

ANNEX

3

FREQUENTLY-ASKED QUESTIONS

REGARDING
THE NEW DISTRICT OF COLUMBIA FOOD CODE REGULATIONS
(Title 25 of the District of Columbia Municipal Regulations)

The Department is providing guidance on the following Food Code areas, using the following Question and Answer format:

- A. General Questions
- B. Certified Food Protection Manager
- C. Hygienic Practices
- D. Consumer Advisory
- E. Bare-Hand Contact
- F. Employee Health

A. General Questions

Q: What is included in the new District Food Code?

A: The new District Food Code Regulations:

- Control and regulate the retail sale, commercial and institutional service, and vending of food;
- Establish standards for employee food safety practices and training;
- Regulate food sources, preparation, holding temperatures, and protection;
- Regulate equipment, utensils, and linens, their design, construction, number and capacity, location and installation, maintenance and operation, cleaning, and sanitization;
- Regulate the use of water and the treatment of liquid and solid waste;
- Regulate facilities construction and maintenance, storage and use of poisonous and toxic materials;
- Establish requirements for special operations such as bed and breakfast, residential kitchens, and mobile food units,
- Establish license requirements for the operation of food establishments;
- Establish a process for restricting or excluding employees who are sick;

- Establish standards for summary enforcement actions, allowing the Department to examine, embargo, and condemn food or food products, equipment, utensils, and linens and to suspend licenses due to imminent health violations;
- Identify the time periods within which critical and noncritical violations must be fixed;
- Establish requirements for license revocations, fines and enforcement administration.

Q: What are some of the significant requirements of the new District Food Code?

A: Below are some of the new significant requirements:

- Food establishments must retain a full-time certified food protection manager or a full-time certified limited food protection manager based on whether the establishment is designated as high, moderate or low risk.
- Food-establishment managers or persons in charge may have to demonstrate knowledge as to the prevention of foodborne illness.
- Food employees must follow specific hygienic practices, including limiting bare-hand contact with ready-to-eat food, except when washing fruits and vegetables or when otherwise approved.
- Food establishments must provide a reminder to consumers of the increased risk of foodborne illness when ready-to-eat, animal-derived foods are offered raw or undercooked.
- Food establishments must obtain food licenses not only for new operations, renewals, and changes in-ownership but also when there are changes in the type of food operations and when there are major renovations of the establishment.
- HACCP (Hazard Analysis Critical Control Point) Plans are required for specific variances and food establishments must follow a specific process for seeking and obtaining a variance.
- Food establishments must obtain, identify and display upon request their contracts for trash hauling, rodent control and grease collection services.
- The frequency of the inspection of food establishments is tied to whether the business is designated as high, medium or low risk.
- Refrigeration equipment must meet 5° C (41° F) by December 30, 2009.
- The Department will issue Certificates of Achievement that will be based on objective criteria during an annual rating period.
- Bed and breakfast operations, where the available guest bedrooms do not exceed three (3) and the number of guests served do not exceed nine (9) are allowed to use a residential kitchen, and are required to be licensed.

- Catered establishments such as child development centers, adult day care establishments, nursing homes, schools, community residential establishments, and other institutions that receive food from an approved catering firm must obtain a license.

Q: How does the new District Food Code differ from the 1999 federal *Food Code*?

A: The Department has made a number of changes to the 1999 federal *Food Code* and, upon request, will provide you with a listing of those changes. The Department has also highlighted these changes in its User Friendly Version of the Food Code. The District has added a new Subtitle H: Special Requirements, and new chapters and sections. The District has also modified the enforcement and compliance sections of the federal regulations to fit the District's operations.

Q: The District's Food Code makes frequent reference to federal laws contained in the United States Code (USC) and the Code of Federal Regulations (CFR), how can I obtain copies of these documents?

A: Copies of the USC and CFR can be viewed and copied at government depository libraries or may be purchased as follows.

