

**Title 5
FOOD ESTABLISHMENTS***

Chapters:

- 5.02 General Provisions**
- 5.04 Definitions**
- 5.10 Public Health Labeling and Regulation**
- 5.20 Equipment and Utensils**
- 5.26 Sanitary Facilities and Controls**
- 5.34 Mobile Food Vehicles**
- 5.42 Temporary Food Establishments**
- 5.50 Permits Required**
- 5.52 (Reserved)**
- 5.60 Permit Suspension, Revocation and Compliance Methods**
- 5.64 Food Establishment Risk**

*Editor's Note: For administrative rules relevant to this title, look for a following "R" title of the same number.

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Chapter 5.02
GENERAL PROVISIONS

Sections:

- 5.02.010 Short title.
- 5.02.020 Purpose and policy.
- 5.02.025 Applicability – State food regulations adopted.
- 5.02.030 Enforcement authority.
- 5.02.040 Authority to promulgate rules.
- 5.02.050 Construction.

5.02.010 Short title. The rules and regulations set out in this title may be cited and referred to, and shall be known as the "King County Food Code." (R&R 91 §1(part), 5-14-93).

5.02.020 Purpose and policy.

A. In compliance with 246-215 WAC, this title is enacted as an exercise of the board of health powers of King County to protect and preserve the public peace, health, safety and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes.

B. It is expressly the purpose of this title to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this title.

C. It is the specific intent of this title to place the obligation of complying with its requirements upon the owner of each food service establishment within its scope, and no provision nor term used in this title is intended to impose any duty whatsoever upon King County or any of its officers or employees, for whom the implementation or enforcement of this title shall be discretionary and not mandatory.

D. Nothing contained in this title is intended to be nor shall be construed to create or form the basis for any liability on the part of King County, or its officers, employees or agents, for any injury or damage resulting from the failure of any person subject to this title to comply with this title, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this title on the part of King County by its officers, employees or agents. (R&R 91 §1(part), 5-14-93).

5.02.025 Applicability – State food regulations adopted.

A. Except as otherwise specifically provided in this title, Chapter 246-215 WAC, Washington Food Service Regulations, as amended, are hereby adopted and by this reference made a part of this title.

B. Any person owning, operating, or working in a food establishment must comply with and is subject to the requirements of this title, including state regulations adopted by reference.

C. If a provision or definition of Chapter 246-215 WAC is inconsistent with a provision or definition otherwise established under this title, the more stringent provisions of this title shall apply. (R&R 05-06 § 1, 6-17-2005).

5.02.030 Enforcement authority. This title shall be enforced by the health officer. This title shall be enforced in accordance with Chapter 1.08 of this code. (R&R 91 §1(part), 5-14-93).

5.02.040 Authority to promulgate rules. The health officer is authorized to make rules and regulations not inconsistent with the provisions of this title for the purpose of enforcing and carrying out its provisions. (R&R 91 §1(part), 5-14-93).

5.02.050 Construction. The provisions of this title do not apply to or govern the construction of and punishment of any offense committed prior to the effective date of the rules and regulations codified in this title or to the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this title had not been enacted. (R&R 91 §1(part), 5-14-93).

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**Chapter 5.04
DEFINITIONS****Sections:**

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| 5.04.005 | Effect of chapter |
| 5.04.010 | Apprentice meat cutter. |
| 5.04.020 | Bakery. |
| 5.04.030 | Bar or tavern. |
| 5.04.040 | Food establishment. |
| 5.04.280 | Food preparation. |
| 5.04.290 | General food service. |
| 5.04.370 | Grocery store. |
| 5.04.390 | Health officer. |
| 5.04.400 | Limited food service. |
| 5.04.410 | Local health officer. |
| 5.04.420 | Meat cutter. |
| 5.04.450 | Meat/fish market. |
| 5.04.460 | Nonprofit institution. |
| 5.04.490 | Owner. |
| 5.04.620 | School. |
| 5 04 640 | Seasonal food establishment. |

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5.04.005 Effect of chapter. This chapter establishes definitions that are additional to or that modify definitions in Chapter 246-215 WAC. (R&R 05-06 § 2, 6-17-2005).

5.04.010 Apprentice meat cutter. WAC 246-215-011 is supplemented with the following:
Apprentice meat cutter (WAC 246-215-011(1.1)).

“Apprentice meat cutter” means any person in a meat/fish establishment employed for the purpose of selling meat or learning meat cutting while enrolled in a meat cutter’s apprenticeship program. (R&R 05-06 § 3, 6-17-2005).

5.04.020 Bakery. WAC 246-215-011 is supplemented with the following:
Bakery (WAC 246-215-011(1.2)).

“Bakery” means any food establishment in which food or food products are mixed and baked to final form and offered to the ultimate consumer. (R&R 05-06 § 4, 6-17-2005).

5.04.030 Bar or tavern. WAC 246-215-011 is supplemented with the following:
Bar or tavern (WAC 246-215-011(1.3)).

“Bar or tavern” means a food establishment, or an area within a food establishment, designated by the owner primarily for the sale of open containers of beer, wine, liquor or other alcoholic beverages and issued a license by, or having a license application pending before, the Washington State Liquor Control Board. (R&R 05-06 § 5, 6-17-2005).

5.04.040 Food establishment. WAC 246-215-011(36)(a) is not adopted and the following is substituted:

Food establishment (WAC 246-215-011(36)(a)).

“Food establishment” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:

(i) Such as a general food service; limited food service; grocery store; bakery; meat/fish market; bed-and-breakfast; school kitchen; nonprofit institution; restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and

(ii) That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers. (R&R 05-06 § 6, 6-17-2005).

5.04.280 Food preparation. WAC 246-215-011 is supplemented with the following:
Food preparation (WAC 246-215-011(12.1)).

“Food preparation” means thawing, cooking, cooling, heating, reheating, putting together, cutting, slicing, dividing, mixing, portioning or packaging food for a consumer, except that trimming of whole vegetables or fruits for display and sale shall not be considered food preparation. (R&R 05-06 § 7, 6-17-2005; R&R 91 §1(part), 5-14-93).

