



**Public Lodging and
Food Service Establishment**

Administrative Rules

June 30, 2010

**CHAPTER 61C-1
Florida Administrative Code
GENERAL**

**CHAPTER 61C-3
Florida Administrative Code
PUBLIC LODGING ESTABLISHMENTS**

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Florida Administrative Code
HOSPITALITY TRAINING PROGRAMS GRANTS**

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Public Lodging and Food Service Establishments Administrative Rules

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CHAPTER 61C-1

Florida Administrative Code

GENERAL

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61C-1.001 Definitions.

Except when otherwise defined in this rule, the definitions provided in paragraph 1-201.10(B), Food Code, 2001 Recommendations of the United States Public Health Service/Food and Drug Administration; the 2001 Food Code Errata Sheet (August 23, 2002); and Supplement to the 2001 FDA Food Code (August 29, 2003) shall apply to Chapters 61C-1, 61C-3 and 61C-4, FAC. In addition, the following definitions apply to Chapters 61C-1, 61C-3 and 61C-4, FAC:

(1) **Adulterated** – As provided in section 500.10, FS.

(2) **Air curtain** – A mechanical device which produces a controlled plane of moving air at a minimum velocity of 500 feet per minute across the opening protected and directed so as to prevent the entrance of flying insects and other airborne contaminants.

(3) **Air gap** – The unobstructed vertical distance, through the free atmosphere, between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood-level rim of the receptacle, or the lowest opening from any waste outlet pipe and the flood-level rim of the receptacle. For a drainage system, the term also means an air break, which is the unobstructed horizontal distance through the free atmosphere, between the outer surfaces of any waste outlet pipe and the inner surfaces of the plumbing device into which it is discharging.

(4) **Approved** – Acceptable to the division following a determination as to conformance with appropriate sanitation and safety standards and good public health practice.

(5) **Bed linens** – This term includes, a top sheet, a bottom sheet, pillowslips, a mattress pad and a blanket for each bedding accommodation.

(6) **Bedding accommodations** – This term includes a mattress, box spring, bed frame, pillows and bed linens. This term includes various sizes and types of conventional beds, sleeper type couches, rollaway or folding type beds, and baby cribs.

(7) **Closed** – Free of openings larger than 1/32 of an inch.

(8) **Commissary** – An approved food service establishment, commercial establishment, where food, containers, or supplies are stored, prepared, or packaged, or where utensils are sanitized for transit to, and sale or service at other locations, or where liquid and solid wastes are disposed, or where potable water is obtained.

(9) **Condiment** – Any food such as ketchup, mayonnaise, mustard, relish, or any other seasoning that is used to enhance the flavor of other food.

(10) **Director** – The director of the Division of Hotels and Restaurants appointed pursuant to section 20.165(3), FS, or the director's designee, as the context permits.

(11) **District** – The district administrator in one of the established district offices of the division, or their designee.

(12) **Double** – As it refers to public lodging occupancy, this term means two people.

(13) **Fixed food establishment** – A public food service establishment which operates at a specific location and is connected to electrical, water, and sewage disposal systems.

(14) **Food Code** – This term as used in Chapters 61C-1, 61C-3, and 61C-4, FAC, means paragraph 1-201.10(B), Chapter 2, Chapter 3, Chapter 4, Chapter 5, Chapter 6, and Chapter 7 of the Food Code, 2001 Recommendations of the United States Public Health Service/Food and Drug Administration including Annex 3: Public Health Reasons/Administrative Guidelines; Annex 5: HACCP Guidelines of the Food Code; the 2001 Food Code Errata Sheet (August 23, 2002); and Supplement to the 2001 FDA Food Code (August 29, 2003), herein adopted by reference. A copy of the Food Code, as adopted by the division, is available on the division's Internet website www.MyFloridaLicense.comp/dbpr/hr. A copy of the entire Food Code is available on the U.S. Food and Drug Administration Internet website. Printed copies of the entire Food Code are available through the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

(15) **Food establishment** – As utilized in the Food Code, this term shall apply to public lodging and food service establishments as defined in Chapter 509, FS, according to the context of the applicable rule language.

(16) **Garbage** – Food waste generated on premises that is not disposed of through the sewage disposal system. The term also includes solid waste such as discarded containers or wrappers that are contaminated with food waste.

(17) **Hot water** – Hot water means a water temperature of 110 degrees Fahrenheit or above.

(18) **Manager** – An individual who has direct authority, control or supervision over employees engaged in the storage, preparation, display and serving of food to the public.

(19) **Misbranded** – As provided in section 500.11, FS.

(20) **Owner** – A person, firm or corporation who, or which, owns or controls the property.

(21) **Packaged** – Items prepared in a public food service establishment that are bottled, canned, cartoned, bagged, or securely wrapped, and sealed and sold for off-premises consumption. Such items customarily sold as “take-out” or “to-go” orders shall not be considered as packaged items for the purposes of this definition.

(22) **Potable water** – Water satisfactory for drinking, culinary, and domestic purposes meeting quality standards of sections 62-550 and 62-555, FAC.

(23) **Premises** – The physical public food service or lodging establishment and the contiguous land or property under the control of the operator. The physical property may include all yards, alleys, driveways, sidewalks, and other exterior portions of the licensed premises.

(24) **Pre-packaged** – foods which have been prepared and bottled, canned, cartoned, bagged, or securely wrapped in commercial food processing establishments.

(25) **Railway** – Either a railing, a guardrail system of building components located near the open sides of elevated walking surfaces.

(26) **Remodeled** – The term remodeled means any change to an existing establishment which affects the sanitation or safety of the establishment.

(27) **Sewage** – Any liquid waste containing animal, mineral, or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution. Included in this definition is liquid waste from sinks, toilet facilities, grinders, garbage containers, dishwashing machines, floor drains, floor washing, or handwashing facilities.

(28) **Single** – As it refers to public lodging occupancy, this term means one person.

(29) **Stairway** – One or more flights of stairs or steps, either interior or exterior, and the landings, platforms, or other supporting structures necessary to connect separate levels in order to form a continuous passage from one level to another in a building structure.

(30) **Wholesome** – Food which is in sound condition, clean, free from adulteration and otherwise suitable for human consumption.

Specific Authority 509.032 FS. Law Implemented 509.032 FS. History—Amended 9-20-63, 3-21-64, 1-7-70, Revised 2-4-71, Amended 10-18-71, 11-17-73, 12-18-74, 12-5-82, Formerly

7C-1.01, Amended 9-10-89, 12-31-90, 2-27-92, 11-4-92, Formerly 7C-1.001, Amended 3-31-94, 10-9-95, 9-25-96, 1-1-98, 12-6-00, 2-28-05, 8-12-08.

61C-1.002 Licensing and Inspection Requirements.

(1) The current license from the division shall be conspicuously displayed in the office or lobby of the licensed establishment. If no office or lobby is present on the premises of the licensed establishment, the license must be readily available for inspection upon request.

(2) The required fee, pursuant to section 509.251, FS, and rule 61C-1.008, FAC, shall accompany the application, which is BPR form 21-020, APPLICATION FOR LICENSE, incorporated herein by reference and effective 9/25/96. Copies of this form may be obtained from any division office. Any license fee received by the division is non-refundable once the establishment commences operation.

(a) Pursuant to subsection 559.79(1), FS, the application shall require the name, address and social security number of each person who owns 10 percent or more of the outstanding stock or equity interest in the licensed activity and the name, address and social security number of each officer, director, chief executive, or other person who is determined by the division to be able directly or indirectly to control the operation of the business of the licensed entity. The social security number of each person reported on the application shall be kept confidential by the division, except in accordance with subsection 559.79(3), FS, and as provided in law with other governmental agencies .

(b) Pursuant to section 213.0535, FS, the application shall require the federal employer identification number and sales tax identification number of the applicant. Such numbers shall be kept confidential by the division except as provided in conjunction with the Registration Information Sharing and Exchange Program and as provided in law with other governmental agencies.

(3) Upon determining that each new application for license or application for change of ownership is complete, the establishment shall pass an opening inspection by the division prior to issuance of the license. An opening inspection shall not be required for vending machines.

(4) The criteria for licensing public lodging establishments as defined in subsection 509.013(4), FS, shall be in accordance with the following classifications and requirements:

(a) **Transient establishments** – transient establishments are classified as hotels, motels, transient apartments and rooming houses as defined in section 509.242, FS, which are rented or leased to guests by an operator whose intention is that such guests' occupancy will be temporary.

(b) **Nontransient establishments** – nontransient establishments are classified as nontransient apartments and rooming houses as defined in section 509.242, FS, that have more than four units collectively and that are rented for periods of at least 30 days or 1 calendar month, whichever is less, and that are not advertised or held out to the public as places regularly rented for periods of less than 1 calendar month. Rooming houses do not include any establishment exempted pursuant to section 509.013(4), FS.

(c) **Resort Condominium and Resort Dwelling**– each public lodging establishment classified as a resort condominium or resort dwelling as defined in section 509.242, FS, shall obtain a single, group or collective license pursuant to section 509.251, FS, prior to commencing operation.

1. A single license may include multiple units within a building or group of buildings owned and operated by an individual person or entity, but not an agent licensed under Chapter 475, FS.

2. A group license is a license issued by the division to a licensed agent to cover all rooms or units within a building or group of buildings in a single complex. A group license shall only cover those rooms or units which are held out to the public as a place regularly rented to guests as defined in Chapter 509, FS.

3. A collective license is a license issued by the division to a licensed agent who represents a collective group of rooms or units found on separate locations of resort condominiums or resort dwellings. A collective license may not be issued for more than 75 units per license and is restricted to counties within one district.

4. For the purposes of this section, the term "dwelling unit" as it relates to the definition of resort dwelling in paragraph 509.242(1)(g), FS, includes duplexes, triplexes, quadruplexes and townhouses that have four or less units collectively.

5. Responsibilities of the Licensee.

a. For inspection purposes, the licensee or designee shall, upon request, meet the inspector at the site of a specified establishment with keys to the units or dwellings.

b. A licensed agent or operator shall notify the division of any and all condominium units or dwelling houses or units represented for inclusion in the license application using BPR form 21-030, LIST FOR COLLECTIVE LICENSE-RESORT CONDOMINIUMS AND RESORT DWELLINGS, incorporated herein by reference and effective 9-25-96, or BPR form 21-031, LIST FOR SINGLE OR GROUP LICENSE-RESORT CONDOMINIUMS AND RESORT DWELLINGS, incorporated herein by reference and effective 9-25-96. Copies of these forms may be obtained from any division office.

c. Notification of additions or deletions of resort dwelling houses or units listed in a collective license or resort condominiums units in a single or group license shall be sent to the division at least 60 days prior to the expiration date of the license. Notification of changes is required only if changes occur. In addition, any such additions or deletions shall be maintained in a written form for inspection by request. The licensed agent or operator shall notify the division by listing the specific street address and unit number on BPR form 21-032, NOTIFICATION OF CHANGE – RESORT CONDOMINIUMS AND RESORT DWELLINGS, incorporated herein by reference and effective 9-25-96. Copies of this form may be obtained from any division office.

d. Failure to fulfill any of the responsibilities of the licensee, as set forth in paragraphs a.-c. above, constitutes failure to make the premises available for inspection.

e. If a unit has been removed from a collective or group license, the licensee shall inform the division in writing.

f. In the case of a single license, the owner of the unit or dwelling shall be responsible for all violations pursuant to Chapter 509, FS, and Chapters 61C-1 and 61C-3, FAC.

g. In the case of a collective license or group license, the licensed agent shall be responsible for all violations pursuant to Chapter 509, FS, and Chapters 61C-1 and 61C-3, FAC, if violations occurred while the unit or dwelling was listed under the licensed agent or as reflected in records filed with the division.