(A) Viewing or Copying the USC or CFR

(1) Government Depository Library

The USC and CFR are widely available for reference and viewing in some 1400 "depository libraries" located throughout the United States. *A Directory of U.S. Government Depository Libraries* is published by the Joint Committee on Printing of the United States Congress and is available through the Superintendent of Documents, U.S. Government Printing Office. This publication lists all depository libraries by state, city, and congressional district.

Persons may also obtain information about the location of the depository library nearest to them by contacting:

Library Programs Service, SL
U.S. Government Printing Office
North Capitol & H Streets, NW
Washington, DC 20401
(202) 512-1114, FAX (202) 512-1432

(2) Internet World Wide Web Information System

The CFR are available on-line in downloadable form through the Internet World Wide Web information system. The source is:

The National Archives and Records Administration
Copies of Federal Regulations – Retrieve CFR by Citation
Provided through the Government Printing Office Web Site – GPO
Inet Services

<http://www.access.gpo.gov/nara/cfr/cfr-table-table-search.html>

(B) Purchasing Portions of the USC or CFR

Persons wishing to purchase relevant portions of the USC or CFR may do so
by writing: or by calling:

Superintendent of Documents (New Orders)
U.S. Government Printing Office
P.O. Box 371954
Pittsburgh, PA 15250-7954

(202) 512-1800 from 7:30 a.m.
to 5:00 p.m. eastern standard
time, Monday-Friday (except
holidays) charged to Discover/
Novus, MasterCard or Visa.

B. Certified Food Protection Manager

Q: Does the new Food Code require food employees to be certified?

A: The new Food Code require that either the licensee or an individual designated as the person in charge must be a certified food protection manager, or a certified limited food protection manager.

Q: Must the Certified Food Protection Manager or Certified Limited Food Protection Manager be present at all times?

A: Yes. However, if during a legitimate emergency, the certified food protection manager or a certified limited food protection manager is not present at the establishment, an alternate person must be designated to be the person in charge and may be required to demonstrate knowledge as required by the Food Code.

Q: Are all food operations required to have a Certified Food Protection Manager or a Certified Limited Food Protection Manager?

A: ALL food operations including mobile vendors licensed must have a certified food protection manager or a certified limited food protection manager, with the exception of those operations not considered to be "food establishments", as the term is defined.

Q: What is required to be a Certified Food Protection Manager?

A: A Certified Food Protection Manager must have passed examinations covering specific knowledge, skills, and abilities necessary to operate a safe and sanitary food establishment which are approved by the Director or examinations in another jurisdiction that are accepted by the Director, and have received a certificate issued after passing an exam or recognized by the Director. You are still, however, required to obtain a District certification card.

Q: What is required to be a Certified Limited Food Protection Manager?

A: A Certified Limited Food Protection Manager must have passed examinations covering specific knowledge, skills, and abilities necessary to operate a safe and sanitary food establishment approved by the Director or examinations in another jurisdiction that are accepted by the Director, and have received a certificate issued after passing an exam or recognized by the Director. You are still, however, required to obtain a District certification card.

Q: Are group homes required to have a Certified Food Protection Manager on staff?

A: Group homes are operated by a variety of public and private agencies. Group homes vary in size from five to thirty-five residents, but an important element of such a facility is its home-like atmosphere. Group homes may or may not be licensed as food establishments depending on the size of their operation. For those that are licensed, a certified food protection manager is required.

Q: Must food establishments notify the Department of Health when a Certified employee is terminated?

A: The Department of Health's Food Protection Program must be notified only if the establishment does not have another certified person in charge, or is unable to immediately replace the certified person.

Q: How do I become recognized as a Certified Food Protection Manager in the District?

A: You must first pass a written examination demonstrating your knowledge of food protection and food safety principles and practices. Upon passing the examination, you will receive a certificate. Persons licensed as Dietitians or Nutritionists in accordance with the District of Columbia Health Occupations Revision Act of 1985 Amendment Act of 1994, are considered certified. You are required to bring the certificate and examination score to the Food Protection Program where you will be issued a certification card by the District that is good for three (3) years from the date you obtained your certification card.