5.04.290 General food service. WAC 246-215-011 is supplemented with the following:
General food service (WAC 246-215-011(13.1)).

“General food service” means any stationary food establishment that provides food to the public, guests, patrons or its personnel for on-premises or off-premises consumption. (R&R 05-06 § 8, 6-17-2005).

5.04.370 Grocery store. WAC 246-215-011 is supplemented with the following:
Grocery store (WAC 246-215-011(13.2)).

“Grocery store” means a food establishment selling commercially prepared and prepackaged potentially hazardous foods requiring refrigeration or freezer control, whole produce and/or bulk foods for consumption off-site. (R&R 05-06 § 9, 6-17-2005; R&R 91 §1(part), 5-14-93).

5.04.390 Health officer. WAC 246-215-011 is supplemented with the following:

Health officer (WAC 246-215-011(13.3)).

"Health officer" means the director of the Seattle-King County Department of Public Health or any of his or her authorized representatives. (R&R 05-06 § 10, 6-17-2005; R&R 91 §1(part), 5-14-93)/

5.04.400 Limited food service. WAC 246-215-011 is supplemented with the following:

Limited food service (WAC 246-215-011(15.1)).

"Limited food service" means a food establishment with a limited menu in a building without permanent plumbing. (R&R 05-06 § 11, 6-17-2005).

5.04.410 Local health officer. WAC 246-215-011(17) is not adopted and the following is substituted:

Local health officer (WAC 246-215-011(17)).

"Local health officer" means the director of the Seattle-King County Department of Public Health or any of his or her authorized representatives. (R&R 05-06 § 12, 6-17-2005).

5.04.420 Meat cutter. WAC 246-215-011 is supplemented with the following:

Meat cutter (WAC 246-215-011(17.1)).

"Meat cutter" means any person cutting or preparing for sale fresh meat. (R&R 05-06 § 13, 6-17-2005).

5.04.450 Meat/fish market. WAC 246-215-011 is supplemented with the following:

Meat/fish market (WAC 246-215-011(17.2)).

"Meat/fish market" means all premises, buildings or parts thereof used for the preparation for sale, sale or dispensing of meat, fish, game animals or poultry to consumers and intended for off-premises consumption. (R&R 05-06 § 14, 6-17-2005).

5.04.460 Nonprofit institution. WAC 246-215-011 is supplemented with the following:

Nonprofit institution (WAC 246-215-011(3.1)).

"Nonprofit institution" means a food establishment with valid, current United States Internal Revenue Code section 501(c)(3) nonprofit status, Washington State Commission for the Blind status, or a municipal jail. (R&R 05-06 § 15, 6-17-2005).

5.04.490 Owner. "Owner" means a person owning and/or responsible for the operation of a food service establishment. (R&R 91 §1(part), 5-14-93).

5.04.620 School. WAC 246-215-011 is supplemented with the following:

School (WAC 246-215-011(24.1)).

"School" means a food establishment in an institution for learning limited to the K-12 grades. (R&R 05-06 § 16, 6-17-2005; R&R 91 §1(part), 5-14-93).

5.04.640 Seasonal food establishment. WAC 246-215-011 is supplemented with the following:

Seasonal food establishment (WAC 246-215-011(24.2)).

"Seasonal food establishment" means a food establishment that routinely operates for no more than six consecutive months each year. (R&R 05-06 § 17, 6-17-2005; R&R 91 §1(part), 5-14-93).

Chapter 5.10
PUBLIC HEALTH LABELING AND REGULATION

Sections:

- 5.10.005 Chapter definitions.
- 5.10.015 Food nutrition labeling requirements.
- 5.10.022 Approved alternative methods of nutrition labeling.
- 5.10.023 Approval process for proposed substantially equivalent methods of nutrition labeling.
- 5.10.025 Enforcement - Nutrition labeling.
- 5.10.035 Artificial trans fat restricted. (Effective May 1, 2008, and thereafter, with respect to oils and shortening containing artificial trans fat that are used for frying or in spreads, and February 1, 2009, and thereafter with regard to margarines, oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing artificial trans fat.)
- 5.10.045 Food deemed to contain artificial trans fat. (Effective May 1, 2008, and thereafter, with respect to oils and shortening containing artificial trans fat that are used for frying or in spreads, and February 1, 2009, and thereafter with regard to margarines, oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing artificial trans fat.)
- 5.10.055 Maintaining product labels or other documentation. (Effective May 1, 2008, and thereafter, with respect to oils and shortening containing artificial trans fat that are used for frying or in spreads, and February 1, 2009, and thereafter with regard to margarines, oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing artificial trans fat.)
- 5.10.065 Enforcement - Artificial trans fat. (Effective May 1, 2008, and thereafter, with respect to oils and shortening containing artificial trans fat that are used for frying or in spreads, and February 1, 2009, and thereafter with regard to margarines, oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing artificial trans fat.)
- 5.10.070 Alcoholic beverages.

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5.10.005 Chapter definitions. In addition to the definitions in BOH chapter 5.04, the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Chain" restaurant means any one of at least fifteen restaurants within the United States doing business under the same name and collectively having at least one million dollars in gross annual sales and offering for sale substantially the same menu items, regardless of whether the restaurants are subject to the same ownership or type of ownership. "Restaurant" means a food establishment at which any prepared, un-prepackaged foods are offered for sale and consumption on or off the premises such as, for example, sit-down restaurants, cafes, coffee stands, and fast-food outlets, but not grocery stores or movie theatres. For the purposes of this chapter, "grocery store" means a store primarily engaged in the retail sale of canned foods, dry goods, fresh fruits and vegetables, and fresh and prepared meats, fish, and poultry, and includes convenience stores. "Chain restaurant" includes any chain restaurant located within another business, regardless of whether the business within which it is located is subject to this regulation.

B. "Condiment" means a sauce or seasoning including but not limited to ketchup, mustard, hot sauce, tartar sauce and similar items offered for general use with or without charge.

C. "Menu" means a printed list or pictorial display of a food item or items available for sale from a restaurant and includes menus distributed or provided outside of the restaurant for purposes of ordering. "Menu" does not include printed or pictorial materials for the purpose of marketing.