(d) For public lodging establishments except for resort condominiums and resort dwellings, the operator is required to notify the division immediately of any changes in the number of rental units.

(5) The criteria for licensing public food service establishments as defined in subsection 509.013(5), FS, shall be in accordance with the following classifications and requirements:

(a) **Nonseating:**

1. **Permanent** – Permanent nonseating establishments are classified as those fixed public food service establishments for which the sole service provided is intended as take-out or delivery, or which do not otherwise provide accommodations for consumption of food by guests on the premises, or premises under the control of the operator. For the purposes of this section, establishments located at food courts and malls are classified in this manner as long as seating is not provided within the premises of the establishment itself.

2. **Mobile food dispensing vehicle** – Mobile food dispensing vehicles are classified as any vehicle mounted public food service establishments which are self-propelled or otherwise movable from place to place and are self-sufficient for utilities, such as gas, water, electricity and liquid waste disposal. It shall be the responsibility of the owner to acquaint all operators with the requirements of all applicable laws and rules. All mobile food dispensing vehicles required to have vehicle identification numbers shall submit this number to the division on the application for license.

3. **Catering** – Caterers are classified as any public food service establishments where food or drink is prepared for service elsewhere. The term includes catering kitchens and commissaries. The term “caterer” does not include those establishments licensed pursuant to Chapters 500 or 381, FS, or which exclusively prepare or serve traditional bakery goods such as cakes, pastries, bagels, or confections. If a licensed establishment provides catering services, it is not required to hold a separate catering license from the division. Caterers must meet all applicable standards of a public food service establishment as provided in rule. Separate independent caterers utilizing the equipment or premises of a licensed establishment are deemed operators as defined by subsection 509.013(2), FS, of such public food service establishment and subject to all applicable requirements of law and rule.

4. **Temporary public food service establishments and vendors** –

a. Temporary public food service establishments are classified as those establishments operated at

temporary food service events as defined in section 509.013(8), FS. Each temporary public food service establishment shall be inspected by the division each time the establishment sets up for operation. If the temporary public food service establishment does not meet minimum sanitation standards as provided in Chapters 61C-1 and 61C-4, FAC, food service operations shall be discontinued until corrections are complete and verified by the division.

b. Public food service establishments that have a current license may operate one facility at a single temporary event of three days or less in duration as part of the existing license. Each additional facility operated by the same licensee must acquire a separate temporary food service event license.

5. **Vending machines** – Vending machines are classified as any self-service devices licensed pursuant to Chapter 509, FS, which, upon insertion of coin or token, or by other means, dispense unit servings of potentially hazardous food, either in bulk or packaged, without the necessity of replenishing the device between each operation. All vending machine owners shall submit the serial number of each vending machine to the division on the application for license. It is the responsibility of the vending machine owner to maintain an accurate and current list of vending machine locations with the corresponding serial number. This list shall be made available to the division upon request. The division shall coordinate with the vending machine owner to schedule inspections with the assistance of the owner or its agent with the capability to open and demonstrate the machine.

6. **Theme park food carts** – Theme park food carts are classified as mobile or stationary units which operate within the confines of a theme park or entertainment complex as an extension of or in association with a fixed public food service establishment. Such carts shall be licensed collectively by the entity which maintains and operates them. It shall be the responsibility of the entity which maintains and operates any food cart or group of food carts within a theme park or entertainment complex to acquaint all operators with the requirements of all applicable laws and rules. The operator is required to notify the division immediately of any changes in the number of carts.

(b) **Seating** – seating establishments are classified as those public food service establishments that provide and maintain accommodations for consumption of food on the premises of the establishment or under the control of the establishment. The operator of the establishment is responsible for providing the number of seats available to the public to the division prior to licensing. Any changes in the

number of seats provided which may affect the license fee, the Florida Clean Indoor Air Act, fire safety, bathroom requirements or any other sanitation and safety requirements provided in law or rule, shall be reported immediately to the division by the operator.

(c) **Plan Reviews and Variances.**

1. The operator of each public food service establishment to be newly constructed, remodeled, converted, or reopened shall submit properly prepared facility plans and specifications to the division for review and approval in accordance with the provisions of Chapter 509, FS., and rule chapters 61C-1 and 61C-4, FAC. Such plans must be approved by the division prior to construction, remodeling, conversion, scheduling of an opening inspection and licensing. For remodeling, plan review submittal shall not be required if the division can otherwise determine that the intended remodeling will not have an impact on the Florida Clean Indoor Air Act, fire safety, bathroom requirements or any other sanitation and safety requirements provided in law or rule. Applications for change of ownership shall not require plan review when no interruption in operation, construction, remodeling or conversion occurs. Plan reviews for vending machines and theme park food carts shall not be required if such units have been previously reviewed and approved and have no modifications from the originally approved model.

2. The plans and specifications shall indicate the general operation of the establishment, the intended cuisine concept, proposed layout, arrangement, mechanical plans, and construction materials of work areas, and equipment design and installation including the type and model of proposed fixed equipment and facilities. Plans must be submitted by the owner, prospective operator or their designated representative along with BPR Form 21-010, APPLICATION FOR PLAN REVIEW, or, for mobile food dispensing vehicles, BPR Form 21-017, MOBILE FOOD DISPENSING VEHICLES PLAN REVIEW APPLICATION, incorporated herein by reference and effective 9-25-96. Copies of these forms may be obtained from any division office. The division shall review plans in the order in which they were received and shall grant or deny approval of the plans in writing pursuant to the provisions of Chapter 120, FS.

3. In accordance with section 509.032(2)(e), FS, the division shall grant variances from construction standards described by this rule in hardship cases. Hardship cases include circumstances when physical or structural limitations of the premises preclude compliance with the division's requirements or when the establishment conforms to classification as a historic property as described in section 509.215(6)(a), FS. It is

the responsibility of the applicant to demonstrate the hardship to the division prior to approval of the variance request.

a. Each variance request shall be accompanied by the appropriate fee as described in rule 61C-1.008, FAC, supportive materials and documents such as a copy of the establishment's license, construction plans and specifications for new or extensively remodeled establishments, and any other information necessary for rendering a decision. The burden of presenting pertinent and supportive facts shall be the responsibility of the applicant.

b. Emergency variance requests must be acted upon within 30 days of receipt by the division of all information necessary for the Advisory Council to determine the existence of a hardship.

c. All routine variance requests shall be acted upon at the next regularly scheduled Advisory Council meeting. A completed variance request form must be received by the division at least 10 business days prior to any scheduled Advisory Council meeting. The division shall make available to the public, through the division's district offices, a schedule of all Advisory Council meetings.

d. The Advisory Council shall review variance requests and recommend agency action to the director. Upon consideration of the merits of each variance request and the recommendations of the Advisory Council, the director or designee shall either grant a variance, as requested, or deny the variance request. The division shall enforce variance provisions and shall take administrative action to ensure compliance with the terms of a variance.

4. Whenever plans are disapproved or a variance request is denied, the division shall notify the applicant of their right to request a hearing on the matter. Notification shall be in writing and shall indicate that a hearing must be requested within 30 days of the applicant's receipt of notice. The division shall grant or deny a hearing request within 10 days of receipt. All hearings shall be conducted in accordance with the provisions of Chapter 120, FS.

(d) A public food service establishment operating in conjunction with a public lodging establishment must obtain a separate public food service establishment license with the division, unless the only food served at the public lodging establishment is packaged or prepackaged as defined in rule 61C-1.001, FAC. In such cases, the establishment which prepares the food is subject to the licensing provisions of this chapter unless otherwise exempt.

(6) **Renewal** – It is the responsibility of the licensee to renew the license prior to the expiration date. The division makes available to all licensees BPR form 21-021, APPLICATION FOR LICENSE RENEWAL, incorporated herein by reference and effective 3-31-94, which contains all information required by law to renew the license. Any public lodging or food service establishment operating on an expired license is deemed to be operating without a license, and subject to the penalties provided for this offense in law and rule. Annual renewal dates for all establishments in the counties indicated are as follows:

- (a) DISTRICT 01 – October 1 – Dade, Monroe;
- (b) DISTRICT 02 – December 1 – Broward, Martin, Palm Beach;
- (c) DISTRICT 03 – February 1 – Citrus, Hando, Hillsborough, Pasco, Pinellas, Polk, Sumter;
- (d) DISTRICT 04 – April 1 – Brevard, Indian River, Lake, Orange, Osceola, St. Lucie, Seminole, Volusia;
- (e) DISTRICT 05 – June 1 – Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Marion, Nassau, Putnam, St. Johns, Suwannee, Union;
- (f) DISTRICT 06 – June 1 – Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, Washington; and
- (g) DISTRICT 07 – December 1 – Charlotte, Collier, Desoto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota.

(7) The division shall issue a license, which is BPR form 21-022, PUBLIC LODGING AND FOOD SERVICE LICENSE, incorporated herein by reference and effective 9-25-96, to each public lodging and food service establishment which has satisfied the requirements of Chapter 509, FS, and this chapter upon initial licensing and annual renewal. In addition to the license, the division shall issue a license decal, which is BPR form 21-023, LICENSE DECAL, incorporated herein by reference and effective 9-25-96, to each mobile food dispensing vehicle, theme park food cart and vending machine, which must be prominently displayed and affixed to the vehicle, cart or machine.

Copies of these forms may be obtained by written request to the Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida, 32399-1015.

(8) General Inspection Requirements.

(a) Division personnel shall inspect all public lodging establishments as often as necessary for enforcement of the provisions of law and rule and protection of the public's health, safety and welfare. The result of each inspection shall be recorded on BPR form 22-014, LODGING INSPECTION REPORT, incorporated herein by reference and effective 9-25-96, a legible copy of which shall be provided to the operator. Copies of this form may be obtained from any division office.

(b) Division personnel shall inspect all public food service establishments and other places where food is served to or prepared for service to the public as often as necessary for enforcement of the provisions of law and rule and protection of the public's health, safety and welfare. The result of each inspection shall be recorded on BPR form 22-015, FOOD SERVICE INSPECTION REPORT, incorporated herein by reference and effective 9-25-96, a legible copy of which shall be provided to the operator. Copies of this form may be obtained from any division office. Persons operating a public food service establishment shall permit division personnel right of entry during operating hours to observe food preparation and service, and if necessary examine records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received or used.

(c) The operator of each public food service establishment shall maintain the latest inspection report on premises and shall make it available to any consumer who asks to see it.

(d) Inspection Frequency.

1. Except as otherwise provided in this section, public lodging and food service establishments shall be inspected a minimum of three times annually.
2. Nontransient rooming houses and vending machines shall be inspected a minimum of twice annually.
3. Vendors at temporary food service events shall be inspected at the time of licensure and shall be inspected at such other times as the division determines is necessary to ensure the public's health, safety, and welfare.
4. Nontransient and transient apartments shall be inspected once annually.

5. Establishments licensed for a partial year will receive a prorated number of inspections, including the opening inspection, during the first partial year of operation.

Specific Authority 509.032(2)(d), 509.032(6), 509.241(1) FS. Law Implemented 213.0535, 509.032(2)(a), (d) and (e), 509.032(6), 509.241(1), 509.241(3), 509.251, 559.79(1), FS. History—Amended 1-20-63, 9-19-63, 5-20-64, 2-23-66, 8-9-68, Revised 2-4-71, Amended 10-18-71, Repromulgated 12-18-74, Amended 9-1-83, 10-1-83, Formerly 7C-1.02, Amended 1-30-90, 12-31-90, 2-27-92, 6-15-92, Formerly 7C-1.002, Amended 3-31-94, Amended 3-15-95, 10-9-95, 9-25-96, 5-11-98, 9-10-03.

61C-1.0021 Administrative Actions and Enforcement.

1) Service of Process – Notices, Subpoenas, Orders, and Citations.