If you already have a food manager certification card issued by the District of Columbia Department of Health that expires in 2004, it is only valid until December 31, 2003. New certification cards will be issued beginning in September 2003 using the categories of certified food protection manager and certified limited food protection manager.

Q: Where would I obtain information on becoming a Certified Food Protection Manager or a Certified Limited Food Protection Manager?

A: For application and testing information contact any of the following test providers:

Experior Assessments

Phone: (800) 200-6241

Web site: www.experioronline.com

FSP Certificate (**National Registry of Food Safety Professionals**)

Phone (800) 330-3776

Web site: www.nrfsp.com

National Restaurant Association (**Serve-Safe Educational Foundation**)

Phone: (800) 765-2122

Web site: www.restaurant.org

Dietary Manager's Association (**Certified Food Protection Professional Examination**)
Phone: (800) 323-1908
Web site: www.dmaonline.org

C.

Hygienic Practices

Q: Are food employees required to wear hair restraints and what is considered effective?

A: YES. All food employees engaged in open food handling are required to wear effective hair restraints designed and worn to prevent hair from contaminating food and food-contact surfaces. Wait staff who present a minimal risk and staff only dispensing beverages and pre-packaged foods, are not required to wear hair restraints.

As for what is considered effective, it is different from situation to situation. In general, it must be a restraint that effectively holds the hair back and reduces the likelihood that stray hairs will fall off of the head during work – such as a net, hat or visor.

Q: Are food employees allowed to wear jewelry while working with food?

A: Jewelry (including rings, watches, bracelets, etc.) cannot be worn by employees during open food handling activities. Plain wedding bands and medical bracelets are acceptable. Pieces of the jewelry may fall off and into the food presenting a physical hazard to the consumer. Even more importantly, these items are very difficult to keep clean and present a medium for possible bacterial growth.

Q: Are food employees allowed to chew gum while preparing food?

A: NO. Employees may only consume food (and gum is considered food) and use tobacco products in designated break areas that are separate from all food handling and dishwashing areas.

Q: Are food employees allowed to wear artificial fingernails while preparing food?

A: NO. Employees must maintain a high degree of personal cleanliness while engaged in open food handling. Artificial nails and nail polish present a physical hazard if they fall off into food. More importantly, artificial fingernails are difficult to keep properly clean and therefore may present a medium for bacterial growth. For these reasons, artificial fingernails and fingernail polish are not allowed to be used by employees engaged in open food handling processes.

Q: Is there any advantage to using “anti-bacterial” soap over other kinds of soap?

A: For general handwashing purposes, the answer is “no”. Let’s review the handwashing process which requires several steps: wetting hands with warm water, adding soap, rubbing hands together vigorously for at least 20 seconds, rinsing thoroughly, and wiping dry with a disposable paper towel or using a hand-drying device. This process, when done properly, removes the bacteria present on the hands. It is the process that works, not JUST the soap. Present food codes do not specify any particular type of soap, only that soap be used. If hands are properly rinsed and dried after washing, any residual effect from antibacterial soaps is gone. And REMEMBER: hand sanitizers are never a substitute for handwashing and should only be used after proper handwashing has taken place.

Q: Do food employees have to wash their hands after they handle money and before they handle food? Don’t they have to wear gloves?

A: In accordance with section 403 of the Food Code, employees (prior to handling food) must wash their hands after any activity that may have contaminated their hands. Therefore, since money is dirty/soiled, they must wash their hands after handling money and before handling food.

As to whether money could support pathogenic growth -- According to the U.S. Food and Drug Administration, paper currency contains fungicidal and bacterial agents. Furthermore, a 1973 survey revealed low numbers of organisms on metal coins. They do not consider paper currency nor metal coins to be likely fomites.

