immersion of the largest utensil, except that a two (2) compartment sink may be used where a mechanical dishwasher is in use for the washing of all utensils except pots, pans and trays. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.~~
- ~~(5) All sinks shall be provided with drain boards on each side, each of which must be at least two (2) feet square, constructed of corrosion resistant material, and sloped to the sink to facilitate draining, or easily movable dish tables for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing.~~

~~Stationary or mechanical glass washing brushes shall be required for manual dishwashing of glasses.~~

~~(c) Procedure. Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:~~

~~(1) Sinks shall be cleaned prior to use;~~

~~(2) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean;~~

~~(3) Equipment and utensils shall be rinsed free of detergents and abrasives with clean water in second compartment;~~

~~(4) Equipment and utensils shall be sanitized in the third compartment according to a method approved in the previous subsection. After cleaning and until use, all food contact surfaces of equipment and utensils shall be so stored and handled as to be protected against contamination. After equipment and utensils are sanitized, they shall be allowed to drain dry and then stored in a manner to prevent contamination. Utensils shall be stored so as to minimize handling of food contact surfaces.~~

~~(d) Mechanical dishwashing. Mechanical dishwashing shall be in approved equipment. The wash water shall be at least one hundred forty (140) degrees Fahrenheit and in single tank conveyor machines shall be at least one hundred sixty (160) degrees Fahrenheit. When hot water is relied upon for sanitization, the final rinse water shall be at least one hundred eighty (180) degrees Fahrenheit at the entrance of the manifold. When a pump rinse is provided, the water shall be at least one hundred seventy (170) degrees Fahrenheit. When chemicals are relied upon for sanitization, they shall be of a type approved by the health authority, and shall be applied in such concentration and for such period of time as to provide effective bactericidal treatment of the equipment and utensils. Thermometers accurate to within plus or minus three (3) degrees Fahrenheit shall be installed so as to measure the temperature of the wash water and the final rinse water at the machine.~~

~~(e) Mechanical sanitization. Jet, nozzles and all other parts of each machine shall be maintained free of chemical deposits, debris and other soil. Automatic detergent dispenser, if used, shall be kept in proper operating condition. When an immersion type~~

~~dishwashing machine is employed for equipment and utensil washing and sanitizing, applicable requirements pertaining to manual dishwashing shall be met.~~

~~Mechanical glass and dishwashing equipment shall be required when found necessary because of ineffective results with other facilities. Dishwashing and glass washing equipment shall be constructed and operated in accordance with National Sanitation Foundation standards.~~

~~When spray type dishwashing machines are used, the flow pressure shall not be less than fifteen (15) or more than twenty five (25) pounds per square inch on the water line at the machine and not less than ten (10) pounds per square inch at the rinse nozzles. A suitable gauge cock shall be provided immediately upstream from the final rinse sprays to permit checking of the flow pressure of the final rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles.~~

~~(f) Machines for sanitization. Machines using chemicals for sanitation may be used, provided that:~~

- ~~(1) The temperature of the wash water shall not be less than one hundred twenty (120) degrees Fahrenheit;~~
- ~~(2) The wash water shall be kept clean;~~
- ~~(3) Chemicals added for sanitization purposes shall be automatically dispensed;~~
- ~~(4) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with this article and the manufacturers' specifications for time and concentration;~~
- ~~(5) The chemical sanitizing rinse water temperature shall not be less than seventy five (75) degrees Fahrenheit nor less than the manufacturers' specifications;~~
- ~~(6) Chemical sanitizers used shall meet the requirements of subsection (b) above;~~
- ~~(7) A test kit that accurately measures the chemical concentration of the solution shall be available and used.~~

~~(g) Premises lacking sufficient cleaning facilities. Food~~

~~service establishments which do not have adequate and effective facilities for cleaning and sanitizing utensils shall use single service articles. All single service articles shall be stored, handled and dispensed in a sanitary manner and shall be used only once. Single service utensils shall be stored in a clean, dry place in the original carton or in a suitable dispenser designed for this particular purpose at all times prior to use. Straws for drinking liquids shall be individually wrapped or dispensed from a sanitary dispenser in such manner that the possibility of contamination is minimized.~~

~~(Code 1968, § 905.14; Ord. No. 231-80, 12-22-80)~~

~~**Sec. 11-29. Storage of equipment.**~~

~~The storage of food equipment, utensils or single service articles in toilet rooms or vestibules is prohibited. Equipment, utensils and single service items shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks and spoons at self-service locations shall protect these articles from contamination and present the handle to the consumer. Convenient and suitable utensils such as forks, knives, tongs, spoons or scoops shall be provided and used to minimize manual handling of food. Scoops, paddles or dippers used to dispense ice cream shall be immersed in a running water dipper well or washed and sanitized after each use. The dipper well or washing facility shall be within ten (10) feet of the place where the ice cream is dispensed.~~