(a) Each licensee under Chapter 509, FS., shall have been effectively served with any notice, subpoena, order or citation issued by the division when such process has been served on any operator as defined in section 509.013(2), FS., of the licensed premises.

(b) Any notice, subpoena, order, or citation which may be lawfully issued by the division upon any operator shall be deemed lawfully served when addressed to the operator at the licensed establishment, or other designated address of record, as shown by the records of the division, and served personally by an agent of the division or by registered letter, return receipt requested, through the United States Postal Service. If the operator refuses to accept personal service or a return receipt is not received by the division within 7 calendar days of mailing, the agent shall tape, tack, or otherwise leave the notice, subpoena, order, or citation in a conspicuous place at the establishment.

(2) Violations of critical laws or rules are those violations determined by the division to pose a significant threat to the public health, safety, or welfare. When a Notice to Show Cause is issued for a violation of a critical law or rule, each day or portion thereof that such violation of a critical law or rule exists beginning on the date of the initial inspection and continuing until such violation of a critical law or rule is complied shall be treated as a separate violation.

(3) An operator who has been determined by the director to have obstructed or hindered an inspector in the proper discharge of the inspector's duties shall have his license revoked.

(4) In a proceeding in which the respondent, having been given the opportunity, does not answer, appear or otherwise respond to the written notice, the division shall, after review of the file, enter a default final order. The license shall be denied, suspended, revoked, or the licensee subject to such lawful administrative fines as the division is authorized to impose.

(5) In a proceeding in which the respondent, having been given the opportunity, chooses not to enter into a Stipulation and Consent Order but, instead, requests a hearing, a determination shall be made by the division whether there are disputed issues of material facts. If a dispute exists, the case shall proceed in accordance with section 120.569 and 120.57(1), FS. If a dispute does not exist, an informal proceeding shall be conducted in accordance with section 120.57(2), FS, at which time the licensee may present mitigation to the division. A final order shall then be prepared and issued. The license shall be denied, suspended, revoked, or the licensee subject to such lawful administrative fines as the division is authorized to impose.

(6) When directed by the court, the division shall suspend or deny the license of any licensee found to have a delinquent child support obligation. When directed to suspend a license, the division shall issue an order of suspension immediately ordering the licensee to cease all operations until further notice from the division. The division shall issue or reinstate the license without additional charge to the licensee when notified by the court that the licensee has complied with the terms of the court order.

(7) Notification of Penalty.

(a) Whenever suspension or revocation of a public food service establishment or a public lodging establishment license is ordered by the division, or an establishment is judicially or administratively determined to be operating without a license, a notification sign shall be posted that the establishment is closed-for-operation.

(b) The notification sign shall be placed near each entrance to the establishment, clearly visible from the outside.

(c) The notification sign is the property of the division. Such sign shall remain in the place designated by the division, and shall not be removed until reinstatement of the license.

Specific Authority 509.032, 509.032(2)(d) FS. Law Implemented 509.091, 509.261 FS. History—New 3-31-94, Amended 10-9-95, 9-25-96.

61C-1.004 General Sanitation and Safety Requirements

The following general requirements and standards shall be met by all public lodging and public food service establishments:

(1) Water, plumbing and waste.

Except as specifically provided in these rules, standards for water, plumbing and waste shall be governed by Chapter 5, Food Code, as adopted by reference in rule 61C-1.001, F.A.C. For the purposes of this section, the term “food establishment” as referenced in the Food Code shall apply to all public lodging and public food service establishments as defined in Chapter 509, FS.

(a) The water supply shall meet the standards provided in Chapters 64E-8, 62-550 and 62-555, F.A.C., herein adopted by reference, where applicable.

(b) Bottled and packaged potable water shall be transported and obtained in accordance with the requirements of Title 21, Code of Federal Regulation, Parts 129 and 165, as adopted by the Department of Agriculture and Consumer Services in Rule 5K-4.002, FAC, herein adopted by reference.

(c) Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in Title 21, Code of Federal Regulations 173.310, herein adopted by reference.

(d) Sewage shall be disposed of in a public sewerage system or other approved sewerage system in accordance with the provisions of Chapter 64E-6 or 62-601, FAC, herein adopted by reference, whichever is applicable. Grease interceptors shall be designed and installed in accordance with provisions of Chapter 64E-6, FAC, herein adopted by reference, or the plumbing authority having jurisdiction.

(e) All garbage and rubbish shall be removed from the establishment premises with sufficient frequency to prevent nuisance conditions and shall be disposed of in accordance with provisions of Chapter 62-701, FAC, herein adopted by reference.

(2) Public bathrooms.

(a) Each public lodging and food service establishment shall be provided with adequate and conveniently located bathroom facilities for its employees and guests in accordance with provisions of

these rules and the plumbing authority having jurisdiction. Public access to toilet facilities shall not be permitted through food preparation, storage, or warewashing areas. Bathroom fixtures shall be of readily cleanable sanitary design. Bathroom facilities shall be kept clean, in good repair and free from objectionable odors. Bathrooms shall provide at least 20 foot candles of light. The walls, ceilings and floors of all bathroom shall be kept in good condition.

(b) Public bathrooms shall be completely enclosed and shall have tight-fitting, self closing doors or, in public lodging establishments or bathrooms located outside a public food service establishment, have entrances and exits constructed in such a manner as to ensure privacy of occupants. Such doors shall not be left open except during cleaning or maintenance.

(c) Handwashing signs shall be posted in each bathroom used by employees.

(d) For the purposes of this section, the term toilet shall mean a flush toilet properly plumbed, connected and discharging to an approved sewage disposal system. In a bathroom where more than one toilet is provided, each toilet shall be separated by a partition from adjoining fixtures and a door shall be provided which will partially conceal the occupant from outside view.

(e) Resort condominiums, nontransient establishments and resort dwellings are exempt from the provisions of this subsection.

(3) **Vermin control** – Effective control measures shall be taken to protect against the entrance into the establishment, and the breeding or presence on the premises of rodents, flies, roaches and other vermin. All buildings shall be effectively rodent-proofed, free of rodents and maintained in a rodent-proof and rodent-free condition. All windows used for ventilation must be screened, except when effective means of vermin control are used. Screening material shall not be less than 16 mesh to the inch or equivalent, tight-fitting and free of breaks. Insecticides or rodenticides, when used, shall be used in compliance with Chapter 5E-14, FAC, herein adopted by reference.

(4) The storage and use of poisonous and toxic materials shall be governed by the provisions of Chapter 7, Food Code, as adopted by reference in rule 61C-1.001, F.A.C. For the purposes of this section, the term “food establishment” as referenced in the Food Code shall apply to all public lodging and public food service establishments as defined in Chapter 509, FS.

(5) All fire safety, protection and prevention equipment must be installed, approved, maintained and used in accordance with Chapter 509, FS, and the National Fire Protection Association Life Safety Code Chapter 101, as adopted by the Division of State Fire Marshal in Chapter 69A-3, FAC.

(6) All building structural components, attachments and fixtures shall be kept in good repair, clean and free of obstructions.

(7) Attics, basements, boiler rooms, meter rooms, laundry rooms, and storage rooms shall be kept clean and free of debris and flammables.

(8) Flammable materials inside an establishment shall be stored in approved-type containers (maximum size 5 gallons) and in such a manner as to prevent a fire hazard.

(9) **Fire safety equipment.**

(a) **Fire Extinguisher Installation** – Fire extinguishers shall be installed in accordance with NFPA 10, Standard for Portable Fire Extinguishers.

(b) A standard state approved service tag shall be attached to each extinguisher and a person holding a valid state permit issued by the State Fire Marshal shall recharge or inspect the extinguisher and shall prepare the tag to include the information required by Rule 69A-21.241, FAC, herein adopted by reference.

(c) **Fire Hose Maintenance** – Inspections shall be made every 6 months to assure that the hose is in proper position on the racks and that all of the equipment is in place and in good condition. The hose shall be removed and re-racked at least annually and new gaskets installed in the couplings, both at the hose valves and at the nozzles if necessary. Where couplings are polished, care should be taken to see that polish used does not touch fabric of hose.

(d) Carbon dioxide and helium tanks shall be adequately secured so as to preclude any danger to safety.

(e) **Specialized Smoke Detectors** – Specialized smoke detectors for the deaf and hearing-impaired shall be made available upon request by guests in transient public lodging establishments without charge. Failure of the operator to inform any employee charged with registering guests of the location of such detector constitutes failure to make such detectors available.

(10) Means of access must permit unobstructed travel at all times and be maintained free of obstructions

and fire hazards. Halls, entrances and stairways shall be clean, ventilated and well-lighted day and night. Hall and stair runners shall be kept in good condition. Hand rails shall be installed on all stairways and guard rails around all porches and steps. Adequate means of exit shall be provided pursuant to NFPA 101. Exits shall be clearly marked with approved illuminated exit signs.

(11) **Electrical wiring** – To prevent fire or injury, defective electrical wiring shall be replaced and wiring shall be kept in good repair. No extension cords shall be used except during cleaning, maintenance and other temporary activities. Only a wall switch or approved pull cord shall be permitted in bathrooms. In accordance with the provisions of NFPA 70, the National Electrical Code, as adopted by the Division of State Fire Marshal in Chapter 69A-3, FAC, Uniform Fire Safety Rules and Standards, sufficient electrical outlets shall be provided.

(12) **Heating and ventilation** – The heating and ventilation system shall be kept in good repair or be installed to maintain a minimum of 68 degrees Fahrenheit throughout the building. The insurance inspector's boiler report is required annually for power boilers and high pressure/high temperature boilers and biannually for low pressure steam or vapor heating boilers and shall be posted in the boiler room. The provisions of this section do not apply to the common areas of resort condominiums.

(13) **Gas appliances** – All appliances, including water heaters using gas, shall be kept in good repair and properly vented when manufacturers' instructions require venting of the appliance and shall meet the following requirements:

(a) All appliances shall have a nationally recognized testing laboratory seal such as AGA or UL seal.

(b) Heating appliances shall be properly sized in BTU input for room air space. Proper sizing of heating appliances shall be determined in accordance with the provisions of NFPA 54, the National Fuel Gas Code, as adopted by the Division of State Fire Marshal in Chapter 69A-3, FAC.

Specific Authority 509.032 FS. Law Implemented 509.032, 509.215, 509.221 FS. History—Amended 2-20-64, 7-14-67, 2-8-69, Revised 2-4-71, Amended 2-17-73, Repromulgated 12-18-74, Amended 9-19-84, Formerly 7C-1.04, Amended 12-31-90, 2-11-92, 2-27-92, 6-15-92, Formerly 7C-1.004, Amended 3-31-94, 10-9-95, 9-25-96, 5-11-98, 7-2-98, 2-24-08, 8-12-08.

61C-1.005 Disciplinary Guidelines.

(1) This rule sets out the disciplinary guidelines for imposing penalties upon public lodging establishments and public food service establishments under the jurisdiction of the Division of Hotels and Restaurants (division) in administrative actions. The purpose of this rule is to notify licensees of the standard range of penalties routinely imposed unless the division finds it necessary to deviate from the standard penalties for the reasons stated within this rule.

(2) These disciplinary guidelines are descriptive in nature and do not use the language used to formally allege a violation in a specific case. This rule is not intended to specifically describe all possible violations of law that may be committed by a public lodging establishment or public food service establishment and that may be subject to penalty imposed by the division.

(3) The division may impose penalties against a public lodging establishment or public food service establishment for a specific violation not included in the language of this rule. If a specific violation is not included in the language of this rule, the division shall impose a penalty corresponding to the most similar violation listed in this rule.

(4) These disciplinary guidelines do not limit the division's authority to order a public lodging establishment or public food service establishment to cease and desist from any unlawful practice, or other action authorized by law.

(5) Definitions.