D. "Menu board" means any list or pictorial display of a food item or items posted in and visible within a restaurant or outside of a restaurant for the purpose of ordering. "Menu board" does not include printed or pictorial materials for the purpose of marketing.

E. "Point of ordering" means the location at a chain restaurant where consumers place their orders for menu items.

F. "Reasonable basis" or "reasonable bases" means any reliable and verifiable calorie and nutrient analysis of a standard menu item, which may include the use of calorie and nutrient databases, cookbooks, laboratory analyses and other reliable and verifiable methods of analysis.

G. "Standard menu item" means food offered for sale for more than ninety days per year and includes only those items served in at least fifteen locations of a chain. "Standard menu item" does not include:

1. Food offered for sale identified only by one or more food tags. "Food tags" means labels or tags that identify any food item displayed for sale such as in a display case;
2. Unopened prepackaged foods;
3. Condiments;
4. Unique or location-specific food or meal items offered at fewer than fifteen locations of a chain;

5. Foods offered in a salad bar, buffet line, cafeteria service or similar self-serve arrangement. "Similar self-serve arrangement" means a food service location where consumers may themselves take foods from a counter, display case or hot or cold holding containers;

6. Foods served by weight or custom-ordered quantity;
7. Customized orders requested by consumers that change the standard menu item;
8. Garnishes, such as a slice of lemon or a sprig of parsley.

H. "Standard recipe" means a recipe or formula used in preparing a menu item or meal that is consistent from one restaurant to the next in a chain.

I. "Substantially the same menu items" means eighty percent or more of the menu items served in at least fifteen locations of a chain restaurant are the same and are prepared using a standard recipe. Beverages that are prepared on site using a chain's standard recipe are to be included as menu items for the purposes of calculating whether a chain restaurant meets the definition of serving substantially the same menu items. Other types of beverages are not included in this calculation. (R&R 08-02 § 2, 2008; R&R 08-01 § 2, 2008 (expired June 10, 2008); R&R 07-01 § 1, 2007).

5.10.015 Food nutrition labeling requirements.

A. Nutrition labeling of food required. Each chain restaurant shall make nutrition labeling of food available to consumers for all standard menu items as required by this chapter. The nutrition labeling of food shall include, but not be limited to, the total number of calories and nutrients as follows, per standard menu item, as usually prepared and offered for sale, including condiments routinely added to a menu item as part of a standard recipe:

1. Total number of calories;
2. Total number of grams of saturated fat;
3. Total number of grams of carbohydrate; and
4. Total number of milligrams of sodium.

B. Nutrition labeling of food on menus. Each chain restaurant that provides a menu shall provide the nutrition labeling of food required under subsection A. of this section next to each standard menu item on the menu. The nutrition labeling shall be easily readable, in a typeface similar to other information about each standard menu item, and in a font no less than nine point. The menu shall include, in a clear and conspicuous manner, the following statement: "The Dietary Guidelines for Americans recommend limiting saturated fat to 20 grams and sodium to 2,300 milligrams for a typical adult eating 2,000 calories daily. Recommended limits may be higher or lower depending upon daily calorie consumption."

C. Nutrition labeling of food on menu boards. Each chain restaurant that uses a menu board shall post on the menu board the total number of calories per standard menu item. The nutrition labeling shall be in a font size and typeface that is at least as prominent as that used to post prices of menu items on the menu board. This type of chain restaurant shall make the other nutrition labeling of food required under subsection A. of this section and the statement under subsection B. of this section available on easily readable printed pamphlets, brochures, posters or similar documents that are plainly visible to consumers at the point of ordering.

D. Other methods of providing nutrition information. In lieu of the placement requirements for nutrition labeling in subsections B. and C. of this section, a chain restaurant may provide nutrition labeling through an approved alternative or approved substantially equivalent method as described in BOH 5.10.022 or 5.10.023.

E. Additional nutrition labeling of food permitted. Nothing in this section precludes restaurants from providing additional nutrition labeling of food voluntarily.

F. Standards for calorie and nutrient analysis. Chain restaurants shall perform or obtain the required calorie and nutrient analysis using reasonable bases. Calorie and nutrient analysis using reasonable bases is required once per standard food item, provided that portion size is reasonably consistent and the restaurant follows a standard recipe and trains to a consistent method of preparation. Chain restaurant owners or operators shall provide to the health officer, if requested, documentation of the reasonable bases of calorie and nutrient analysis for purposes of enforcement of this regulation.

G. Disclaimer for nutrition content variation. The nutrition labeling of food required under subsection A. of this section may be presented with a disclaimer stating that there may be variations in nutrition content across servings, based on slight variations in overall serving size or quantity of ingredients, or based on special ordering.

H. Identification of chain restaurant status. Each food establishment shall identify whether or not it is a chain restaurant by a method approved by the health officer. (R&R 08-02 § 3, 2008: R&R 08-01 § 3, 2008 (expired June 10, 2008): R&R 07-01 § 2, 2007).

5.10.022 Approved alternative methods of nutrition labeling.

A. Approved alternative methods of nutrition labeling for chain restaurants that provide menus. A chain restaurant that provides a menu may provide nutrition labeling through one of the approved alternative methods listed in this subsection in lieu of the placement requirements in BOH 5.10.015.B., but only if a statement clearly and prominently appears on each page of the menu stating the location and specific method through which nutrition information is available and only if the alternative method of nutrition labeling is available at each point of ordering.