~~(Code 1968, § 905.15; Ord. No. 231-80, 12-22-80)~~

~~**Sec. 11-30. Storage of food.**~~

~~— (a) General provisions.~~

~~(1) All food in food service establishments shall be from sources complying with all applicable federal, state and local laws and shall be clean, wholesome, free from spoilage, free from adulteration and misbranding, and safe for human consumption. No hermetically sealed, nonacid and low acid food, such as canned vegetable which has been processed in a place other than a commercial food processing establishment shall be used.~~

~~(2) All food while being stored, prepared, displayed, served~~

~~or sold at food service establishments or during transportation between such establishments, shall be protected from contamination in a manner consistent with the hazards present in the environment. All perishable food shall be stored so as to protect against spoilage. All potentially hazardous food shall be maintained at safe temperatures (forty five (45) degrees Fahrenheit or below, or one hundred forty (140) degrees Fahrenheit or above) except during necessary periods of preparation and service. Adequate numerically sealed indicating thermometers, accurate to within plus or minus two (2) degrees Fahrenheit, shall be installed in each refrigerated storage unit and shall be located in the warmest part of the unit in which temperatures must be maintained.~~

~~(3) Food, whether raw or prepared, if removed from the original container, shall be stored in a clean, covered nonabsorbent container except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent except that linens or napkins may be used for lining or covering bread or roll containers. No food product shall be stored beneath hung meat.~~

~~(4) Stored food shall be stored on platforms at least eight (8) inches above the floor level so as to prevent contamination and allow for adequate cleaning, except that food in waterproof, rodent proof packaging or containers need not be elevated.~~

~~(5) All potentially hazardous food transported from a food service establishment to another location for service or catering operation shall be kept at or below forty five (45) degrees Fahrenheit or at or above one hundred forty (140) degrees Fahrenheit during transportation. During such transportation, all food shall be in covered containers or completely wrapped or packaged so as to be protected from any potential contamination.~~

~~(b) Shellfish. All oysters, clams and mussels shall be from sources approved by the state department having jurisdiction over shell fisheries, provided that if the source is outside the state, it shall be certified by the state of origin. Shell stock shall be identified with an official tag giving the name and certificate number of the original shell stock shipper and the kind and quantity of shell stock. Fresh and frozen shucked oysters, clams and mussels shall be packed and kept until used in nonreturnable~~

~~containers identified with the name and address of the packer, repacker or distributor, and the certificate number of the packer or repacker preceded by the abbreviated name of the state.~~

~~(c) Dairy products.~~

~~(1) All milk and milk products, including fluid milk, other fluid dairy products and manufactured milk products, shall meet the standards of quality established for such products by applicable state and local laws and regulations.~~

~~(2) Only pasteurized fluid milk and liquid milk products shall be used or served. Dry milk and milk products may be reconstituted in the establishment if used for cooking purposes only, or in institutions where dietary reasons require its use.~~

~~(3) Milk and fluid milk products for drinking purposes shall be purchased and served in the original, individual containers in which they were packaged in the milk plant or shall be served from an approved bulk milk dispenser, provided that cream, whipped cream, or half and half, which is to be consumed on the premises may be served from the original container of not more than one half gallon capacity or from a dispenser approved by the health authority for such service. For mixed drinks, requiring less than a half pint of milk, milk may be poured from one quart or one half gallon containers packaged at a milk plant.~~

~~(4) All prepackaged foods prepared off the premises for sale in a food service establishment such as sandwiches and containers of food such as shellfish, meat dishes and salads, shall be packaged in approved containers clearly labeled with the name of the product and the name and address of the establishment where the product was prepared, processed or manufactured.~~

~~(5) All frozen desserts such as ice cream, soft frozen desserts, ice milk, sherbet, and mix shall meet the standards of quality established for such products by applicable state and local laws and regulations.~~

~~(d) Meat products. All meat and meat products shall have been inspected for wholesomeness under an official regulatory program, provided that the health authority may accept inspection reports of other governmental agencies which are in his or her opinion~~

~~satisfactory.~~

~~— (c) Poultry products. All poultry and poultry meat products shall have been inspected for wholesomeness under an official regulatory program, provided that the health authority may accept inspection reports of other governmental agencies which are in his or her opinion satisfactory.~~