As for the use of gloves – The use of disposable gloves is not a requirement of the Food Code. Proper and frequent handwashing IS REQUIRED. If gloves are worn, however, they must be used properly and handwashing must take place prior to putting the gloves on and after removing them.

D. Consumer Advisory

Information for Food Establishment Licensee and Persons-in-Charge

Q: As the Licensee or Person-in-Charge of a food establishment, how can I serve my customers raw or undercooked foods of animal origin, and also advise them of the risk of foodborne illness risks to be in compliance with 25 DCMR 900?

A: The District of Columbia Food Code Regulations, *25 DCMR Section 900.3 (a)*, allows the service of raw or lightly cooked animal foods so long as the consumer is advised of the increased risk of foodborne illness. These requirements are explained below.

The consumer advisory is intended to apply to all food establishments where raw or undercooked animal foods or ingredients are sold or served for human consumption in a raw or undercooked form. This includes all types of food establishments whenever there is a reasonable likelihood that the food will be consumed without subsequent, thorough cooking – such as restaurants, raw bars, quick-service operations, carry-outs, and sites where groceries are obtained that have operations such as delicatessens or seafood departments.

Satisfactory compliance with the Food Code's Consumer Advisory provision is fulfilled when a *reminder* is provided. The information contained in the *reminder* is to be *publicly available* and readable so that consumers have benefit of the total message before making their order selections.

Food establishments can voluntarily decide to provide the disclosure, which is defined below.

Definitions of Terms

Disclosure means a written indication as to which items are, or can be ordered, raw or undercooked in their entirety, or items that contain an ingredient that is raw or undercooked.

Essential Criteria means the specifications that must be met when developing a custom-designed consumer advisory brochure regarding consuming raw or undercooked animal foods.

Menu means whatever consumer read (table tent, placard, chalkboard, or other written means) to make their order selections.

Reminder means a written statement concerning the health risk of consuming raw or undercooked animal foods.

Molluscan Shellfish means any edible species of raw or undercooked oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

Shellstock means raw, in-shell molluscan shellfish.

Format specifications for *disclosure* and *reminder*:

Language: The language for the menu items is to match the language used for the *disclosure* and the *reminder*. For example, a menu written in English would have the *disclosure* and the *reminder* in English. The *disclosure* and *reminder* may also be in other languages.

Text size:

Text size for statements on hand-held *menus* or table tents is to be visually equivalent to a minimum of 11 point.

For statements on a placard, the statements are to be equally readable as *menu* items that are on the placard. Whether the placard is also a *menu* or it is used solely for the *reminder*, the text size must be readable from the point at which consumers would normally stand to read it.

Other factors that can also affect the readability of a label or statement at the retail level are the type of font and background versus type color.

Consumer Advisory Reminder

Objective

If either of the two *reminder* statements containing the actual advisory information is used, the statement must be placed according to one of the following:

- At least once on any page of the *menu* (preferably the first or last page) and located within the *menus* so that the consumer may easily find it, or
- On a placard, table tent, or by other written means.

Methods of Compliance

1. Use one of the two *reminder* statements containing the actual advisory:
 - *Reminder* Statement 1 (listed in the Food Code):
“Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions”; or
 - *Reminder* Statement 2:
“Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness.”

Voluntary Method of Compliance

2. Use a consumer advisory brochure.

Option 1:

The 1999 Food Code provides an option to have the disclosed items footnoted to a *reminder* statement that refers the reader to a consumer advisory brochure:

“Regarding the safety of these items, written information is available upon request.”

When the brochure is used to remind consumers of their risk and the brochure is not *publicly available*, the above *reminder* statement has to be mentioned on the *menu*.

When the brochure is used to remind consumers of their risk and the brochure is *publicly available*, the above *reminder* statement does not have to be mentioned on the *menu*.