1. Approved alternative methods for nutrition labeling on the menu are:

a. a menu insert. A menu insert shall be placed within each menu or shall be presented by the server with the menu. A menu insert shall provide the nutrition information required by this chapter next to each standard menu item. The nutrition information shall be easily readable and in a font no less than nine point. A menu insert shall list food categories and food items in the same order as these appear on the menu. A menu insert is not required to contain photos or menu item descriptions that appear on the menu;

b. a menu appendix. A menu appendix shall be attached in the back of the menu. A menu appendix shall provide the nutrition information required by this chapter next to each standard menu item. The nutrition information shall be easily readable and in a font no less than nine point. A menu appendix shall list food categories and food items in the same order as these appear on the menu. A menu appendix is not required to contain photos or menu item descriptions that appear on the menu;

c. a supplemental menu. A supplemental menu similar in general appearance to the menu shall be available at each point of ordering or shall be presented by the server with the menu. A supplemental menu shall provide the nutrition information required by this chapter next to each standard menu item. The nutrition labeling shall be easily readable, in a typeface similar to the menu, and in a font no less than nine point. A supplemental menu shall list food categories and food items in the same order as these appear on the menu. A supplemental menu is not required to contain photos or menu item descriptions that appear on the menu; and

d. electronic kiosks. An electronic kiosk shall be available at each point of ordering. An electronic kiosk shall provide the nutrition information required by this chapter for each standard menu item. The nutrition labeling shall be easily readable and shall be presented in a manner such that consumers can easily view in one place and compare nutrition information for similar menu items. An electronic kiosk shall present food categories and food items in the same order as they appear on the menu.

2. Each of the approved alternative methods for nutrition labeling on the menu shall include, in a clear and conspicuous manner, the following statement: "The Dietary Guidelines for Americans recommend limiting saturated fat to 20 grams and sodium to 2,300 milligrams for a typical adult eating 2,000 calories daily. Recommended limits may be higher or lower depending upon daily calorie consumption."

3. A chain restaurant that provides a menu and uses an approved alternative method for nutrition labeling on the menu shall also provide consumers in the restaurant who are ordering menu items for carryout with access to nutrition labeling that is equivalent to that provided for all other consumers.

B. Approved alternative methods of nutrition labeling for chain restaurants that use menu boards. A chain restaurant that uses a menu board may provide nutrition labeling through one of the approved alternative methods listed in this subsection in lieu of the placement requirements in BOH 5.10.015.C.

1. Approved alternative methods for labeling of calories. A chain restaurant may use one of the following approved alternative methods in lieu of posting calorie information on menu boards, but only if the chain restaurant provides the other nutrition labeling in accordance with the provisions for nutrient labeling in this chapter.

a. a sign adjacent to the menu board. A sign adjacent to the menu board shall appear on the same wall as the menu board and shall be in the same field of vision as the menu board viewed by consumers at the point of ordering. A sign adjacent to the menu board shall provide the calorie labeling required by this chapter next to each standard menu item. The calorie labeling shall be in a font size and typeface that is at least as prominent as that used to post prices of menu items on the menu board. A sign adjacent to the menu board shall be easily readable and shall list food categories and food items in the same order as these appear on the menu board; and

b. a sign in queue at eye level. A sign in queue at eye level shall be no less than two feet by three feet, shall be posted with the bottom of the sign no lower than four feet and the top of the sign no higher than eight feet from the ground, and shall be in clear view to consumers in queue, whether standing or in a drive-through, at or before the point of ordering. A sign in queue shall provide the calorie labeling required by this chapter next to each standard menu item. A sign in queue shall be easily readable, in a typeface similar to the menu board, and in a font no less than forty point.

2. Approved alternative method for providing nutrition information other than calories to consumers in a drive-through. A chain restaurant may provide the other nutrition labeling to consumers in queue in a drive-through at the first window of the drive-through or at another location where it is easily accessible to drive-through consumers in lieu of the requirement in BOH 5.10.015.C. that it be plainly visible to consumers at the point of ordering, but only if the chain restaurant provides calorie labeling to consumers in a drive-through in accordance with the provisions for calorie labeling in this chapter.

C. Other approved alternative methods of nutrition labeling.

1. Approved alternative method of nutrition labeling for alcoholic beverages. An approved alternative method for nutrition labeling of each alcoholic beverage is to collectively label alcoholic beverages in a clear and prominent position using the average nutritional values for beers, wines and spirits. Nutrition labeling of alcoholic beverages collectively shall otherwise be in accordance with the provisions for calorie and nutrient labeling in this chapter.

a. Chain restaurants that collectively label alcoholic beverages shall use the following average nutritional values:

- (1) wine – 5 ounces: 122 calories; 4 grams carbohydrate; 7 milligrams sodium;
- (2) regular beer – 12 ounces: 153 calories; 13 grams carbohydrate; 14 milligrams sodium;
- (3) light beer – 12 ounces: 103 calories; 6 grams carbohydrate; 14 milligrams sodium; and
- (4) distilled spirits (80 proof gin, rum, vodka, or whiskey) – 1.5 ounces: 96 calories.

b. Chain restaurants that collectively label alcoholic beverages may add to the nutrition labeling the following statement: "Signature drinks or liqueurs with added ingredients may increase caloric content."

2. Approved alternative method of nutrition labeling for combination meals that are posted on a menu board. A combination meal means a standard menu item that is comprised of two or more food items with options of food items. Chain restaurants may use the following approved alternative method of nutrition labeling for combination meals that are posted on a menu board. An approved alternative method for nutrition labeling of calories and nutrient values for each possible combination of food items offered in a combination meal is to provide calorie labeling for a combination meal that uses a range of the lowest and highest values of calorie content among all possible combinations of food items offered in a combination meal. Labeling of other nutrient values for combination meals is not required, but only if nutrition labeling is provided for the individual food items that comprise a combination meal. Nutrition labeling using calorie ranges shall otherwise be in accordance with the provisions for calorie labeling in this chapter. (R&R 08-02 § 4, 2008).

5.10.023 Approval process for proposed substantially equivalent methods of nutrition labeling.

A. A chain restaurant may propose a method of nutrition labeling not otherwise identified in BOH chapter 5.10 for approval by the health officer as a substantially equivalent method for use in lieu of requirements in BOH 5.10.015.B or C. A chain restaurant shall obtain approval from the health officer of any proposed substantially equivalent method for nutrition labeling before implementation.

B. A chain restaurant shall seek approval of a proposed substantially equivalent method by submitting a written proposal to the health officer that demonstrates how the proposed method is expected to allow for consumers at the point of ordering to:

1. Perceive that nutrition information is readily available;
2. Encounter nutrition information routinely and automatically; and
3. Access nutrition information in a manner that does not interrupt the normal flow of business.

C. The written proposal shall include documentation of at least one of the following:

1. Sample nutrition labeling materials or other documents such as photographs that demonstrate that the form in which nutrition information would be provided to consumers is substantially equivalent to BOH 5.10.015.B. or C.