(a) "Critical violation" means a violation determined by the division to pose a significant threat to the public health, safety, or welfare and which is identified as a food borne illness risk factor, a public health intervention, or critical in DBPR Form HR-5022-014 Lodging Inspection Report or DBPR Form HR-5022-015 Food Service Inspection Report, incorporated by reference in subsection 61C-1.002(8), F.A.C, and not otherwise identified in this rule.

(b) "Non-critical violation" means a violation not meeting the definition of critical violation and not otherwise identified in this rule.

(c) "First offense" means a violation of any law subject to penalty under Chapter 509, FS, when no disciplinary Final Orders involving the same licensee have been filed with the Agency Clerk within the 24 months preceding the date the current administrative complaint is issued.

(d) "Second offense," and "second and any subsequent offense" mean a violation of any law subject to penalty under Chapter 509, FS, after one disciplinary Final Order involving the same licensee has been filed with the Agency Clerk within the 24 months preceding the date the current administrative complaint is issued, even if the current violation is not the same as the previous violation.

(e) "Third and any subsequent offense" means a violation of any law subject to penalty under Chapter 509, FS, after two or more disciplinary Final Orders involving the same licensee have been filed with the Agency Clerk within the 24 months preceding the date the current administrative complaint is issued, even if the current violation is not the same as the previous violation.

(6) Standard penalties. This section specifies the penalties routinely imposed against licensees and applies to all violations of law subject to a penalty under Chapter 509, FS. Any violation requiring an emergency suspension or closure, as authorized by Chapter 509, FS, shall be assessed at the highest allowable fine amount.

(a) Non-critical violation.

1. 1st offense — Administrative fine of \$150 to \$300.
2. 2nd offense — Administrative fine of \$250 to \$500.
3. 3rd and any subsequent offense — Administrative fine of \$350 to \$1000, license suspension, or both.

(b) Critical violation. Fines may be imposed for each day or portion of a day that the violation exists, beginning on the date of the initial inspection and continuing until the violation is corrected.

1. 1st offense — Administrative fine of \$250 to \$500.
2. 2nd offense — Administrative fine of \$500 to \$1,000.
3. 3rd and any subsequent offense — Administrative fine of \$750 to \$1,000, license suspension, or both.

(c) Misrepresenting food or food product. Fines may be imposed for each day or portion of a day that the violation exists, beginning on the date of the initial inspection and continuing until the violation is corrected.

1. 1st offense — Administrative fine of \$500 or license suspension.
2. 2nd offense — Administrative fine of \$1,000,

license suspension, or both.

3. 3rd and any subsequent offense — Administrative fine of \$1,000, license suspension, or license revocation or any combination thereof.

(d) Obstruction of division personnel. Fines may be imposed for each day or portion of a day that the violation exists, beginning on the date of the initial inspection and continuing until the violation is corrected.

1. 1st offense — Administrative fine of \$500 or license suspension.
2. 2nd offense — Administrative fine of \$1,000, license suspension, or both.
3. 3rd and any subsequent offense — Administrative fine of \$1,000, license revocation, or both.

(e) Operating a public lodging establishment or public food service establishment without a license or with a license expired for more than 60 days. Fines may be imposed for each day or portion of a day that the violation exists, beginning on the date of the initial inspection and continuing until the violation is corrected.

1. 1st offense — Administrative fine of \$250 to \$500.
2. 2nd offense — Administrative fine of \$500 to \$1,000 or an order to close.
3. 3rd and any subsequent offense — Administrative fine of \$750 to \$1,000 or an administrative fine of \$750 to \$1000 and an order to close.

(f) Operating a public lodging establishment or public food service establishment without a license after an order to close has been issued by the division. Fines may be imposed for each day or portion of a day that the violation exists, beginning on the date of the initial inspection and continuing until the violation is corrected.

1. 1st offense — Administrative fine of \$500 to \$1,000.
2. 2nd and any subsequent offense — Administrative fine of \$1,000.

(g) Operating a public lodging establishment or public food service establishment in violation of an Emergency Order of Suspension, Emergency Order of Closure, administrative suspension, order to close, or other administrative action which prohibits operation of the establishment. Fines shall be imposed for each day or portion of a day that an establishment operates in violation of the order or administrative action.

1. 1st offense — Administrative fine of \$500 to \$1,000.

2. 2nd and any subsequent offense — Administrative fine of \$1,000.

(h) Failure to comply with the requirements of a Final Order.

1. 1st offense — Administrative fine of \$500 and license suspension.

2. 2nd offense — Administrative fine of \$1000 and license suspension.

3. 3rd offense — License revocation.

(i) Violation of the Florida Clean Indoor Air Act, Chapter 386, FS.

1. 1st offense — Administrative fine of \$250 to \$750.

2. 2nd and any subsequent offense — Administrative fine of \$500 to \$2,000.

(7) Aggravating or mitigating factors.

The division may deviate from the standard penalties in paragraphs (a) through (h) of subsection (6) above, based upon the consideration of aggravating or mitigating factors present in a specific case. The division shall consider the following aggravating and mitigating factors in determining the appropriate disciplinary action to be imposed and in deviating from the standard penalties:

(a) Aggravating factors.

1. Possible danger to the public.
2. Length of time since the violation occurred.
3. Number of violations in the current administrative complaint.

4. Severity of violations in the current administrative complaint.

5. Disciplinary history of the licensee within the 60 months preceding the date the current administrative complaint was issued.

6. Number of Emergency Orders of Suspension or Closure against the same licensee filed with the Agency Clerk by the division within the 12 months preceding the date the current administrative complaint was issued.

7. The current administrative complaint alleges a violation for obstruction of division personnel.

8. The licensee was prosecuted by another authority having jurisdiction resulting in a violation of Chapter 509, FS, including but not limited to cases based on discrimination, civil rights violations, and criminal violations.

9. Actual physical damage or bodily harm caused to persons or property by the violation.

10. Any other aggravating factors, as relevant

under the circumstances.

(b) Mitigating factors.

1. Violation resulted from an act of God or nature.

2. Length of time since the violation occurred.

3. Length of time the licensee has been in operation.

4. Effect of the penalty upon the licensee's livelihood.

5. Attempts by the licensee to correct the violation.

6. Number of previous inspections without violations of chapter 509, FS, and the rules adopted pursuant thereto.

7. Disciplinary history of the licensee within the 60 months preceding the date the current administrative complaint was issued.

8. Any other mitigating factors, as relevant under the circumstances.

(8) The following critical violations are considered non-critical violations for the purpose of determining the administrative penalty:

(a) The license is current, but not properly posted.

(b) The waste receptacle in the restroom for women is lacking a cover.

(9) Absent any mitigating circumstances, a license may be suspended for no less than two days. Terms of license suspensions resulting from multiple violations or Final Orders shall be applied consecutively, not concurrently.

(10) Fines resulting from multiple violations or Final Orders shall be assessed cumulatively.

(11) License revocation may be recommended in any case or for any violation when the aggravating circumstances, licensee's compliance history, and conditions of the public lodging establishment or public food service establishment present a significant threat to the public health, safety, and welfare.

Rulemaking Authority 455.2273, 509.032, FS. Law Implemented 386.207, 509.032, 509.261, 509.281, 509.292, FS. History—New 6-28-09, Amended 12-28-09.

61C-1.008 License Fees.

(1) **Application Fees.** Upon making initial application or an application for change of ownership, each public lodging and food service establishment applicant shall pay to the division a fee of \$50 in addition to any other fees required by law or rule. Temporary food service events and vending machines are exempt from this subsection.

(2) The license fee shall be paid to the division before a license is issued, and the license fee to be charged shall be determined according to the licensing fee schedule in effect at the time an application for a license is received by the division.

(3) **Fractional License Fees.** The licensing fee schedule shall require an establishment which applies for an initial license to pay the full license fee, if application is made during the annual renewal period or more than 6 months prior to the next such renewal period, and one-half of the fee if application is made 6 months or less prior to such period.

(4) **Amount of License Fee—Public Lodging Establishment.** The license fee to conduct a public lodging establishment shall be in

accordance with the following schedule exclusive of the categories of fee adjustments set forth in rule 61C-1.008(1) and (3):

(a) **TRANSIENT LODGING/EXCLUDING TRANSIENT APARTMENTS AND RESORT CONDOMINIUMS AND DWELLINGS**

NUMBER OF UNITS	BASIC FEE	INCREMENTAL UNIT FEE	HEP FEE	TOTAL FEE
SINGLE UNIT	\$170	\$10	\$10	\$190
2-25	\$170	\$20	\$10	\$200
26-50	\$170	\$35	\$10	\$215
51-100	\$170	\$50	\$10	\$230
101-200	\$170	\$75	\$10	\$255
201-300	\$170	\$105	\$10	\$285
301-400	\$170	\$135	\$10	\$315
401-500	\$170	\$160	\$10	\$340
OVER 500	\$170	\$190	\$10	\$370

(b) **TRANSIENT APARTMENTS**

NUMBER OF UNITS	BASIC FEE	INCREMENTAL UNIT FEE	HEP FEE	TOTAL FEE
SINGLE UNIT	\$125	\$10	\$10	\$145
2-25	\$125	\$20	\$10	\$155
26-50	\$125	\$35	\$10	\$170
51-100	\$125	\$50	\$10	\$185
101-200	\$125	\$75	\$10	\$210
201-300	\$125	\$105	\$10	\$240
301-400	\$125	\$135	\$10	\$270
401-500	\$125	\$160	\$10	\$295
OVER 500	\$125	\$190	\$10	\$325

(c) **RESORT CONDOMINIUMS AND RESORT DWELLINGS**

1. Resort condominium and resort dwelling licenses may be classified as either single, or collective or group, as defined in rule 61C-1.002, FAC.

2. Fees for renewal shall be based on the number of existing units under license at the time of the renewal period. Unless timely notification of additions or deletions of units in a group or collective license is given to the division, as set forth in rule 61C-1.002(4)(c)5.c., FAC, the fee for renewal shall be based upon the number of units under license when the license was either issued or last renewed, whichever is most recent.

3. a. **RESORT CONDOMINIUMS AND DWELLINGS/COLLECTIVE LICENSE**

BASIC FEE	PER UNIT FEE	HEP FEE	TOTAL FEE
\$150	\$10	\$10	VARIES

b. **RESORT CONDOMINIUMS AND DWELLINGS/GROUP AND SINGLE LICENSE**

NUMBER OF UNITS	BASIC FEE	INCREMENTAL UNIT FEE	HEP FEE	TOTAL FEE
SINGLE UNIT	\$150	\$10	\$10	\$170
2-25	\$150	\$20	\$10	\$180
26-50	\$150	\$35	\$10	\$195
51-100	\$150	\$50	\$10	\$210
101-200	\$150	\$75	\$10	\$235
201-300	\$150	\$105	\$10	\$265
301-400	\$150	\$135	\$10	\$295
401-500	\$150	\$160	\$10	\$320
OVER 500	\$150	\$190	\$10	\$350

(d) **NON-TRANSIENT APARTMENTS**

NUMBER OF UNITS	BASIC FEE	INCREMENTAL UNIT FEE	HEP FEE	TOTAL FEE
4 OR LESS	0	0	0	0
5-25	\$95	\$20	\$10	\$125
26-50	\$95	\$35	\$10	\$140
51-100	\$95	\$50	\$10	\$155
101-200	\$95	\$75	\$10	\$180
201-300	\$95	\$105	\$10	\$210
301-400	\$95	\$135	\$10	\$240
401-500	\$95	\$160	\$10	\$265
OVER 500	\$95	\$190	\$10	\$295

(e) **NONTRANSIENT ROOMING HOUSES**

NUMBER OF UNITS	BASIC FEE	INCREMENTAL UNIT FEE	HEP FEE	TOTAL FEE
4 OR LESS	0	0	0	0
5-25	\$140	\$20	\$10	\$170
26-50	\$140	\$35	\$10	\$185
51-100	\$140	\$50	\$10	\$200
101-200	\$140	\$75	\$10	\$225
201-300	\$140	\$105	\$10	\$255
301-400	\$140	\$135	\$10	\$285
401-500	\$140	\$160	\$10	\$310
OVER 500	\$140	\$190	\$10	\$340

(5) **Amount of License Fee - Public Food Service Establishment.** The license fee for a public food service establishment shall be in accordance with the following schedule exclusive of the categories of fee adjustments set forth in rule 61C-1.008(1) and (3):

(a) **Nonseating:**

1.