~~— (f) Bakery products. All bakery products shall have been prepared in the food service establishment or in a food processing establishment, provided, that the health authority may accept reports of other governmental agencies which are in his or her opinion satisfactory and which are in compliance with applicable state and local laws and regulations. All cream filled and custard filled pastries shall have been prepared and handled in accordance with the requirements of this article relating to dairy products.~~

~~— (g) Frozen foods. Frozen food shall be kept at such temperature as to remain frozen except when being thawed for preparation or use. Frozen food shall be thawed at refrigerator temperatures of forty five (45) degrees Fahrenheit or below, or as part of the cooking process, or under potable running water at a temperature of seventy (70) degrees Fahrenheit or below with sufficient water velocity to agitate and float off loose food particles into the overflow, or in a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven, or by any other method satisfactory to the health authority.~~

~~— (h) Reconstituted nondairy products. Nondairy creaming, whitening or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one (1) gallon in capacity and cooled to forty five (45) degrees Fahrenheit or below within four (4) hours after preparation.~~

~~— (i) Power failures, etc. In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the licensee shall immediately contact the health authority. Upon receiving notice of this occurrence, the health authority shall take whatever action is deemed necessary to protect the public health, including but not limited to reporting this situation to the city clerk with a recommendation as to suspension or revocation of the license.~~

~~(Code 1968, § 905.16; Ord. No. 231-80, 12-22-80)~~

~~Sec. 11-31. Handling of food.~~

~~(a) General provision. Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized.~~

~~(b) Cooking:~~

~~(1) Stuffing, poultry and stuffed meats and poultry shall be heated throughout to minimum temperature of one hundred sixty five (165) degrees Fahrenheit with no interruption of initial cooking process. All pork or pork products shall be heated to an internal temperature of one hundred fifty (150) degrees Fahrenheit unless the pork or pork products have been subjected to a prior treatment at the time of manufacture or by a subsequent heating, drying, freezing or other treatment as to render it free from trichinae organisms. Roast beef shall be cooked to an internal temperature of at least one hundred thirty (130) degrees Fahrenheit and beef steak shall be cooked to an internal temperature of at least one hundred thirty (130) degrees Fahrenheit unless otherwise ordered by the immediate consumer.~~

~~(2) Hot prepared foods intended to be cooled from the temperature range of above one hundred forty (140) degrees Fahrenheit to below forty five (45) degrees Fahrenheit shall be cooled within a period not to exceed two (2) hours by utilizing shallow pans, agitation, quick chilling or water circulation external to the food container.~~

~~(3) Following preparation, hollandaise and other sauces which, pending service, must be held in the temperature range of forty five (45) degrees Fahrenheit to one hundred forty (140) degrees Fahrenheit, may be exempt from the temperature requirements above if they are prepared from fresh ingredients and are discarded as waste within two (2) hours after preparation. Where such sauces require eggs as an ingredient, only shell eggs shall be used.~~

~~(4) Foods determined by the health authority to be potentially hazardous foods which have been cooked and then refrigerated, shall be reheated rapidly to one hundred sixty five (165) degrees Fahrenheit or higher throughout before being served or before being placed in~~

~~a hot food storage facility. Steam tables, bainmaries, warmers, and similar hot food facilities shall not be used for the rapid reheating of potentially hazardous foods.~~

~~(c) Washing of fruit and vegetables. Raw fruit and vegetables shall be washed before use.~~

~~(d) Service of food. Where unwrapped food is placed on display in all types of food service operations, including smorgasbords, buffets and cafeterias, it shall be protected against contamination from customers and other sources by effective, easily cleanable, counter protector devices, cabinets, display cases, containers or other similar types of protective equipment. Self-service openings in counter guards shall be so designed and arranged as to protect food against contamination by coughing and sneezing. When food is served buffet or smorgasbord style:~~

- ~~(1) Potentially hazardous food shall be discarded hourly;~~
- ~~(2) Management shall not permit customers to handle food on display;~~
- ~~(3) Long handled serving spoons and trays shall be provided and used;~~
- ~~(4) In the case of "drive in" restaurants, all food shall be covered or wrapped before delivery to patrons to exclude flies, dust, and other contamination;~~
- ~~(5) Family dining table type of service shall not be prohibited;~~
- ~~(6) All potentially hazardous food when placed on display for service should be kept hot or cold as required hereafter:
 - ~~a. If served hot, the temperature of such food shall be kept at one hundred forty (140) degrees Fahrenheit or above except that roast beef shall be held for service at a temperature of at least one hundred thirty (130) degrees Fahrenheit;~~
 - ~~b. If served cold, such food shall be:
 - ~~1. Displayed in or on a refrigerated facility which can reduce or maintain the product temperature of forty five (45) degrees Fahrenheit or below;~~~~~~