2. Existing data and other evidence from customer surveys that demonstrate that the proposed nutrition labeling method results in a percentage of consumers who see nutrition information before placing their order that is equal to or higher than the percentage in the menu labeling equivalency benchmark established in accordance with this subsection.

a. Customer surveys used to support a proposed substantially equivalent method must be conducted independently by professionals using scientifically valid survey methods, including the use of random sampling methods to conduct customer assessments.

b. Pending the results of menu labeling research, the health officer establishes a preliminary menu labeling equivalency benchmark as seventy-five percent of consumers see nutrition information in the chain restaurant before placing their orders. The health officer shall collaborate with the restaurant industry in revising the preliminary benchmark based on scientifically valid menu labeling research.

3. A plan for evaluation of the proposed method and timeline for the submittal to the health officer of the data and other results of the evaluation. The evaluation plan shall be based on scientifically valid customer surveys that meet the requirements of subsection C.2.a. of this section.

D. The health officer may request that additional information be submitted before a proposal is considered for approval.

E. The health officer may approve a substantially equivalent method conditional on changes to the proposed method.

F. The health officer may limit approval of a substantially equivalent method to use in one chain and for a limited time.

G. Where an approved method may be applicable to several chain restaurants, the health officer shall propose these methods to the Board of Health for inclusion in this regulation as approved substantially equivalent methods of nutrition labeling.

H. Any changes in form to an approved substantially equivalent method require submittal of a new written proposal and approval by the health officer before implementation. (R&R 08-02 § 5, 2008).

5.10.025 Enforcement – Nutrition labeling.

A. The director of the Seattle-King County Department of Public Health or his or her authorized representative is authorized to enforce the nutrition labeling requirements of this chapter in accordance with the food establishment inspection and other enforcement provisions of BOH chapters 5.02 and 5.60.

B. If the health officer questions the accuracy of nutrition labeling for a menu item, the health officer may refer a nutrition professional from the Seattle-King County department of public health to the restaurant to review and determine if the nutrition information requires correcting. The health officer shall verify any required corrections at the next regular inspection.

C. From August 1, 2008, through December 31, 2008, a chain restaurant shall not be deemed to be in violation of BOH 5.10.015.B. and C. if the restaurant provides documentation that it has taken steps to obtain calorie and nutrient analysis of standard menu items and create nutrition labeling.

D. From August 1, 2008, through August 1, 2009, a chain restaurant shall not be deemed to be in violation of BOH 5.10.015.B. and C. as it applies to drive-through menu boards. (R&R 08-02 § 6, 2008: R&R 08-01 § 6, 2008: (expired June 10, 2008): R&R 07-01 § 3, 2007).

(KCBOH 9-2008)

5.10.035 Artificial trans fat restricted. (Effective May 1, 2008, and thereafter, with respect to oils and shortenings containing artificial trans fat that are used for frying or in spreads, and February 1, 2009, and thereafter, with regard to margarines, oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing artificial trans fat.)

A. Foods deemed to contain artificial trans fat as set forth in this chapter shall not be distributed, held for service, used in preparation of any menu item or served in any food establishment operating under permit issued by the health officer. This restriction on artificial trans fat does not apply to food served directly to patrons in a manufacturer's original sealed package, or any food served in a school.

B. The King County Board of Health intends, in consultation with the health officer, school representatives, and other interested parties, to identify strategies supporting healthy food choices in schools. (R&R 07-02 § 1, 2007).

5.10.045 Foods deemed to contain artificial trans fat. (Effective May 1, 2008, and thereafter, with respect to oils and shortenings containing artificial trans fat that are used for frying or in spreads, and February 1, 2009, and thereafter, with regard to margarines, oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing artificial trans fat.)

For the purposes of this chapter, a food shall be deemed to contain artificial trans fat if the food is labeled as, lists as an ingredient, or has vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil. However, a food whose nutrition facts label or other documentation from the manufacturer lists the trans fat content of the food as less than 0.5 grams per serving, shall not be deemed to contain artificial trans fat. (R&R 07-02 § 2, 2007).

5.10.055 Maintaining product labels or other documentation. (Effective May 1, 2008, and thereafter, with respect to oils and shortenings containing artificial trans fat that are used for frying or in spreads, and February 1, 2009, and thereafter, with regard to margarines, oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing artificial trans fat.)

A. Original labels. Except as otherwise provided in this section, food establishments shall maintain on site the original labels for all food products:

1. That are, or that contain, fats, oils or shortenings,
2. That are, when purchased by such food establishments, required by WAC 246-215-051(3), as amended, to have labels, and
3. That are currently being distributed, held for service, used in preparation of any menu items or served by the food establishment.

B. Documentation instead of labels. Documentation from the manufacturers of such food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content, may be maintained instead of original labels.

C. Documentation required when food products are not labeled. If baked goods, or other food products restricted pursuant to this chapter, that are or that contain fats, oils or shortenings, are not required to be labeled when purchased, food establishments dispensing such food products shall obtain and maintain documentation, from the manufacturers of the food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content. (R&R 07-02 § 3, 2007).

5.10.065 Enforcement – Artificial trans fat. (Effective May 1, 2008, and thereafter, with respect to oils and shortenings containing artificial trans fat that are used for frying or in spreads, and February 1, 2009, and thereafter, with regard to margarines, oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing artificial trans fat.)

The director of the Seattle-King County Department of Public Health or his or her authorized representative is authorized to enforce the artificial trans fat restrictions and requirements of this chapter in accordance with the food establishment inspection and other enforcement provisions of chapters 5.02 and 5.60 of this title. (R&R 07-02 § 4, 2007).

5.10.070 Alcoholic beverages. WAC 246-215-051 is supplemented with the following:
Alcoholic beverages (WAC 246-215-051(10)).

Whenever alcoholic beverages, as defined by RCW Chapter 66.04 are served for consumption on the premises, signs and notices of the effects of alcohol consumption and cigarette smoking during pregnancy shall be posted. Such signs or notices shall meet the following requirements:

(a) Shall read as follows:

DRINKING DISTILLED SPIRITS, BEER, WINE, COOLERS, AND OTHER ALCOHOLIC BEVERAGES OR SMOKING CIGARETTES DURING PREGNANCY MAY CAUSE BIRTH DEFECTS; and

(b) Shall be of the following size:

(i) At least two inches high if printed or included in a menu.