	BASIC FEE	SERVICE TYPE FEE	EPIDEMIOLOGICAL FEE	HEP FEE	TOTAL FEE
Permanent	\$220	\$0	\$12	\$10	\$242
Mobile Food Dispensing Vehicle	\$185	\$135	\$17	\$10	\$347
Catering	\$185	\$55	\$13	\$10	\$263

2.

	BASIC FEE	EPIDEMIOLOGICAL FEE	HEP FEE	TOTAL FEE
Temporary Public Food Service Establishments and Vendors				
1-3 Day events	\$77	\$4	\$10	\$91
4 through 30-day events	\$90	\$5	\$10	\$105
Annual vendor	\$942	\$48	\$10	\$1000
Vending Machines	\$10	\$1	\$10	\$21

3. Theme Park Food Carts

No. of Carts	Basic Fee	Capacity Fee	Epidemi-ological Fee	HEP Fee	Total Fee
1-5	\$185	\$55	\$12	\$10	\$262
6-10	\$185	\$65	\$13	\$10	\$273
11-15	\$185	\$85	\$14	\$10	\$294
16-20	\$185	\$105	\$15	\$10	\$315
21-25	\$185	\$125	\$16	\$10	\$336
26 or more	\$185	\$145	\$17	\$10	\$357

(b) Seating:

No. of Seats	Basic Fee	Capacity Fee	Epidemi-ological Fee	HEP Fee	Total Fee
1-49	\$185	\$55	\$12	\$10	\$262
50-149	\$185	\$65	\$13	\$10	\$273
150-249	\$185	\$85	\$14	\$10	\$294
250-349	\$185	\$105	\$15	\$10	\$315
350-499	\$185	\$125	\$16	\$10	\$336
500 or more	\$185	\$145	\$17	\$10	\$357

(c) Plan review fees shall be \$150; variance review process fees shall be:

1. Routine - \$150; and
2. Emergency - \$300.

(6) Delinquency Fees. A license renewal filed with the division within 30 days after the expiration date shall be accompanied by a delinquency fee of \$50 in addition to the renewal fee and any other fees required by law or rule. A license renewal filed with the division more than 30 but not more than 60 days after the expiration date shall be accompanied by a delinquency fee of \$100 in addition to the renewal fee and any other fees required by law or rule.

Specific Authority 509.032(6), 509.251 FS. Law Implemented 509.013, 509.032(2)(e), 509.032(3)(c), 509.251, 509.302(3) FS. History-New 7-31-79, Revised 9-1-80, Formerly 7C-1.08, Amended 5-10-89, 9-10-89, 10-31-89, 4-3-90, 12-31-90, 9-11-91, 2-27-92, 7-6-9, 8-23-92, 11-4-92, 4-4-93, Formerly 7C-1.008, Amended 9-20-93, 12-22-93, 6-29-95, 10-9-95, 9-25-96, 5-11-98, 9-21-2000, 9-10-2003.

CHAPTER 61C-3

Florida Administrative Code

PUBLIC LODGING ESTABLISHMENTS

61C-3.0001	Public Lodging Establishments-General. <i>(Repealed 7-22-96)</i>
61C-3.0002	Definitions. <i>(Repealed 9-25-96)</i>
61C-3.001	Sanitation and Safety Requirements.
61C-3.0011	Safety Requirements-General. <i>(Repealed 9-25-96)</i>
61C-3.002	Consumer Protection Requirements.
61C-3.006	Unethical Business Practices <i>(Repealed 3-31-94)</i>
61C-3.009	Elder or Disabled Individuals. <i>(Repealed 7-22-96)</i>

61C-3.001 Sanitation and Safety Requirements.

The following requirements and standards shall be met by all public lodging establishments.

(1) **Glassware, tableware and utensils.**

(a) The handling, cleaning and sanitizing of glassware, tableware and utensils in public lodging establishments shall be subject to the provisions of Chapter 4, Food Code, as adopted by reference in rule 61C-1.001, F.A.C. As referenced in this chapter of the Food Code, the term "food establishment" shall apply to all public lodging establishments as defined in Chapter 509, FS.

(b) Any public lodging establishment which cannot comply with this provision shall post in a conspicuous place a placard or sign, which clearly states "NOTICE TO GUESTS: Dishware, glassware, kitchenware and/or utensils have been provided in this room as a guest convenience. These items have been cleaned within this room or unit using ordinary household dishwashing facilities and agents. They have not been sanitized according to Federal and State standards for public food service establishments", or its equivalent, in each guest room where such dishware, glassware, kitchenware or utensils are provided.

(c) Any public lodging establishment initiating new construction or extensive remodeling involving the construction of walls or plumbing fixtures in any area which would permit compliance with any portion of these requirements, shall fully comply with the above requirements.

(2) **Kitchen and kitchen equipment** – Kitchen appliances and refrigeration equipment shall be kept clean, free from odors and in good repair. Refrigerators shall be properly drained. Kitchens shall be ventilated to minimize the occurrence of excessive heat, steam, condensation, vapors, objectionable odors, smoke, and fumes. Kitchens must also have at least 10 foot candles of light, sufficient and suitable cooking utensils, and adequate garbage receptacles. A kitchen sink with hot and cold running water under pressure is required.

(9) **Ice.**

(a) Ice making machines shall utilize water from an approved source pursuant to Chapters 62-550 and 62-555, F.A.C., and shall be constructed, located, installed, operated, and maintained so as to prevent contamination of the ice. Ice obtained from outside the establishment shall be from a source approved under Chapter 500, F.S. Ice storage bins shall be drained through an air gap according to the provisions of the local building authority having jurisdiction.

(b) Canvas containers shall not be used unless provided with a sanitary single-service liner so as to completely protect the ice from contamination. Ice buckets and other ice containers shall be made of a smooth, nonabsorbent, impervious material; shall be designed to facilitate cleaning; shall be kept clean; and shall be stored and handled in a sanitary manner. Ice buckets and other ice containers must be cleaned and sanitized between each guest or be provided with a sanitary single-service liner which is changed at least daily. Between uses, ice containers used to transfer ice from ice making machines to ice storage bins shall be stored in a way that protects the ice containers and ice-dispensing utensils from contamination.

(c) Ice for consumer use shall be dispensed only with scoops, tongs or other ice-dispensing utensils or through automatic self-service, ice-dispensing equipment. Ice-dispensing utensils shall be made of a smooth, nonabsorbent, impervious material; shall be designed to facilitate cleaning; and shall be kept clean. Ice-dispensing utensils shall be stored on a clean surface, attached to a nonoxidizing chain or tether, and stored inside the ice bin or in the ice with the utensil's handle extended out of the ice.

(4) **Locks** – An approved locking device for the purposes of Section 509.211, F.S., is a locking device that meets the requirements of National Fire Protection Association 101 (NFPA 101), Life Safety Code, 2006 edition, as adopted by the Division of State Fire Marshal in Rule 69A-3.012, F.A.C., herein adopted by reference. Public lodging establishments as defined in paragraph 61C-1.002(4)(a), F.A.C., shall have at least one approved locking device which cannot be opened by a non-master guest room key on all outside and connecting doors. An approved locking device does not include a “sliding chain” or “hook and eye” type device.

(5) **Balcony Inspection.**

(a) As provided in Section 509.2112, F.S., every public lodging establishment which is 3 or more stories in height, or which has a vertical distance of 17 feet or more from the lowest grade level to any balcony must submit to the division a certificate stating that any and all balconies, stairways, and railways have been inspected by a person who, through education and experience, is competent to inspect multi-story buildings and found by such person to be safe, secure, and free of defects. The term “balcony” is defined as a landing or porch that is accessible to or used by the public and shall include those portions of a building which are unenclosed, except by a railing, guardrail system, balustrade, or parapet. It shall also include those portions of a building which are enclosed by screening or other non-permanent building material.

(b) It is the responsibility of the operator to verify the facts and credentials establishing the competency of the multi-story balcony inspector. Such verification shall be clearly stated on the applicable form.

(c) Certification of inspection shall be submitted on DBPR HR-7200, CERTIFICATE OF BALCONY INSPECTION, incorporated herein by reference and effective July 1, 2008. Copies of this form are available from the Division of Hotels and Restaurants Internet website www.MyFloridaLicense.com/dbpr/hr; by e-mail to call.center@dbpr.state.fl.us; by phone request to the department at (850) 487-1395; or upon written request to the Division of Hotels and Restaurants, Department

of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1014.

(d) The division and the applicable local government agency or office shall receive the Certificate of Balcony Inspection from hotels and motels on or before January 1 of every third year and from other public lodging establishments on or before October 1 of every third year.

(e) The operator shall keep a copy of the Certificate of Balcony Inspection, stamped with the date it was received by the district, available for inspection upon request.

(f) Upon change of ownership, the operator shall file a new Certificate of Balcony Inspection.

(6) Resort condominiums, nontransient apartments and resort dwellings are exempt from subsection (1) of this rule. Establishments opting to provide any of the services listed in subsection (1) of this rule shall comply with the requirements described herein.

Specific Authority 509.032, 509.2112 FS. Law Implemented 509.032, 509.211, 509.2112, 509.221 FS. History—Amended 1-20-63, Revised 2-4-71, Amended 9-19-84, Formerly 7C-3.01, Amended 12-31-90, Formerly 7C-3.001, Amended 3-31-94, 9-25-96, 1-1-98, 8-12-08, 3-24-10.

61C-3.002 Consumer Protection Requirements.

The division shall consider it an unethical business practice for any establishment to engage in, or knowingly permit anyone on the licensed premises to engage in, any illegal, unfair or deceptive act. Such acts include imposition of a charge separate and apart from, or in addition to, the room rate, that is not disclosed in writing to the guest at the time of check-in; failing to disclose that additional telephone surcharges are being applied which exceed the user-line charges of the local telephone company; or depriving an individual or party of accommodations at a public lodging establishment after having prepaid reservations for said accommodations. To avoid depriving a guest of a prepaid reservation for accommodations at a public lodging establishment the establishment shall make every effort to find other comparable accommodations; and refund all monies deposited for such reservation whether deposited with the public lodging establishment, or a travel or booking agent.

Specific Authority 509.032 FS. Law Implemented 509.032, 509.2015 FS. History—Amended 4-20-63, Revised 2-4-71, Amended 9-19-84, 6-6-85, Formerly 7C-3.02, Amended 12-31-90, Formerly 7C-3.002, Amended 3-31-94, 9-25-96, 3-24-10.

CHAPTER 61C-4

Florida Administrative Code

PUBLIC FOOD SERVICE ESTABLISHMENTS

61C-4.0001 Sanitary Standards
(*Repealed 3-31-94*)

61C-4.002 Advertising (*Repealed 3-31-94*)

61C-4.003 Mobile Food Dispensing Vehicles
(*Repealed 3-31-94*).

61C-4.004 Theme Park Food Cart
(*Repealed 3-31-94*)

61C-4.006 Temporary Events 4–18 Days
(*Repealed 3-31-94*)

61C-4.007 Exemptions (*Repealed 3-31-94*)

61C-4.008 Public Food Service – General.
(*Repealed 7-22-96*)

61C-4.009 Definitions. (*Repealed 9-25-96*)

61C-4.010 Sanitation and Safety Requirements.