~~2. Prechilled to a temperature of forty five (45) degrees Fahrenheit or below and when placed on display for service, the interior food temperature shall at no time during the display period be higher than fifty (50) degrees Fahrenheit.~~

~~e. Individual portions of food once served to a customer shall not be served again except that wrapped food, other than potentially hazardous food, which is still wholesome and has not been unwrapped may be reserved;~~

~~d. Sugar, salt, spices, mustard and ketchup shall be served only in covered dispensers, or in containers that shall be designed so that a spoon cannot be inserted for dispensing of these materials;~~

~~e. Poisonous and toxic materials shall be identified and shall be used and stored only in such manner and under such conditions as will not contaminate food or constitute a hazard to employees or customers. Such substances shall not be stored in any room where food or drink is stored, served or prepared, except in a separate cabinet not used for any food purposes. Poisonous insecticides shall be colored other than white. No polish or other substances containing any poisonous material shall be used for the cleaning or polishing of equipment or kitchenware.~~

~~(c) Enforcement. Food may be examined or sampled by the health authority as often as may be necessary to determine compliance with this article. The health authority may place a hold order on any food which he or she determines or has probable cause to believe to be unwholesome, adulterated or misbranded. Food under such hold order may be suitably stored and it shall be unlawful for any person to remove or alter a hold order, notice or tag, and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without permission of the health authority. After prompt and suitable investigation, the health authority may withdraw the hold order, or may direct that such food be brought into compliance with the provisions of this article or be destroyed.~~

~~(Code 1968, § 905.17; Ord. No. 231-80, 12-22-80)~~

~~**Sec. 11-32. Employees.**~~

~~— (a) Clothing. All employees shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to hygienic practices while on duty. They shall wash their hands thoroughly in an approved handwashing facility before starting work, after smoking, eating or drinking, and as often as may be necessary to remove soil and contamination. No employee shall resume work after visiting the toilet room without first washing his or her hands. Employees shall not use tobacco in any form except in areas designated for such purpose by the health authority. All employees who handle or serve unwrapped or uncovered food shall at all such times wear suitable head covering such as caps.~~

~~— (b) Consumption of food. Employees shall consume food only in designated dining areas which will not contaminate other food, equipment, utensils or other items needing protection.~~

~~— (c) Disease:~~

~~(1) No person while infected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores or any acute respiratory infections, shall work in any area of a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces with pathogenic organisms, or transmitting disease to other individuals; and no person known or suspected of being infected with any such disease or condition shall be employed in such an area or capacity. Every person employed in a food service establishment shall annually, and within ten (10) days after initial employment, present evidence to the manager or person in charge of the establishment of a negative chest x ray or tuberculin test for tuberculosis. If the manager or person in charge of the establishment has reason to suspect that any employee has contracted any disease in a communicable form or has become a carrier of such disease any, he or she shall notify the health authority immediately.~~

~~(2) When the health authority has reasonable cause to suspect possibility of disease transmission from any food service establishment employee or when he or she has received notification from the manager or person in charge as above provided, he or she may take any or all of the following actions:~~

- ~~a. The immediate exclusion of the employee from all food service establishments;~~
- ~~b. The immediate closure of the food service establishment concerned;~~
- ~~c. Restriction of the employee's service to some area of the establishment where there would be no danger of transmitting disease;~~
- ~~d. Adequate medical and laboratory examination of the employee, of other employees, and of his or her and their body discharges.~~

~~(d) Storage of clothing. Facilities shall be provided for the orderly storage of employee's clothing and personal belongings. Where employees routinely change clothing within the establishment, one (1) or more dressing rooms or designated areas shall be provided for this purpose. Such designated areas shall be located outside of the food preparation, serving areas, and the utensil washing areas. Dressing rooms and storage facilities shall be kept clean.~~

~~(Code 1968, § 905.18; Ord. No. 231-80, 12-22-80)~~

~~Sec. 11-33. Operation of premises.~~

~~(a) Housekeeping. All parts of the establishment and its premises shall be kept clean and free of litter and rubbish. Cleaning operations shall be conducted in such a manner as to minimize contamination of food and food contact surfaces. None of the operations connected with a food service establishment shall be conducted in any room used as living or sleeping quarters. Soiled linens, coats and aprons shall be kept in suitable containers until removed for laundering. No live birds or animals shall be allowed in an area used in the conduct of food service establishment operations, except guide dogs accompanying blind persons and patrol dogs accompanying security or police officers, may be permitted in dining areas. This exclusion does not apply to edible fish, crustacea, shellfish or to fish in aquaria. Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.~~