(ii) At least three inches by three inches per side if set forth on a single, double, or multi-sided placard or display tent on any table provided for the establishment's customers; or

(iii) Not less than eight and one-half inches by eleven inches included on a sign that is posted at a bar or tavern or other point of sale that is clearly visible to the public. (R&R 05-06 § 18, 6-17-2005: R&R 91 §1(part), 5-14-93).

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Chapter 5.20
EQUIPMENT AND UTENSILS

Sections:

5.20.050 Equipment and utensils.

5.20.050 Equipment and utensils. WAC 246-215-071 is supplemented with the following:
Equipment and utensils (WAC 246-215-071(5)).

Food Code section 4-301.12 regarding manual warewashing and sink compartment requirements is amended to add (F) "The food service establishment owner of bars or taverns shall provide a sink compartment for disposing of liquid waste in addition to sinks necessary for cleaning and sanitizing. (R&R 05-06 § 19, 6-17-2005; R&R 91 §1(part), 5-14-93).

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Chapter 5.26
SANITARY FACILITIES AND CONTROLS

Sections:

5.26.010 Water, plumbing and waste.

5.26.010 Water, plumbing and waste. WAC 246-215-081 is supplemented with the following:
Water, plumbing and waste (WAC 246-215-081(6)).

Food Code paragraph 5-403.11(B) is amended to read: "An on-site sewage system (OSS) providing treatment and disposal in compliance with state and local law." (R&R 05-06 § 20, 6-17-2005).

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Chapter 5.34
MOBILE FOOD VEHICLES

Sections:

- 5.34.010 Mobile food units – Cart size.
- 5.34.020 Mobile food units – Potentially hazardous foods.
- 5.34.030 Mobile food units – Additional requirements.

5.34.010 Mobile food units – cart size. WAC 246-215-121 is supplemented with the following:
Mobile food units – Cart size (WAC 246-215-121(3.1)).

The permit holder of a mobile food cart shall ensure the cart body size is limited to three feet by six feet with each extension no longer than eighteen inches or the size required by the local jurisdiction, whichever is smaller. (R&R 05-06 § 21, 6-17-2005).

5.34.020 Mobile food units – Potentially hazardous foods. WAC 246-215-121(9) is not adopted and the following is substituted:

Mobile food units – Potentially hazardous foods (WAC 246-215-121(9)).

The person in charge of a mobile food unit must ensure that potentially hazardous foods are:

- (a) Not cooled on the mobile food unit;
- (b) Properly temperature-controlled during transport to the place of service;
- (c) Temperature-monitored by use of a stem-type thermometer or thermocouple capable of measuring all proper food temperatures;
- (d) Reheated, for hot holding, from 41°F to 165°F or above within one hour on the mobile food unit when the foods were cooked and cooled in an approved nonmobile food establishment;
- (e) Reheated, for hot holding, from 41°F to 140°F or above within one hour on the mobile food unit when the foods were produced in a food processing plant;
- (f) Reheated no more than one time; and
- (g) Held in preheated mechanical hot holding equipment or prechilled mechanical cold holding equipment, or otherwise temperature controlled by an approved method. (R&R 05-06 § 22, 6-17-2005).

5.34.030 Mobile food units – Additional requirements. WAC 246-215-121(21) is not adopted and the following is substituted:

Mobile food units – Additional requirements (WAC 246-215-121(21)).

The health officer may allow a person to operate a food establishment with a limited menu in a movable building without permanent plumbing under applicable provisions of this section. In addition the following provisions must be met:

- (a) Toilet facilities must be within 200 feet of the establishment and available at all times that the establishment is operating.
- (b) Facilities for cleaning and sanitizing must meet the provisions of this title and be located within 200 feet of the establishment and available at all times that the establishment is operating. (R&R 05-06 § 23, 6-17-2005).

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Chapter 5.42
TEMPORARY FOOD ESTABLISHMENTS

Sections:

5.42.010 Temporary food establishments – Potentially hazardous foods.

5.42.010 Temporary food establishments – Potentially hazardous foods. WAC 246-215-131(15) is not adopted and the following is substituted:

Temporary food establishments – Potentially hazardous foods (WAC 246-215-131(5)).

The person in charge of a temporary food establishment must ensure that potentially hazardous foods are:

- (a) Not cooled in a temporary food establishment;
- (b) Properly temperature-controlled during transport to the temporary event location;
- (c) Temperature-monitored by use of a stem-type thermometer or thermocouple capable of measuring all proper food temperatures;
- (d) Reheated, for hot holding, from 41°F to 165°F or above within one hour when cooked and cooled in an approved food establishment;
- (e) Reheated, for hot holding, from 41°F to 140°F or above within one hour when produced in a food processing plant;
- (f) Reheated no more than one time; and
- (g) Held in preheated mechanical hot holding equipment or prechilled mechanical cold holding equipment, or otherwise temperature controlled by an approved method. (R&R 05-06 § 24, 6-17-2005).

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Chapter 5.50
PERMITS REQUIRED

Sections:

- 5.50.010 License required.
- 5.50.020 Application and issuance.
- 5.50.030 Activity authorized by occupational licenses.
- 5.50.040 Employing unlicensed persons.

5.50.010 License required. It is unlawful for any person to engage in the business of, operate or be employed as a meat cutter or apprentice meat cutter without having a valid, appropriate personal license from the health officer. (R&R 05-06 § 25, 6-17-2005).

5.50.020 Application and issuance.

A. Meat Cutter's License. Any applicant for an original meat cutter's license shall obtain such license only upon achieving a passing score on an examination administered by the health officer and paying the required license fee; provided, that any valid original or renewal meat cutter's license issued pursuant to this section may be renewed annually upon payment of the applicable annual fee. The examination shall test an applicant's competency in the cutting, handling, care of meat, knowledge of sanitation and code requirements and the applicant's ability by the senses to recognize in meat decomposition and other taints and conditions deleterious to health.