61C-4.011 Food Protection. (*Repealed 9-25-96*)

61C-4.012 Personnel. (*Repealed 9-25-96*)

61C-4.013 Food Equipment and Utensils.
(*Repealed 9-25-96*)

61C-4.014 Sanitary Facilities and Controls.
(*Repealed 9-25-96*)

61C-4.015 Other Facilities and Operations.
(*Repealed 9-25-96*)

61C-4.0151 Labeling. (*Repealed 9-25-96*)

61C-4.016 Temporary Food Service Events.

61C-4.0161 Mobile Food Dispensing Vehicles and Theme Park Food Carts.

61C-4.017 Caterers (*Repealed 3-31-94*)

61C-4.018 Drive-ins (*Repealed 3-31-94*)

61C-4.019 Mobile Food Dispensing Vehicles.
(*Repealed 9-25-96*)

61C-4.0191 Satellite Service Units
(*Repealed 9-25-96*)

61C-4.020 Vending Machines.

61C-4.021 Examination and Condemnation of Food. (*Repealed 9-25-96*)

61C-4.022 Procedure When Infection Is Suspected. (*Repealed 9-25-96*)

61C-4.023 Food Protection Manager Certification and Public Food Service Employee Training.

61C-4.024 Certificates and Fees
(*Repealed 3-31-94*)

61C-4.025 Inspection. (*Repealed 9-25-96*)

61C-4.026 Plan Review and Variances.
(*Repealed 9-25-96*)

61C-4.010 Sanitation and Safety Requirements

(1) **Food Supplies and Food Protection** – Except as specifically provided in this rule, public food service establishments shall be subject to the provisions of Chapter 3, Food Code, as adopted by reference in rule 61C-1.001, F.A.C.

(a) Public food service establishment operators may use DBPR Form HR 5022-090, TIME AS A PUBLIC HEALTH CONTROL WRITTEN PROCEDURES, incorporated herein by reference and effective 2009 October 15, as a guide for written procedures to apply time only, instead of time and temperature, as a public health control for potentially hazardous food, as provided in Section 3-501.19 of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C. DBPR Form HR 5022-090 is not required and the division will accept written procedures in another format as long as the written procedures contain all the necessary information. The written procedures must be maintained and made available in each food establishment at all times for use by the person in charge and for review by the division upon request.

(b) In the event of an emergency such as 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 safe temperatures, the person in charge shall immediately notify the division.

(c) **Labeling** – Public food service establishments which prepare and package food products for sale within the establishment must ensure that packaged food products are properly labeled. A label is not required on food products placed in a

wrapper, carry-out box, or other nondurable container for the purpose of protecting the food during service to and receipt by the customer. Package labels must contain the following information:

1. Identity and description of product;
2. Date product was packaged; and
3. Name and address of establishment which prepared and packaged product.

(d) Section 3-301.11(B) of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C., specifies that food service employees shall not contact ready-to-eat food with bare hands. Under the language "When otherwise approved" in 3-301.11(C), Food Code, as adopted by reference in rule 61C-1.001, F.A.C., food service employees may contact ready-to-eat foods with their bare hands if the operator of the public food service establishment maintains a written alternative operating procedure which addresses all of the following components:

1. Identification of:
 - a. specific work area(s), such as the sandwich prep line or cook line;
 - b. employee position(s) where bare hand contact with ready-to-eat foods will occur;
 - c. actual food preparation processes where bare hand contact with ready-to-eat food will be used; and
 - d. employees' procedures for handling ready-to-eat foods, which must also include how cross contamination from touching raw animal food and ready-to-eat food is precluded.

2. Identified employee positions whose duties may include handling of ready-to-eat foods with their bare hands must receive professional hygiene training in accordance with 61C-4.023(6), FAC, prior to any food handling activity. Training shall be provided to all employees assigned to positions which include handling ready-to-eat foods, emphasizing the importance of proper hand washing for all employees with bare hand contact with ready-to-eat food. Evidence of this training (content, employees, dates) shall be available to the division upon request.

3. Food service employees who handle ready-to-eat foods must thoroughly wash their hands before returning to their work stations and as needed during their work periods in accordance with the handwash

requirements of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C. Additionally, these food service employees who handle ready-to-eat foods with bare hands shall use a chemical hand sanitizing solution which must comply with the specification provided in section 2-301.16(C) of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C. The establishment must also fully comply with sections 5-203.11(A) and 5-204.11 of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C., regarding the number and location of hand washing lavatories.

4. The person in charge of the public food service establishment is responsible for verifying, prior to any food handling activity, that all food handling employees are in compliance with sections 2-201.11, 2-201.12, and 2-201.13 of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C., as those sections relate to employee health status, exclusions, and restrictions.

5. The public food service establishment's written alternative operating procedure must provide an effective way to monitor employees to verify compliance with the requirements of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C., and the establishment's written alternative operating procedure. The written alternative operating procedure must also describe the corrective actions the operator must take when the procedure is not followed. All food service employees, including the operator, manager, or any supervisory position, who handle ready-to-eat foods with bare hands must comply with all requirements of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C., and the public food service establishment's written alternative operating procedure.

6. The division shall approve written alternative operating procedures. Such approval may be obtained by completing DBPR Form HR 5022-049, ALTERNATIVE OPERATING PROCEDURE (AOP), incorporated herein by reference and effective 2009 October 15, which includes all information required in a written alternative operating procedure. DBPR Form HR 5022-049 is not required to obtain approval. The division will accept written procedures in another format as long as the written alternative operating procedure contains all the necessary information.

(e) A copy of the written alternative operating procedure must be maintained and made available in each food establishment at all times for use by the person in charge and for review by the regulatory authority upon request. The written alternative operating procedure must be reviewed by the operator annually and modified as necessary. A verification of

the annual review must be recorded as part of the written alternative operating procedure.

(f) If an employee of a public food service establishment is observed using bare hands to handle ready-to-eat foods and the establishment has failed to develop, maintain, or make available a written alternative operating procedure; or, comply with any rule requirement relative to the use of bare hands, personal health, or professional hygiene, the division shall cite the establishment for noncompliance. Noncompliance on a second inspection within two years of the first infraction shall result in enforcement action in accordance with section 509.261, Florida Statutes. A subsequent finding of noncompliance relative to the use of bare hands, personal health, or professional hygiene will result in enforcement action in accordance with section 509.261, Florida Statutes, and the division will enforce no bare hand contact in accordance with section 3-301.11(B) of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C., until the establishment operator verifies completion of corrective action, including remedial training of all food preparation employees.

(g) If the division or other food regulatory authority is notified of a suspected food borne illness outbreak in any public food service establishment which utilizes bare hand contact with ready-to-eat foods, the division will temporarily enforce no bare hand contact in the establishment in accordance with section 3-301.11(B) of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C., until the health authority determines whether a food borne illness outbreak exists or until such time as the origin of the food borne illness outbreak is confirmed. If the origin of the food borne illness, specific to the implicated establishment, is determined to be a food service employee associated outbreak, the division shall pursue enforcement action in accordance with section 509.261, Florida Statutes, and continue to enforce compliance with section 3-301.11(B) of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C., until the establishment operator verifies completion of corrective action, including remedial training of all food preparation employees.

(2) Examination and Condemnation of Food

– Food may be examined by division personnel as often as necessary to determine freedom from unwholesomeness, adulteration or misbranding in accordance with the provisions of s. 509.032(4), FS.

(3) Personnel – Except as specifically provided in this rule, personnel in public food service establishments shall be subject to the provisions of Chapter 2 of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C.

(4) Procedure When Infection Is Suspected

– When the division has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, the division shall immediately consult with the state health officer or designee to provide epidemiological assistance or make other such investigation as may be indicated and take appropriate action in accordance with Part 2-2, of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C., and these rules.

(5) Food Equipment, Utensils and Linens –

Public food service establishments shall be subject to the provisions of Chapter 4, Food Code, as adopted by reference in rule 61C-1.001, F.A.C.

(6) Physical Facilities –

Except as specifically provided in these rules, the physical facilities at public food service establishments shall be subject to the provisions of Chapter 6, Food Code, as adopted by reference in rule 61C-1.001, F.A.C. Public food service establishments and all property used in connection with their operations shall be kept free of litter. The walking and driving surfaces of all exterior areas of public food service establishments shall be effectively maintained to minimize dust. These surfaces shall be graded to prevent pooling of water.

(7) Bathroom Facilities –

All bathroom facilities shall provide easy and convenient access to both customers and employees, and shall be located on the same floor of the premises served. For the purpose of this rule, the same floor includes any intermediate levels between the floor and ceiling of any room or space not to exceed a vertical height of 8 feet. Public food service establishments whose occupancy is incidental to another occupancy may use public bathroom facilities provided on the same floor. The travel distance may vary if adequate directional signs are provided and the number of fixtures is deemed satisfactory by the applicable local building authority. Easily cleanable receptacles shall be provided for waste materials and such receptacles in bathroom facilities for women shall be covered. Each public food service establishment shall maintain a minimum of one bathroom facility available for public use, except as provided herein:

(a) Mobile food dispensing vehicles, theme park food carts, vending machines and public food service establishments or food vendors participating in temporary food service events shall not be required to provide public bathroom facilities.

(b) Public food service establishments located within arcades, malls, or flea markets may use centrally located bathroom facilities accessible to the customers

and employees of the public food service establishments. Such centrally located bathroom facilities must be available for use during all hours of operation; located on the same floor as the public food service establishment; and must be accessible without entering another business.

(c) Public food service establishments located within theme parks and entertainment complexes may utilize centrally located bathroom facilities accessible to the customers and employees of the public food service establishments provided such bathroom facilities are reasonably accessible. For purposes of this section, reasonably accessible means within 300 feet of each establishment.

(d) Public food service establishments located within a public lodging establishment shall be permitted to utilize public bathroom facilities located within the public lodging establishment provided such bathroom facilities are available for use by the customers and employees of the public food service establishment during all hours of operation and are located on the same floor as the public food service establishment.

(8) Obtaining forms. All forms incorporated in this section are available from the Division of Hotels and Restaurants Internet website www.MyFloridaLicense.com/dbpr/hr; by e-mail to call.center@dbpr.state.fl.us; by phone request to the department at 850.487.1395; or upon written request to the Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1014.

Rulemaking Authority 509.032, 509.221 FS. Law Implemented 509.032, 509.035, 509.221 FS. History—New 1-1-77, Amended 1-6-81, Formerly 10D-13.23, Amended 2-21-91, Formerly 10D-13.023, Formerly 7C-4.010, Amended 3-31-94, 9-25-96, 1-1-98, 7-2-98, 12-6-00, 2-28-05, 8-12-08, 6-13-10.

61C-4.016 Temporary Food Service Events.

(1) Public food service establishments or food vendors at temporary food service events shall comply with all applicable sanitary requirements of this rule chapter and rule 61C-1.004, FAC, unless otherwise provided in this section.

(2) **Facilities.**

(a) Specific requirements for the physical facility where the food service activity is to be conducted shall be based on the type food that is to be prepared or

served, the length of the event, and the extent of food preparation that is to be conducted at the temporary facility.

(b) Overhead protection shall be provided at all food service operations when food is prepared or portioned on premises.

(c) When potentially hazardous food is prepared at temporary food service events of 4-30 days in length, the physical structure where the food preparation occurs shall be protected from the entrance of flying insects and other vermin.

(3) When all necessary washing and sanitizing of utensils and equipment are conducted at an approved commissary or food service establishment, a utensil washing sink will not be required, except that, an adequate supply of spare preparation and serving utensils are maintained in the establishment and used to replace those that become soiled.

(4) All food service operations which prepare food on premises shall provide an adequate supply of potable water for cleaning and employee handwashing. An adequate supply may be provided in clean portable containers equipped with on/off valves. Soap and single-service towels shall be available for handwashing and hand drying.