~~(b) Presence of nonemployees. Persons other than the employees of the establishment and persons employed by the establishment who are not reasonably necessary for the preparation of food or washing of utensils shall not pass through nor remain in the food preparation areas.~~

~~(c) *Cleaning implements.* Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that they do not contaminate food, utensils, equipment or linens, and shall be stored in an orderly manner.~~

~~(d) *Times for cleaning.* Cleaning of floors and walls, except emergency cleaning, shall be done during periods when the least amount of food is exposed, such as between meals or after closing. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with brooms.~~

~~(e) *Sinks required.* One (1) utility sink, or curbed cleaning facility with a floor drain, shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of hand wash, utensil washing or food preparation sinks for this purpose is prohibited.~~

~~(f) *Fixtures.* Shielding to protect against broken glass falling into food shall be provided for all artificial lighting fixtures located over, by, or within food storage preparation service and display facilities, and facilities where utensils are cleaned and stored. Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.~~

~~(g) *Vermin control.* Effective measures shall be taken to protect against the entrance into the food service establishment and the breeding or presence on the premises of vermin. All openings to the outer air shall be effectively protected against the entrance of flies and other flying insects by self-closing doors, closed windows, screening, controlled air currents, or other effective means from May first through November first of each year. All openings to the outside shall be effectively protected against the entrance of rodents.~~

~~(h) *Facilities for cleaning.* Facilities for cleaning shall be provided in accordance with section 11-28.
(Code 1968, § 905.19; Ord. No. 231-80, 12-22-80)~~

~~**Sec. 11-34. Temporary food service establishments.**~~

~~(a) *Requirements.* A temporary food service establishment shall comply with all of the provisions of this article; except that when, in the opinion of the health authority immediate hazard to the public health will result. Temporary food service~~

~~establishments which do not fully meet the requirements of this article may be permitted to operate when food preparation and service are restricted in the following manner or other such manner as may be prescribed by the health authority:~~

- ~~(1) Only those potentially hazardous foods requiring limited preparation, such as hamburgers and frankfurters and those that only require seasoning and cooking shall be served. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products and sandwiches containing meat, poultry, eggs or fish is prohibited. This prohibition does not apply to any potentially hazardous food that: has been prepared and packaged under conditions meeting the requirements of this article; is obtained in individual servings; is held at forty five (45) degrees Fahrenheit or below, or at a temperature of one hundred forty (140) degrees Fahrenheit or above, in facilities meeting the requirements of this article; and is served directly in the unopened container in which it was packaged.~~
- ~~(2) Ice that is consumed or that contacts food shall be made under conditions meeting the requirements of this article. The ice shall be obtained only in chipped, crushed or cubed form and in single use, safe plastic or wet strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.~~
- ~~(3) Equipment shall be located and installed in a way that prevents food contamination and that facilitates cleaning the establishment.~~
- ~~(4) Food contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Effective shields for such equipment shall be provided, as necessary, to prevent contamination.~~
- ~~(5) When necessary, enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment and for handwashing. A heating facility capable of producing enough hot water for these purposes shall be provided on the premises.~~
- ~~(6) Storage of packaged food in contact with water or~~

~~undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.~~

~~(7) All sewage, including liquid wash, shall be disposed of according to applicable sections of this article and governmental plumbing requirements.~~

~~(8) When necessary, a convenient handwashing facility shall be available for employee handwashing. The facility must comply with section 11-23.~~

~~(9) Floors shall be constructed of concrete, asphalt, tight wood, or other similar easily cleaned material kept in good repair. Dirt or gravel, when graded to drain, may be used as subflooring when covered with clean, removable platforms or duckboards, or covered with wood chips, shavings or other suitable materials effectively treated to control dust.~~

~~(10) Ceilings shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather. Walls and ceilings of food preparation areas shall be constructed in a way that prevents entry of vermin. Doors to food preparation areas shall be solid or screened and shall be self closing. Screening materials where used, shall be at least sixteen (16) mesh to the inch.~~

~~(11) Counter service openings shall not be larger than necessary for the particular operation conducted. These openings shall be provided with tight fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict entry by flying insects. Counter service openings shall be closed except when in actual use.~~