Option 2:

- Use the text of the District of Columbia’s “4 Ways to Make Safer Food Selection” brochure, or
- Use a custom-designed brochure that meets the *Essential Criteria* in the document.

E. Barehand Contact with Ready-to-Eat Food

Information for Food Establishment Licensees and Persons-in-Charge

Q: Does the Food Code Regulation provide a procedure, which can be approved to comply with 25 DCMR Section 800.2 and which will allow my food employees to contact ready-to-eat foods with bare hands?

A: Yes, The District of Columbia, in 25 DCMR Section 800.2, encourages food establishments to limit barehand contact with ready to eat foods, except when washing fruits and vegetables or when otherwise approved.”

THIS INFORMATION SHEET PROVIDES CLARIFICATION OF “EXCEPT WHEN OTHERWISE APPROVED” TO ASSIST THE PERSON-IN-CHARGE IMPLEMENT THE PROHIBITION OF BAREHAND CONTACT THROUGH A PLAN FOR ALTERNATIVE PRACTICES CONSISTENT WITH FOOD SAFETY PRINCIPLES AND PUBLIC HEALTH CONCERNS.

Forward the completed Food Establishment Management Plan for Alternative Practices to:

The District of Columbia Department of Health, Bureau of Food, Drug & Radiation Protection, Food Protection Program at the address listed above.

The public health hazard associated with barehand contact is the possible contamination of exposed, ready-to-eat food by bacterial, viral and parasitic pathogens that are transferred to food via an infected employee’s hands.

Infected food employees are the source of contamination in approximately one in five foodborne disease outbreaks reported in the United States with a bacterial or viral cause. Most of these outbreaks involve enteric, i.e. fecal-oral agents. These are organisms that employees were shedding in their stools at the time the food was prepared. Because of poor or nonexistent handwashing procedures, workers spread these organisms to the food. In addition, infected cuts, burns, or boils on hands can also result in contamination of food. Viral, bacterial, and parasitic agents can be involved.

Food regulations have traditionally required two methods of preventing the spread of foodborne disease by this mode of transfer:

- by prohibiting food workers from preparing food when they are infectious; and
- by requiring thorough and frequent handwashing.

In order to strengthen fecal-oral transmission interventions, the Food Code provides focused and specific guidance about ill workers and when handwashing must occur. As a final barrier, barehand contact with exposed, ready-to-eat food (food that is edible without washing or is not

subsequently subjected to a pathogen kill step) **is prohibited** and suitable utensils such as spatulas, tongs, single-use gloves, or dispensing equipment are required to be used.

Any alternative to this requirement must address how food employees will be managed to preclude food contamination and how food establishment management will ensure that thorough handwashing occurs after employees use the toilet. The specific alternative plan requirements are described below.

Alternative Plan to the Prohibition to Barehand Contact with Ready-to-Eat Food

REQUIRED CONTENTS FOR **FOOD PROTECTION PROGRAM** REVIEW AND APPROVAL

1. EXPLAIN IN WRITING why the food establishment licensee is **unable to comply** with the “No Barehand Contact” provision, as specified in the District of Columbia Food Code Regulation, Title **25 of the DCMR 800.2, which states:**

“... food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.”

2. EXPLAIN IN WRITING the reasons for complying with food safety principles in each of the following **areas of knowledge**, as specified in the District of Columbia Food Code Regulations, 25 DCMR §201:

- a. The relationship between the prevention of foodborne disease and the **personal hygiene** of a food employee; and
- b. The prevention of the transmission of foodborne disease by a food employee who has a **disease or medical condition** that may cause foodborne disease; and
- c. The **symptoms** associated with the diseases that are transmissible through food; and
- d. The prevention of foodborne illness through **active managerial control** of the following:
 - (1) Cross contamination,
 - (2) Hand contact with ready-to-eat foods,
 - (3) Handwashing, and
 - (4) Maintaining the food establishment in a clean condition and in good repair; and
- e. The routine monitoring of employee **handwashing** to ensure that employees are effectively cleaning their hands.