Specific Authority 509.032(2)(d), 509.032(6) FS. Law Implemented 509.032(2)(d), (3)(c), 509.221 FS. History—New 1-1-77, Amended 1-6-81, Formerly 10D-13.29, Amended 2-21-91, Formerly 10D-13.029, Formerly 7C-4.016, Amended 3-31-94, 9-25-96.

61C-4.0161 Mobile Food Dispensing Vehicles and Theme Park Food Carts.

(1) Except as otherwise specified in this rule, mobile food dispensing vehicles and theme park food carts shall comply with applicable requirements of rules 61C-4.010 and 61C-4.023, FAC.

(2) Mobile food dispensing vehicles shall meet the following additional requirements:

(a) Food serving openings shall not be larger than necessary for the particular operation conducted and shall be kept closed at all times except when food is actually being served.

(b) Waste containers shall be provided for the deposit of food scraps, food wrappings, cups, napkins and discarded single-service articles.

(c) Mobile food dispensing vehicles shall operate from an approved commissary that meets all applicable requirements of this rule. The commissary must be provided with potable water and adequate facilities for disposal of liquid and solid waste. The mobile food unit must report to the commissary to store or replenish supplies, clean utensils and equipment, or dispose of liquid and solid waste. Mobile food dispensing vehicles which are self-sufficient for equipment, storage, and utilities must report to the commissary as often as needed, but not less than once weekly, to replenish supplies, clean the interior of the unit, or dispose of liquid or solid wastes. For the purpose of this rule, a mobile food dispensing vehicle which is self-sufficient includes a three compartment sink for washing, rinsing, and sanitizing of equipment and utensils; a separate handwash sink; adequate refrigeration and storage capacity; full provision of power utilities including electrical, LP gas, or a portable power generation unit; a potable water holding tank; and a liquid waste disposal system in accordance with Subparts 5-3 and 5-4 of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C. Mobile food dispensing vehicles which are not self-sufficient must report to their commissary at least once daily. The exterior of the vehicle may be washed in any location, provided the waste water does not create a sanitary nuisance.

(d) When a service area is provided at the commissary for cleaning and servicing mobile food units, the service area shall be physically separated from other food operations; shall be equipped to furnish potable water in accordance with applicable provisions of Chapters 62-550 and 62-555, FAC; and shall provide facilities for the drainage and disposal of liquid wastes in accordance with applicable provisions of Chapter 10D-6 or 62-601, FAC, and the local building authority having jurisdiction. The surface of the servicing area shall be constructed of a smooth nonabsorbent material such as concrete or machine laid asphalt and shall be maintained in good repair, kept clean and be graded to drain.

(e) The owner of each mobile food dispensing vehicle shall notify the division of each commissary they intend to utilize for support services before using the commissary by submitting DBPR HR-7022, COMMISSARY NOTIFICATION, incorporated herein by reference and effective 2009 January 1. Instructions for filling in DBPR HR-7022 are provided in DBPR HR-7022i, INSTRUCTIONS FOR COMPLETING COMMISSARY NOTIFICATION, incorporated herein by reference and effective 2009 January 1.

(3) Mobile food dispensing vehicles which limit the preparation of food to frankfurters only shall comply with all applicable requirements set forth in rules 61C-4.010 and 61C-4.023, FAC, as well as the additional requirements set forth in paragraph (2)(a) and subsections (8)-(10) of this rule; except that:

(a) A utensil washing sink will not be required when all necessary washing and sanitizing of utensils and equipment are conducted at a designated approved commissary or fixed food establishment. An adequate supply of spare preparation or serving utensils shall be maintained on the vehicle and used to replace any utensils that become contaminated.

(b) Paragraph (2)(a) of this rule shall not apply when adequate precautions are utilized to prevent contamination of the frankfurters during cooking operations.

(c) Potentially hazardous foods such as chili, cooked onions and peppers, cheese, and cheese sauce may only be served in individually portioned and packaged or pre-packaged containers which are maintained at proper temperatures on the unit. Non-potentially hazardous foods such as relish, raw onions and peppers, and other such condiments may be served directly from the unit.

(4) Mobile food dispensing vehicles which fail to provide water and waste systems or which otherwise fail to meet all applicable requirements of this chapter shall not engage in food preparation except as permitted in subsection (3) of this rule. Such mobile food units shall handle only completely wrapped or packaged food which has been manufactured, processed, prepared and packaged in individual servings at an approved public food service establishment or a food processing plant and transported and stored in accordance with the provisions of this chapter. Bulk beverages from approved sources may be dispensed from covered urns or other protected containers.

(5) Mobile food dispensing vehicles may temporarily connect to an approved utility system for no more than one day's operation, if the utility system provides water, wastewater, or electricity adequate to meet the needs of the unit, bathroom facilities are available for employees in accordance with the local building authority having jurisdiction or, where no plumbing code has been adopted locally, with Chapter 10D-10, FAC, and the unit returns to its base commissary as described in paragraph (2)(c) of this rule.

(6) A mobile food dispensing vehicle which conducts business within a theme park or entertainment

complex may be stationary; may connect to an approved utility system; and shall be exempt from the further requirements of paragraph (2)(c) and subsection (5) of this rule.

(a) The mobile food dispensing vehicle shall designate a commissary within the theme park or entertainment complex. The designated commissary shall be equipped with a mobile cleaning unit that will travel from the commissary to the mobile food dispensing vehicle. The mobile cleaning unit will be based in a service area adjacent to the designated commissary as described in paragraph (2)(d) of this rule. The mobile cleaning unit shall be stocked with supplies to clean the interior and exterior of a mobile food dispensing vehicle. In addition, the mobile cleaning unit shall carry a supply of potable water sufficient to fill the mobile food dispensing vehicle's potable water tank, and shall be able to pump waste water from a mobile food dispensing vehicle into holding tanks on the mobile cleaning unit, if necessary. The mobile cleaning unit holding tanks shall be emptied in accordance with the provisions of paragraph (2)(d) of this rule.

(b) Mobile cleaning units shall be subject to the plan review requirements contained in rule 61C-1.002(5)(c), FAC.

(c) The mobile cleaning unit shall travel to and service the mobile food dispensing vehicle not less than once weekly or more often as needed to replenish supplies, clean the interior of the unit, or dispose of liquid or solid wastes.

(7) If a theme park has a servicing area to support its theme park food carts which meets the sanitation and safety standards of this rule, deviations from the provisions of this rule are allowed for theme park food carts, provided there is full compliance with the following additional requirements:

(a) The preparation of potentially hazardous foods shall be prohibited; except that, frankfurters and hamburger patties, obtained from approved sources, which prior to service require no further preparation except cooking, may be served. Potentially hazardous food, which has been portioned for individual service at an approved fixed food service establishment, may be served from an enclosed theme park food cart as long as the food is protected from contamination by way of enclosures with self-closing doors, screens, air curtains, or other approved methods. Sandwich fillings may be individually portioned from protected containers. Condiments may be served individually packaged, from approved dispensers, or by the operator as a part of

food preparation. Theme park food carts shall operate adjacent to or within 300 feet of the support facility.

(b) Ice which will be consumed or which will come into contact with food shall be obtained from an approved source only in chipped, crushed or cubed form. The ice shall be held in a way that protects it from contamination until dispensed.

(c) Food and food-contact surfaces shall be protected from rain, dust, rodents, insects and customer contamination. Where necessary to prevent such contamination, overhead protection and effective shields or air curtains shall be provided.

(d) All food carts, when used, shall be cleaned and serviced at least once daily.

(e) At the end of each period of operation, all foods and supplies shall be stored in the theme park's commissary or at an approved fixed food service establishment within the park.

(f) Each theme park food cart other than those offering only packaged foods shall provide employees with adequate and conveniently located handwashing facilities equipped with running hot and cold water, hand cleansing soap or detergent and approved sanitary towels or other approved hand-drying device.

(g) An adequate supply of sanitized, covered, or wrapped spare preparation or serving utensils shall be maintained in the theme park food cart and used to replace any utensil that becomes contaminated. All multi-use preparation and serving utensils used in theme park food carts shall be washed and sanitized daily at the theme park's commissary or at an approved fixed food service establishment within the park.

(h) All storage cabinets must be of closed construction to prevent the entrance of vermin.

(8) Fire extinguishing equipment and liquified petroleum gas appliances, equipment, apparatus or containers shall be installed, approved, maintained, and used in accordance with the Florida Fire Prevention Code as approved by the local fire authority.

(9) Copies of all forms adopted in this section are available from the Division of Hotels and Restaurants Internet website www.MyFloridaLicense.com/dbpr/hr; by e-mail to call.center@dbpr.state.fl.us; by phone request to the department at 850.487.1395; or upon written request to the Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1014.

Rulemaking Authority 509.032, 509.221, FS. Law Implemented 509.032, 509.101, 509.211, 509.215, 509.221 FS. History—New 2-21-91, Formerly 10D-13.0291, Formerly 7C-4.0161, Amended 3-31-94, 9-25-96, 5-11-98, 7-2-98, 2-12-08, 8-12-08, 6-13-10.

61C-4.020 Vending Machines.

(1) Vending machines regulated under Chapter 509, FS, shall be subject to applicable provisions of rules 61C-1.004 and 61C-4.010, FAC.

(2) **Cleaning** – All food-contact surfaces of vending machines shall be thoroughly cleaned and subjected to effective bactericidal treatment at scheduled intervals, based upon the type of product being dispensed, as approved by the division in accordance with provisions of subsection (4) of rule 61C-4.010, FAC. A record of such cleaning and sanitizing operations shall be maintained and available for inspection in each machine and shall be current for at least the past 30 days. The cavities and door edges of microwave ovens must be cleaned at least once a day and shall be kept free of encrusted grease deposits and other accumulated soil.

(3) **Equipment location** – Vending machines, ovens and other equipment shall be located in a room, area or space which is maintained in a clean condition and which is protected from overhead leakage from drains, piping and other sources. Each machine shall be so located that the space around and under the machine can be easily cleaned and so that insect and rodent harborage is not created. The immediate area shall be well lighted and ventilated. The floor area upon which vending machines are placed shall be of such construction as to be easily cleaned and shall be kept clean and in good repair. Adequate handwashing facilities, including hot and cold running water, soap and individual towels shall be convenient to machine locations where employees service bulk food machines.

(4) **Exterior construction and maintenance** – The exterior construction of vending machines shall be such as to facilitate cleaning and to prevent the entrance of insects and rodents and shall be kept clean. Door and panel access openings to product and container storage spaces shall be tight fitting and, if necessary, gasketed to minimize the entrance of dust, moisture, insects and rodents. Necessary ventilation openings into vending machines shall be effectively screened. Water, gas, electrical or other service connections through an exterior machine wall shall be sealed. Utility connections shall be made in such a

manner that unauthorized or unintentional disconnections will be discouraged. In all vending machines in which the condenser unit is an integral part of the machine, such unit when located below the food and container storage space, shall be separated from such space by a dust proof barrier, and when located above, shall be sealed from such space. In order to prevent seepage underneath the machine and to promote cleaning, free standing vending machines shall have one or more of these elevation or movability features:

(a) Be light enough to be manually moved with ease by one person; or

(b) Be elevated on legs or extended sidewalls to afford, with or without kickplates, an unobstructed vertical space of a least 6 inches under the machine; or

(c) Mounted on rollers or casters which permit easy movement; or

(d) Be sealed to the floor.

(e) Where used, kickplates shall be easily removable or be capable of being rotated. These kickplates shall be designed and installed to make the area under the machine easily accessible for routine cleaning without unlocking the cabinet door.