~~(b) Single service items required. Temporary establishments without effective facilities for cleaning and sanitizing tableware shall provide only single service articles for use by the consumer. (Code 1968, § 905.20; Ord. No. 231-80, 12-22-80)~~

~~**Sec. 11-35. Mobile food service establishments.**~~

~~(a) Base station required. All mobile food service units shall be operated from a permanent base station which shall be considered part of the food service establishment for the purpose of determining compliance with this article. The mobile unit and base station shall comply with all of the requirements of this~~

~~article except those relating to toilet facilities, and the additional requirements herein set forth except as herein prescribed.~~

~~(b) Standards for base station. The base station shall be separated into three (3) areas: (i) mobile unit loading and cleaning area; (ii) food storage and preparation area; (iii) mobile unit cleaning area. The loading and cleaning area shall be completely enclosed and of sufficient size to completely house a mobile unit while loading, unloading and cleaning, and shall have a sanitary waste water drain to an approved sewage disposal system. The loading area and the food storage and preparation area shall be constructed in accordance with all applicable requirements of this article as previously set forth. A cleaning area shall be provided separately for the flushing and drainage of liquid wastes and for the cleaning of the mobile unit itself and shall comply with the following:~~

- ~~(1) All liquid waste generated from the mobile unit retention tank or from the cleaning process of the mobile unit itself must be discharged to a sufficient sanitary sewer in accordance with this article and with applicable plumbing codes.~~
- ~~(2) Mobile units shall report at least daily to such cleaning location for cleaning.~~
- ~~(3) The floor, walls and ceiling of the cleaning area shall be constructed in accordance with provisions of this article.~~
- ~~(4) The water supply used in the cleaning operations shall be as provided by section 11-24.~~

~~(c) Driver's compartment. In mobile units having a driver's compartment, the compartment shall be separated from all food preparation, service or storage areas by a complete partition or adequate screening. No food, food containers or utensils shall be kept in the driver's compartment.~~

~~(d) Water supply. A mobile unit shall be equipped with a storage tank containing a sufficient supply of fresh potable water and have a sufficient capacity of not less than twenty (20) gallons. Facilities for heating water shall be sufficient to supply at least ten (10) gallons of hot running water at a temperature of at least one hundred thirty (130) degrees Fahrenheit to furnish, when applicable, enough hot and cold running water for food preparation, utensil cleaning and sanitizing, and hand washing in~~

~~accordance with the provisions of this article. The water inlet shall be so located that it will not be contaminated by waste discharge, road dust, oil or grease, and it shall be capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with applicable sections of this article and governmental plumbing requirements when applicable.~~

~~(c) *Waste disposal.* Mobile units shall have a liquid waste collection tank capacity equal to the total capacity of potable hot and cold water storage tanks. Liquid waste shall not be discharged from the collection tank when the mobile unit is in motion. All connections on the vehicle for servicing the mobile unit's waste disposal facilities shall be of different sizes or types from those used for supplying potable water to the mobile food unit. The waste connection shall preclude contamination to the potable water system. The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the daily servicing operation.~~

~~(f) *Exemption.* Mobile units handling only prewrapped or prepackaged food and drink dispensed from covered urns or other protected equipment and which do not require handling by the mobile unit service operator need not comply with the provisions of this section pertaining to a water supply, liquid waste disposal, and the cleaning and sanitizing of equipment and utensils if the required equipment for cleaning and sanitizing exists at the base station.~~

~~(g) *Rubbish containers required.* A sufficient number of covered, metal rubbish containers shall be provided at each site immediately adjacent to the mobile unit for discards by the consumer. In no case shall such containers be more than ten (10) feet from the unit. Vendors shall keep sidewalks, roadways and other public or private space adjoining and adjacent to their locations clean and free from paper and refuse of any kind generated from the operation of their business.~~

~~(h) *Utensils.* The following utensils may be utilized for food dispensing on mobile units:~~

- ~~(1) Tongs or similar devices used solely for dispensing nonpotentially hazardous food items; and~~
- ~~(2) Single service items.~~

~~(i) Single service items. Mobile food units shall provide only single service articles for use by the consumer. (Code 1968, § 905.21; Ord. No. 231-80, 12-22-80)~~

Sec. 11-35.5. Ice cream trucks.