B. Apprentice Meat Cutter's License. Any applicant for an original apprentice meat cutter's license shall obtain such license only upon submitting evidence, to the satisfaction of the health officer, of enrollment in a meat cutters' apprenticeship program, and paying the required license fee; provided, that a valid original apprentice meat cutter's license issued pursuant to this section may be renewed for a maximum period of one additional year upon payment of the applicable renewal fee. Any apprentice meat cutter's license renewed pursuant to this section shall be ineligible for further renewal. (R&R 05-06 § 26, 6-17-2005).

5.50.030 Activity authorized by occupational licenses.

A. Meat Cutter's License. A valid meat cutter's license shall entitle its lawful holder to cut for sale fresh meat to a consumer from a licensed meat/fish establishment.

B. Apprentice Meat Cutter's License. A valid apprentice meat cutter's license shall entitle its lawful holder to engage in all activity in which a licensed meat cutter may engage; provided, that an apprentice meat cutter may prepare (cut, grind, etc.) fresh meat for sale only while under the immediate direction and supervision of a licensed meat cutter. (R&R 05-06 § 27, 6-17-2005).

5.50.040 Employing unlicensed persons. It is unlawful for anyone to employ a person as a meat cutter or apprentice meat cutter when such person does not possess a valid license within fourteen (14) calendar days of employment to act in such capacity as required under this title, and does not also possess a valid food worker card. (R&R 05-06 § 28, 6-17-2005).

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**Chapter 5.52
(Reserved)**

Editor's Note:

Former Chapter 5.52, entitled Fees, was amended in its entirety by Rule and Regulation No. 05-05, and recodified in Title 2 of this code.

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Chapter 5.60
PERMIT SUSPENSION, REVOCATION AND COMPLIANCE METHODS

Sections:

- 5.60.010 Compliance and enforcement.
- 5.60.020 Permits required, suspension, revocation, enforcement – General.
- 5.60.030 Permit suspension process.
- 5.60.040 Permit revocation process.
- 5.60.050 Closure.
- 5.60.060 Examination, hold orders, condemnation, and destruction of food.

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5.60.010 Compliance and enforcement. WAC 246-215-181 is not adopted and the following is substituted:

Compliance and enforcement (WAC 246-215-181).

(1) Food Code paragraph 8.201.11(C) regarding plans required for remodeling is amended to read: "The remodeling of a food establishment or a change of type of food establishment or food operation as specified under paragraph 8-302.14(C) if the health officer determines that plans and specifications are necessary to ensure compliance with this code."

(2) Food Code section 8-302.11 regarding permit application procedure is amended to read: "An applicant shall submit an application for a permit at least 30 days before the date planned for opening a food establishment or the expiration date of the current permit for an existing facility unless otherwise approved by the health officer."

(3) Food Code paragraph 8-302.13(D) regarding permit fees is amended to read: "Pay the applicable permit fees at the time the application is submitted. A seasonal food service permit shall not be valid for more than six (6) consecutive months. A temporary food establishment permit shall not be valid for longer than 21 days, except that the health officer may authorize a longer permit duration or frequency for a recurring, organized event such as a farmer's market that qualifies as a temporary food establishment under this title."

(4) Food Code section 8-303.20 regarding existing establishments, permit renewal, and change of ownership is amended to add: "Duplicate and name change permits may be issued when payment of applicable fees have been made. All permits shall expire on the March 31st following the date of issuance. Notwithstanding any other provision herein to the contrary, all temporary and seasonal permits shall expire on the date set forth on the face of such permit."

(5) Food Code section 8-303.30 regarding denial of application for permit is amended to add (D): "The health officer may deny the application if the applicant has any outstanding monies owed to the Seattle-King County Department of Public Health for permit fees, late fees, checks returned by the bank, civil penalties, or other miscellaneous fees."

(6) Food Code subparagraph 8-304.11(G)(2), regarding replacement of facilities and equipment to meet current standards when the ownership of a food establishment changes, does not apply.

(7) Food Code section 8-304.11, regarding responsibilities of the permit holder, is amended to add (L): "Except for mobile food units and catering operations, a permit needs to be obtained for each location at which an activity subject to a permit is conducted, and each permit shall be valid only at the location stated on the permit."

(8) Food Code section 8-304.11, regarding responsibilities of the permit holder, is amended to add (M): "Whenever a permit is suspended or revoked, the permittee shall return the permit to the health officer."

(9) Food Code subparagraph 8-401.10(B)(2), regarding inspection frequency, is amended to read: "The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule developed by the health officer, or set by state or federal law, and uniformly applied throughout the jurisdiction."

(10) Food Code paragraph 8-401.10(C), regarding inspection frequency of temporary food establishments, is amended to read: "The health officer shall inspect a temporary food establishment during its permit period, unless the health officer develops a written risk-based plan for exempting certain categories of temporary establishments from inspection that is uniformly applied throughout the jurisdiction."

(11) Food Code paragraph 8-401.20(A), regarding criteria for prioritizing inspections, is amended to read: "Past performance, for nonconformance with code or HACCP plan requirements."

(12) Food Code paragraph 8-401.20(B), regarding criteria for prioritizing inspections, is amended to read: "Past performance, for numerous or repeat violations of code or HACCP plan requirements."

(13) Food Code section 8-401.20, regarding criteria for prioritizing inspections, is amended to add (H): "Whether the establishment is properly implementing an approved self-inspection program."

(14) Food Code subparagraph 8-402.20(A)(3) and section 8-402.40, regarding obtaining an inspection order, do not apply. The health officer may suspend a permit to operate a food establishment if the health officer, after showing proper credentials, is denied access to conduct an inspection of the food establishment.

(15) Food Code section 8-403.10, regarding documenting information and observations, is amended to read: "The health officer shall document on an inspection report form approved by the department of health."

(16) Food Code subparagraph 8-403.10(B)(2), regarding documenting information on an inspection report form, is amended to read: "Failure of food employees and the person in charge to demonstrate knowledge of their responsibility to report a disease or medical condition."

(17) Food Code subparagraph 8-403.10(B)(3), regarding documenting information on an inspection report form, is amended to read: "Nonconformance with this code."