3. EXPLAIN IN WRITING how the food establishment permit holder will ensure compliance with **employee health controls**, as specified in the District of Columbia Food Code Regulations, 25 DCMR Chapter 3:

- a. The food employee is required to report health information related to diseases that are transmissible through food; and
- b. The food employee is excluded from the food establishment if the food employee is diagnosed with an infectious agent specified under 25 DCMR Section 300.1; and
- c. The food employee is restricted from working with exposed food and clean utensils when experiencing symptoms specified 25 DCMR Section 301; and
- d. The food employee who is excluded or restricted is reinstated only after complying with the provisions 25 DCMR Section 302.

4. EXPLAIN IN WRITING **management controls** which identify the ready-to-eat foods to be contacted with bare hands, and describe procedures to ensure that food employees wash their hands before returning to their work area and cross-contamination is prevented.

5. EXPLAIN IN WRITING the plan for an effective **employee training program** which emphasizes not working when ill, proper handwashing, good hygienic practices, and safe food preparation techniques.

6. EXPLAIN IN WRITING **management documentation** of alternative food preparation practices and corrective actions to be available on the premises for compliance review by the **Bureau of Food, Drug and Radiation Protection, Food Protection Program**.

F. Employee Health Controls

Information for Food Establishment Licensee and Persons in Charge

Q: As the Licensee or Person in Charge of a food establishment, am I legally entitled to request medical information from a food employee, or from an applicant to whom a conditional offer of employment has been made?

A: Yes, The District of Columbia Food Code Regulations, Title 25 DCMR Section 300, titled "Disease or Medical Condition – Responsibility to Require Food Employee/Applicant to Report Health Status" provides this authority.

The authority to collect this information is supported by Title 29 Code of Federal Regulations Part 1630, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," specifically in 29 CFR 1630 Section 13, "Prohibited medical examinations and inquiries," and in 29 CFR 1630 Section 14, "Medical examinations and inquiries specifically permitted."

A wide range of communicable diseases and infections may be transmitted by infected food employees to consumers through food or food utensils. Proper management of a food establishment operation begins with employing healthy people and instituting a system of identifying employees who present a risk of transmitting foodborne pathogens to food or to other employees. In order to protect the health of both consumers and employees, information concerning the health status of applicants and food employees must be disclosed to the person in charge.

Title 1 of the Americans with Disabilities Act (ADA) prohibits medical examinations and inquires as to the existence, nature, or severity of a disability before extending a conditional offer of employment. In order for the permit holder and the person in charge to be in compliance with this particular aspect of the Code and the ADA, a conditional job offer must be made before making inquiries about the applicant's health status.

Furthermore, an applicant to whom an employment offer is conditionally made or a food employee who meets the Code conditions that require restriction from certain duties or exclusion must be accommodated to the extent provided under the ADA. That is, if there is an accommodation that will not pose an undue hardship and that will prevent the transmission of the disease(s) of concern through food, such accommodations, e.g., reassignment to duties that fulfill the intent of restriction or exclusion, must be made. It should be noted that the information provided here about the ADA is intended to alert employers to the existence of ADA and related CFR requirements. For a comprehensive understanding of the ADA and its implications, consult Title 29 Code of Federal Regulations Part 1630, or contact the U. S. Equal Employment Opportunity Commission.

The information required from applicants and food employees is designed to identify employees who may be suffering from a disease, which can be transmitted through food. It is the responsibility of the permit holder to convey to applicants and employees the importance of notifying the person in charge of changes in their health status. Once notified, the person in charge can take action to prevent the likelihood of the transmission of foodborne illness.

Applicants to whom a conditional offer of employment is extended and food employees are required to report specific high-risk conditions, medical symptoms, and previous illnesses. The symptoms listed may be indicative of a disease that is transmitted through the food supply by infected food employees.