All ice cream trucks shall comply with the following:

- (a) *General regulations.* All ice cream trucks shall comply with all requirements of section 11-35, including the requirements for a base station, and all other requirements of this article except those relating to toilet facilities, in addition to the requirements set forth in this section.
- (b) *Permitted sales locations.* Ice cream trucks shall be limited to sales on or from public rights-of-way in city parks where vending is allowed or in residential zones only, where such public rights-of-way have a posted speed limit of twenty-five (25) miles per hour or less.
- (c) *Sales prohibited.* No ice cream truck shall stop at any time for the purpose of making sales if such stop is located within five hundred (500) feet of a licensed food service establishment.
- (d) *Length of stop.* No ice cream truck shall stop on a public right-of-way in a residential zone for more than fifteen (15) minutes. An ice cream truck shall operate its four-way flashers whenever stopped.
- (e) *Manner of stops.* Ice cream trucks shall pull over to the side of the public right-of-way as far as practicable when stopping for the purpose of selling. In no event shall an ice cream truck stop for the purpose of selling if such a stop prevents the passage of other motor vehicles on the public right-of-way.
- (f) *Hours of operation.* Ice cream trucks shall only operate from 11:00 a.m. until 8:00 p.m.
- (g) *License, insurance required.* Each ice cream truck shall be required to be separately licensed under this article and to provide to the eCity eClerk evidence of public liability insurance in an amount of not less than ~~three~~ four hundred thousand dollars (~~\$3400,000.00~~) as amended, with the city named as an additional insured on the policy.

(h) *Cost of licenses and expiration date.* The cost of a license for an ice cream truck and base station and the expiration date for such licenses shall be the same as those established in section 15-12 for a mobile food service establishment license and a base station license. Each base station shall be required to have one (1) base station license, even if more than one (1) truck utilizes the same base station.

(i) *Passengers prohibited.* No ice cream truck shall carry any passenger not employed by or related to the license holder or driver.

(Ord. No. 318-93, § 2, 6-9-93; Ord. No. 136-97, 11-3-97)

Sec. 11-35.7. Stationary food vending unit.

A stationary food vending unit shall be subject to the following regulations:

(a) Only nonalcoholic beverages and prepackaged foods shall be sold from a stationary food vending unit, and there shall be no cooking in or near the unit.

(b) An applicant for a stationary food vending unit license shall provide the eCity eClerk, in addition to any other information required by chapter 15, with acceptable proof of ownership or control of the property upon which the unit will be located. Such proof shall consist of a deed, lease or other written agreement.

(c) An applicant for a stationary food vending unit license shall submit the following information for review by the health authority:

1. A plan for waste disposal;
2. A plan for disposal of liquid waste, which shall not be allowed to run into the ground; and
3. A plan for provision of restrooms for employees;
4. The precise location and manner of proposed or existing electrical hookups, which must be done by a licensed master electrician, or the type and location of other proposed or existing power sources.

- (d) No stationary food vending unit shall be located within sixty-five (65) feet of any other licensed food establishment, including street vending units and mobile food service units.
- (e) The fees and the expiration date for a stationary food vending unit license shall be the same as those established in chapter 15 of this Code for mobile food service establishments, except that no base station or fee for a base station shall be required.
- (f) The location of any stationary food vending unit shall be subject to the applicable requirements of articles III and V of chapter 14 of this Code.

(Ord. No. 294-94, § 2, 5-16-94)

Editor's note--Ord. No. 294-94, § 2, passed May 16, 1994, amended this chapter by adding provisions to be included as § 11-35.5. Such provisions have been codified as § 11-35.7 at the discretion of the editor, inasmuch as other provisions were previously codified as § 11-35.5.

Sec. 11-36. Reserved.

Sec. 11-37. Reserved.

Sec. 11-38. Reserved.

~~Sec. 11-36. Fixed equipment.~~

~~When a food service establishment is constructed after April 1, 1968, or extensively remodeled, or when an existing structure is converted for use as a food service establishment, properly prepared plans and specifications for such construction, remodeling or alteration which show the layout, arrangement and construction materials of work areas, and location, size and type of fixed equipment and facilities shall be submitted to the health authority for review before such work is begun.~~

~~(Code 1968, § 905.22; Ord. No. 231-80, 12-22-80)~~

~~Sec. 11-37. Inspection Performance Requirements.~~

~~— All licensed food service establishments may be inspected annually employing forms approved by the State of Maine Department of Health Engineering, or any successor agency thereto. Food service establishments which obtain a score of 79 through 84 may be reinspected monthly until the establishment has achieved the score of 85 or above. Establishments with a score of 78 or less may be reinspected within 10 days of the original unsatisfactory score. Establishments which score below 78 on two consecutive inspections shall be referred to the city clerk for action pursuant to chapter 15; provided, however, the foregoing shall not be construed to be a~~