(18) Food Code section 8-403.20, regarding specifying a time frame for corrections, is amended to read: "The health officer shall specify on the inspection report form the time frame for correction of any violations."

(19) Food Code sections 8-405.11 and 8-405.20, regarding critical violations, do not apply.

(20) Food Code section 8-406.11, regarding noncritical violations, does not apply. (R&R 05-06 § 29, 6-17-2005).

5.60.020 Permits required, suspension, revocation, enforcement – General. WAC 246-215-200(2) is not adopted and the following is substituted:

Permits required, suspension, revocation, enforcement – General (WAC 246-215-200(2)).

The health officer may suspend any permit to operate a food establishment if:

(a) Continued operation of the food establishment constitutes an imminent or actual health hazard;

(b) Operations, facilities, or equipment in the food establishment fail to comply with these regulations;

(c) The permit holder does not comply with these regulations; or

(d) Interference with the health officer in the performance of his or her duties has occurred; or

(e) The owner or operator does not comply with the conditions of a variance. (R&R 05-06 § 30, 6-17-2005).

5.60.030 Permit suspension process. WAC 246-215-200(6) is not adopted and the following is substituted:

Permit suspension process (WAC 246-215-200(6)).

WAC 246-215-200(6) is not adopted and the following is substituted:

The health officer may adopt and use a permit suspension process different than specified under subsections (2), (3), (4), or (5) of this section, including the permit suspension process of Chapter 1.08 of this code. (R&R 05-06 § 31, 6-17-2005).

5.60.040 Permit revocation process. WAC 246-215-200(10) is not adopted and the following is substituted:

Permit revocation process (WAC 245-215-200(10)).

The health officer may use a permit revocation process different than specified under subsections (7), (8), and (9) of this section, including the permit revocation process of Chapter 1.08 of this code. (R&R 05-06 § 32, 6-17-2005).

5.60.050 Closure. WAC 246-215-200 is supplemented as follows:

Closure (WAC 246-215-200(12)).

(a) Issuance. The health officer may issue a notice of closure to a food establishment requiring the operator to cease operation immediately if the operator has:

1. Failed to submit plans or receive approval from the health officer of plans as required by this title, or an inspection indicates construction or renovation at the food establishment is not in substantial compliance with plans approved by the health officer;

2. Failed to submit a permit application or receive approval from the health officer of a permit application for a food establishment or failed to submit a change of ownership application as required by this title; or

3. Failed to pay a permit fee or any other applicable fee required by this code.

(b) Notice of closure. The notice of closure shall state:

1. That the food establishment shall close immediately upon issuance of the notice of closure to an operator and that all preparation and service of food shall immediately cease.

2. That no food preparation or service shall occur at the food establishment after a notice of closure has been received by the operator;

3. The reason(s) for the notice of closure; and

4. That the operator may request reconsideration of the closure order by filing a written request with the health officer within ten (days) after delivery of the closure notice as provided in WAC 246-215-200 and WAC 246-215-220. (R&R 05-06 § 33, 6-17-2005).

5.60.060 Examination, hold orders, condemnation, and destruction of food. WAC 246-215-240(3) is not adopted and the following is substituted:

Examination, hold orders, condemnation, and destruction of food (WAC 246-215-240(3)).

The health officer may examine or collect samples of food as necessary for enforcement of this title. The cost of any laboratory testing shall be paid by the permit holder or person in charge of the food establishment. (R&R 05-06 § 34, 6-17-2005).

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Chapter 5.64
FOOD ESTABLISHMENT RISK

Sections:

- 5.64.010 Food establishment risk categories.
- 5.64.020 Appeal of food establishment risk designation.

5.64.010 Food establishment risk categories. Every food establishment and every new and renewal application for a food establishment permit shall be subject to a risk assessment by the health officer. The health officer shall designate each food establishment as low risk (risk category 1), medium risk (risk category 2), or high risk (risk category 3) based on the types of food dispensed, food preparation steps, and types of food processing or packaging performed at the establishment; provided, however, that temporary food establishments shall be designated as either high risk or low risk. In determining the most appropriate risk category for each establishment, the health officer shall apply the risk category standards of this section.

A. Low Risk – Risk Category 1. Any food establishment performing only cold holding or limited food preparation, with no further preparation, shall be designated a low risk or risk category 1 establishment. The following shall also be designated as a low risk or risk category 1 establishment:

1. Any establishment serving ready to eat, pre-packaged potentially hazardous food or prepackaged frozen foods;
2. Any establishment serving espresso or blended drinks, with no other food preparation;
3. Any establishment heating and serving individually, commercially-prepared and prepackaged ready to eat foods for immediate service;
4. Any mobile food establishment serving only espresso or hot dogs or both, with no other food preparation; and
5. Any bed and breakfast operation.

B. Medium Risk – Risk Category 2. Any food establishment performing only cold holding or food preparation, and which does not otherwise qualify as a high risk or risk category 3 establishment, shall be designated as a medium risk or risk category 2 establishment. The following shall also be designated as a medium risk or risk category 2 establishment:

1. Any establishment baking bread or pastries, frying donuts, or grilling sandwiches or toast for immediate service, with no hot-holding of food;
2. Any school or institution satellite operation performing food service limited to reheating or hot holding of prepared foods, with no on-site cooking; and
3. Any grocery store or market selling pre-packaged raw meat or fish products.

C. High Risk – Risk Category 3. The following shall be designated as a high risk or risk category 3 establishment:

1. Any establishment cooking and either cooling, reheating, hot holding, or holding other than cold holding of food;
2. Any meat or fish market selling meat or fish other than pre-packaged raw product;
3. Any establishment where food preparation includes cutting or processing of raw meat or fish products; and
4. Any establishment with an approved HACCP plan and performing either overnight cooking or on-site reduced oxygen packaging. (R&R 05-06 § 35, 6-17-2005).

5.64.020 Appeal of food establishment risk designation.

Any food establishment owner or operator aggrieved by a risk designation for his or her establishment may appeal the designation by submitting, within ten days of the date of issuance of the notice of the designation, a written request for an administrative conference with the health officer. (R&R 05-06 § 36, 6-17-2005).

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