(f) Counter type machines shall be:

1. Sealed to the counter; or

2. Mounted on 4 inch legs or the equivalent; or

3. Easily moved for cleaning with service connections in place.

Specific Authority 509.032(2)(d), 509.032(6) FS. Law Implemented 509.032(2)(d), (3)(a), 509.221 FS. History—New 1-1-77, Amended 1-6-81, Formerly 10D-13.33, Amended 2-21-91, Formerly 10D-13.033, Formerly 7C-4.020, Amended 3-31-94, 9-25-96.

61C-4.023 Food Protection Manager Certification and Public Food Service Employee Training.

(1) All managers who are responsible for the storage, preparation, display, and serving of foods to the public shall have passed a certification test approved by the division demonstrating a basic knowledge of food protection practices as adopted by the division. Those managers who successfully pass an approved

certification examination shall be issued a certificate by the certifying organization, which is valid for a period of five years from the date of issuance. Each licensed establishment shall have a minimum of one certified food protection manager responsible for all periods of operation. The operator shall designate in writing the certified food protection manager or managers for each location. A current list of certified food protection managers shall be available upon request in each establishment. When four or more employees, at one time, are engaged in the storage, preparation or serving of food in a licensed establishment, there shall be at least one certified food protection manager present at all times when said activities are taking place. The certified food protection manager or managers need not be present in the establishment during those periods of operation when there are three or fewer employees engaged in the storage, preparation, or serving of foods. It shall be the responsibility of the certified food protection manager or managers to inform all employees under their supervision and control who engage in the storage, preparation, or serving of food, to do so in accordance with acceptable sanitary practices as described in this chapter.

(2) Temporary food service vendors and vending machine operators, licensed pursuant to Chapter 509, Part I, Florida Statutes, are exempt from the manager certification requirements of this section.

(3) The Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs, as adopted by the Conference for Food Protection on August 4, 2008 and herein adopted by reference, shall be the division standard for the recognition of certifying organizations who provide food manager certification examinations. A copy of the Standards for Accreditation of Food Protection Manager Certification Programs is available on the Conference for Food Protection website at www.foodprotect.org. The Division of Hotels and Restaurants shall accept all certification examinations approved by the Conference for Food Protection. Certifying organizations that are accredited by a Conference for Food Protection sanctioned accreditor shall be recognized by the division as approved providers of a Food Protection Manager Certification Program.

(4) Public Food Service Employee Training.

(a) All public food service employees must receive training on professional hygiene and foodborne disease prevention. Professional hygiene includes personal cleanliness and hygienic practices in accordance with the Food Code, as adopted by reference in rule 61C-1.001, F.A.C., and techniques to prevent cross contamination. Foodborne disease prevention training

must include the types and causes of foodborne illness, identification of potentially hazardous food, and how to control or eliminate harmful bacteria in a public food service establishment.

(b) Public food service employees must receive training which relates to their assigned duties. Employees who prepare foods must be knowledgeable about safe methods of thawing, cooking, cooling, handling, holding and storing foods. Service personnel must be knowledgeable about safe methods of serving food. Employees who clean equipment and facilities must be knowledgeable about proper cleaning and sanitization methods. Employees responsible for maintaining the premises must be knowledgeable about proper vermin control methods as specified in the Food Code, as adopted by reference in rule 61C-1.001, F.A.C.

(c) Licensees who provide in-house employee training shall make available on the premises of the establishment, or in a theme park or entertainment complex in a central location, upon the division's request, the curriculum and materials used to conduct training. If training is obtained from an outside provider, the licensee must provide, upon the division's request, information about the selected training program and methods used to evaluate training outcomes. Training outcomes include employees correctly applying procedures and answering questions relative to assigned duties. Employees must safely perform their work duties in a manner consistent with the requirements of the Food Code, as adopted by reference in rule 61C-1.001, F.A.C.

Specific Authority 509.032, 509.039, 509.049 FS. Law Implemented 509.039, 509.049 FS. History—New 2-21-91, Amended 5-12-92, Formerly 10D-13.037, 7C-4.023, Amended 3-31-94, 10-9-95, 1-18-98, 2-7-01, 8-12-08, 6-30-10.

CHAPTER 61C-8

Florida Administrative Code

HOSPITALITY TRAINING PROGRAMS GRANTS

61C-8.001	Intent. <i>(Repealed 9-25-96)</i>
61C-8.002	Definitions. <i>(Repealed 9-25-96)</i>
61C-8.003	Funds Availability <i>(Repealed 3-31-94)</i> .
61C-8.004	Program Requirements.
61C-8.005	Review and Processing of Grant Applications. <i>(Repealed 9-25-96)</i>
61C-8.006	Program Review and Disbursement of Funds. <i>(Repealed 9-25-96)</i>
61C-8.007	Program Reports. <i>(Repealed 9-25-96)</i>

61C-8.004 Program Requirements.

(1) Grant Application Requirements.

Pursuant to Section 509.302, F.S., the division may award one school-to-career transition programs grant of up to \$250,000 annually for a period of four years; one food safety training programs grant of up to \$50,000 annually for a period of four years; and one nontransient public lodging training programs grant of up to \$50,000 annually for a period of four years.

(a) Grant applications shall be submitted on DBPR Form HR 5025-200, GRANT APPLICATION, incorporated herein by reference and effective 2007 October 4, to the Program Administrator, Hospitality Education Program (HEP), Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1014.

(b) All grant applications must address the applicant's experience and history in representing the food service or lodging industry and demonstrated ability to provide services statewide with industry support and participation.

(c) **School-to-Career Transition Programs Grant.** The application cycle will begin January 1 and end on March 1. Applications must be received by the division by the close of business on March 1 to be considered in the grant recipient selection process. All

applications must address applicant's prior commitment to school-to-career transition programs in the food service or lodging industry. All applications must also address and identify how the recipient intends to demonstrate compliance with the following criteria:

1. Provide hospitality education opportunities for middle or high school (or equivalent) students;

2. Provide school-to-career transition opportunities to prepare students to be recruited, trained or employed for a career in the hospitality industry. Hospitality industry means any public lodging or public food service establishment as described in Chapter 509, Part I, FS;

3. Provide education about progressive career options describing opportunities for professional advancement in the hospitality industry;

4. Provide opportunity for students to receive certification in an area of the hospitality industry. Certification means documentation that the student has successfully completed requirements in a specific area of the hospitality industry and in accordance with the goals established by the program awarded grant funds. All certifications must be completed through programs established and recognized in the State of Florida, hospitality-industry-sponsored programs, or national certification programs, such as Certified Professional Food Manager or apartment manager certification;

5. Provide a description of the objectives of the grant and the methodology to assess the achievement of certification objectives;

6. Provide an emphasis on spending grant funds on direct student services;

7. Provide or possess the capability to provide value beyond the grant term;

8. Identify potential methods and sources for acquiring independent funding beyond the grant term to

finance the continued operation of the program, provided the program is designed to be continued; and

9. Provide the program services for the full four-year term.

(d) **Other Hospitality Training Programs Grants.** The application cycle will begin July 1 and end on December 31. Applications must be received by the division by the close of business on December 31 to be considered in the grant recipient selection process. All applications for grants to support food service training programs available through statewide organizations in the hospitality service field must address and identify how the recipient intends to demonstrate compliance with the following criteria:

1. Provide food safety training programs through statewide organizations to food service employees other than Certified Professional Food Service Managers;

2. Develop training programs based on the food safety protection standards set forth in Chapters 61C-1 and 61C-4, FAC, to train food service employees on the proper procedures for receiving, storing, preparing, handling and serving food at public food service establishments;

3. Provide additional training topics which will include but not be limited to: personal hygiene, illness reporting, proper dishwashing, sanitation, safety and maintenance procedures; and

4. Provide the program services for the full four-year grant term.

(e) All grant recipients must have a functional advisory committee to assist in the development and operation of the grant-funded program. The advisory committee must include three or more hospitality industry professionals related to the sector of industry addressed by the training program, of which at least one shall not be employed by the grant recipient or any of its affiliates. The committee members must have agreed in writing to serve in this capacity.

(f) The application must be accompanied by DBPR Form HR 5025-201, PROPOSAL NARRATIVE FORMAT, incorporated herein by reference and effective 2007 October 4.

(g) All materials developed through the grant recipient's program become the property of the Hospitality Education Program.

(2) **Review and Processing of Grant Applications.**

(a) The program administrator shall receive, process, review and determine the sufficiency of the grant applications.

(b) DBPR Form HR 5025-206, EVALUATION FORM, incorporated herein by reference and effective 2007 October 4, shall be used by all reviewers to evaluate all school-to-career transition programs grant applications submitted. DBPR Form HR 5025-204, EVALUATION FORM, incorporated herein by reference and effective 2007 October 4, shall be used by all reviewers to evaluate all other grant applications submitted.

(c) The program administrator shall provide the HEP subcommittee members of the division's Advisory Council a copy of each grant application received and a list of prioritized programs with recommended funding levels by March 31 of each application cycle for School-to-Career Transition Programs grants and by January 31 of each application cycle for all other grants.

(d) The HEP subcommittee will meet to approve the applications and forward its recommendations to the Director of the Division of Hotels and Restaurants (division director) and the Advisory Council described in section 509.291, FS. The final determination of grant awards shall be made by the division director, with the consent of the Advisory Council. Grant recipients shall be notified by May 1 for School-to-Career Transition Programs grants and by March 1 for all other grants.

(3) **Program Review and Disbursement of Funds.**

(a) The applicant shall ensure that the terms of the grant contract executed under this chapter are enforced.

(b) The division reserves the right to review programs for grant contract compliance at any time during the grant period. This review shall focus on the completion of stated tasks within the approved timetable, fulfillment of stated goals and objectives, and proper expenditure of grant monies.

(c) The program administrator may recommend termination of the grant contract to the division director at any time during the grant period for failure to meet all program objectives or comply with the terms of the grant contract or any established rules or statutory

requirements. In the event the grant contract is terminated, the grant application process shall restart according to the schedule set out in this rule.

(d) Each recipient of grant funds shall maintain accurate records of all expenditures of grant funds and shall make these records available for inspection, review or audit by the division and other authorized personnel. Records shall be kept for a period of at least 5 years following the end of the grant period. All grant funds will be subject to state audit requirements.

(e) Grant funds shall be distributed quarterly, consistent with the terms of the grant proposal and contract. An amendment to the grant shall be approved, so long as such amendment does not change the scope of the grant, create a substantial deviation from the original proposal, or result in a payment greater than the original contract amount.

(f) All aspects of the grant-funded programs shall comply with chapter 509, part I, FS, and the rules adopted thereunder.

(g) Written status reports shall be submitted as indicated on the grant application but not more than 60 days following the end of each quarter, using DBPR Form HR 5025-202, QUARTERLY STATUS REPORT FORM, incorporated herein by reference and effective 2007 October 4. Quarterly requests for payment shall be submitted with the status reports. Such requests shall contain an invoice requesting payment and a

detailed accounting of quarterly expenditures. Payment requests for expenditures accrued during the first quarter of the grant period shall include only those expenditures accrued on or after July 1 or the date of grant contract execution, whichever is later. All other payment requests shall contain only those expenditures accrued during the previous quarter.

(4) **Annual Program Reports.** – An annual report shall be submitted within 60 days following the end of each state fiscal year and the grant period using DBPR Form HR 5025-203, ANNUAL PROGRAM REPORT FORM, incorporated herein by reference and effective 2007 October 4.

(5) **Obtaining forms.** All forms incorporated in this section are available from the Division of Hotels and Restaurants Internet website www.MyFloridaLicense.com/dbpr/hr; by e-mail to call.center@dbpr.state.fl.us; by phone request to the department at 850.487.1395; or upon written request to the Hospitality Education Program, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1014.

Specific Authority 509.302 FS. Law Implemented 509.302 FS. History—New 2-27-92, Amended 8-11-92, Formerly 7C-8.004, Amended 3-31-94, 9-25-96, 1-18-98, 5-07-08.