~~limitation on the authority of the city to refer violations to the city clerk for action pursuant to chapter 15.
(Ord. No. 282 99, § 1, 5 17 99)~~

~~**Sec. 11-38. Certified food protection manager.**~~

~~(a) General requirement. All permanent food service establishments that sell potentially hazardous foods (time/temperature controlled for safety foods) must have at least one certified food protection manager (CFPM) employed by the establishment.~~

~~(b) Person in charge. A CFPM is not required to be on site at all times during operating hours. When the CFPM is on site, he or she shall be designated as the person in charge of food protection measures. When the CFPM is not on site then the CFPM or food establishment owner or his or her designee shall designate a knowledgeable person in charge of food protection measures while the CFPM is off site.~~

~~(c) Criteria for meeting CFPM standard. All permanent food service establishments shall employ a CFPM that is certified by a food protection manager certification program evaluated and listed by a conference for food protection recognized accrediting agency as conforming to the conference of food protection manager certification programs. All establishments shall provide written proof to a city inspector upon request that demonstrates the employment of a currently certified CFPM.~~

~~(d) Duties of the certified food protection manager. The CFPM shall be employed as a CFPM for only one licensed food service establishment within the City of Portland at a given time. The CFPM shall also:~~

- ~~(1) Be responsible for ensuring compliance with food protection measures in the establishment, and~~
- ~~(2) Be responsible for training the establishment's food service workers on proper food handling, general sanitation practices, and personal hygiene; and~~
- ~~(3) Immediately report to the Maine CDC 24/7 disease reporting line 1 800 821 5821 and to the food facility operator the occurrence of any group expression of illness or disease among patrons and/or food service workers.~~

~~(e) Duties of the food service establishment owner regarding a certified food protection manager. The owner or his or her designee shall employ at least one CFPM as a regular, full time employee. The CFPM shall be employed within sixty (60) days of the effective ate of this section or the date of the establishment's food service license, whichever is earlier. A replacement CFPM shall be employed within sixty (60) days after a CFPM is no longer employed by an establishment.~~

~~(f) Penalties for non-compliance. Permanent food service establishments operating without a CFPM in violation of this section shall be cited for a 10 point critical violation.
(Ord. No. 63-10/11, 11-1-10)~~

Sec. 11-39. ~~Reserved~~Community kitchens.

~~(a) A community kitchen shall mean a kitchen, licensed pursuant to this chapter, that is utilized by two or more entities at differing times for preparation of food to serve to the public off-site.~~

~~(b) Not more than one entity may utilize the community kitchen at one time. Any time more than one entity is utilizing a kitchen licensed pursuant to this chapter, there must be a reasonable amount of time built in to the schedule to ensure the kitchen is cleaned prior to the next use.~~

~~(c) Schedule and records: The schedule of the use of the community kitchen shall be prominently displayed in a conspicuous location at all times and all associated records shall be available for review by the health inspector at all times.~~

~~(d) License required: Each entity utilizing a community kitchen shall procure a community kitchen license from the Clerk's office.~~

Sec. 11-40. ~~Reserved~~Penalties.

~~Following the issuance of a failed inspection notice and an order to correct violations, the health inspector will reinspect the premises at a fee of seventy five dollars (\$75.00); if the followup inspection results in another failed inspection, the violator will be charged a second re-inspection fee of one hundred fifty dollars (\$150.00). If the third reinspection results in a failed inspection, the third and each subsequent follow-up reinspection will result in a three hundred dollar (\$300.00) per reinspection charge. In addition, upon the third failed reinspection, the health inspector may order the establishment~~

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closed until the establishment yields a passing inspection.

- Sec. 11-41. Reserved.
- Sec. 11-42. Reserved.
- Sec. 11-43. Reserved.
- Sec. 11-44. Reserved.
- Sec. 11-45. Reserved.

DIVISION 2. LICENSE*

*Cross reference(s)--Licenses and permits generally, Ch. 15.

Sec. 11-46. Required.

No person shall operate any food service establishment within the city unless licensed to do so by the city.
(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)

Sec. 11-47. Hearing.

A hearing shall be held upon any original and any renewal application for a license required by this division.
(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)

Sec. 11-48. Suspensions and revocations.

Licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the clerk upon application, in writing, from the holder if the health ~~authority-inspector~~ certifies to the clerk that he or she has reinspected the premises and the condition for which the suspension was imposed has been corrected.
(Code 1968, § 905.3; Ord. No. 231-80, 12-22-80)

Sec. 11-49. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.
(Code 1968, § 905.23; Ord. No. 231-80, 12-22-80)

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