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**PUBLIC HEALTH AND
SOCIAL SERVICES DEPARTMENT**

Article II

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ARTICLE II
RULES AND REGULATIONS OF THE THURSTON COUNTY
BOARD OF HEALTH GOVERNING FOOD SERVICE

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ARTICLE II

RULES AND REGULATIONS OF THE THURSTON COUNTY BOARD OF HEALTH GOVERNING FOOD SERVICE

SECTION 1 AUTHORITY. Pursuant to RCW 70.05.060 and Chapter 246-215 WAC, these regulations are adopted to promote and protect the health, safety and well being of the public and prevent the spread of disease through food.

SECTION 2 SCOPE. These regulations apply to all food establishments located in Thurston County.

SECTION 3 ADOPTION AND ADMINISTRATION. The Rules and Regulations of the Washington State Board of Health for Food Service, as set forth in Chapter 246-215 WAC, and the *Food Code* of the United States Public Health Service, Food and Drug Administration, as amended by Ch. 246-215 WAC, are adopted and incorporated herein by reference.

SECTION 4 DEFINITIONS. For the purposes of this Article, the following definitions shall apply:

4.1 **Blue Demerit Items.** Those items identified as blue items on the current food establishment inspection form published by the Washington State Department of Health.

4.2 **Certified Establishment.** Any food establishment employing a certified manager who has supervisory responsibilities and meeting the Management Certification Program requirements of this article.

4.3 **Certified Food Manager.** A person who holds a current food manager card issued by the health officer.

4.4 **High Risk.** A menu, food preparation or food handling processes presenting high potential risk for foodborne illness, such as cooling and other complex cooking steps.

4.5 **Low Risk.** A menu, food preparation or food handling processes presenting low risk for foodborne illness, including food storage, cold holding, raw protein handling, and limited food preparation.

4.6 **Medium Risk.** A menu, food preparation or food handling processes presenting medium risk for foodborne illness, including cooking that does not involve cooling or reheating of ingredients or leftover food.

4.7 **Minimal Risk.** A menu, food preparation or food handling processes presenting minimal risk for foodborne illness, restricted to food storage, cold holding, and very limited preparation of non-potentially hazardous food.

4.8 **Red Demerit Items.** Those items identified as red items on the current food establishment inspection form published by the Washington State Department of Health.

4.9 **Remodel.** Construction in a food establishment requiring a building permit or plumbing permit, except for signs and fences.

SECTION 5 FOOD ESTABLISHMENT PERMITS.

5.1 **Permit Required.** No person shall operate a food establishment without a valid food establishment permit issued by the health officer. Only a person who complies with the requirements of this Article shall be entitled to receive or retain such a permit.

5.2 Issuance of Permit.

- (a) Any person desiring to operate a food establishment shall submit a completed application for a permit on forms provided by the health officer. The following shall be provided:
 - (i) The information listed in 8-201.12 of the *Food Code*;
 - (ii) The information listed in 8-301.14 of the *Food Code*;
 - (iii) The dates of operation, if the application is for a temporary food establishment;
 - (iv) The applicable fee set forth in Article I based on the risk category and area of the food establishment facility determined by the health officer; and
 - (v) Any other information that the health officer deems necessary for the proper review of the proposed construction, conversion, modification or procedures for operating a food establishment.
- (b) The health officer shall determine the risk category of each food establishment based on the potential risk of foodborne illness associated with the menu, food handling, and food preparation processes, in accordance with policies adopted by the health officer. The risk categories shall be: minimal risk, low risk, medium risk, and high risk.

- (c) A permit shall be issued by the health officer when the application and an inspection of the food establishment demonstrates compliance with the provisions of this Article. A permit shall be issued for each calendar year, or part thereof, and shall expire on the date indicated on the permit. Permit fees shall be charged as specified in Article I.
- (d) The operator of a food establishment may purchase either a yearly permit or a six-month permit. For a six-month permit, the fee will be 50% of the annual permit fee, plus an administrative fee will be added to second six-month permit fee.
- (e) Food establishments must have a valid permit at all times. A late fee will be charged to renew food service establishment permits that are allowed to expire. Establishments which open without a valid permit or continue operations 15 or more days with an expired permit shall be ordered CLOSED by the health officer until such time as a permit is applied for and obtained. A reinspection fee will be charged in addition to the permit renewal fee for food establishments that are ordered CLOSED.
- (f) Permits obtained during the year will be prorated on a quarterly basis, but not below a minimum fee as per Article I.
- (g) A food establishment permit will not be issued or renewed for an establishment that owes fees to the Department.

5.3 **Permit Transfer.**

- (a) A permit transfer is required to transfer a food establishment permit from one permit holder to another or whenever the name of an establishment is changed. In order to qualify for a permit transfer, the current holder of the permit must submit written authorization for the transfer. A certified food establishment permit shall only be transferred to another food establishment if it employs a certified food manager who possesses a certified food manager card. A permit transfer will only be approved if the establishment meets all requirements of this Article.
- (b) Permit transfers will not be allowed for a change from one type of operation to another or to change operations from one food establishment to another. To change from one type of operation to another, the plan review process set forth in section 8-2 of the *Food Code* shall be followed. To change a food operation from one food

establishment to another, the permit application process set forth in section 5.2 of this article shall be followed to obtain a permit.

5.4 Temporary Food Establishment Permit. Temporary food establishments are required to obtain a temporary food establishment permit. Permit fees shall be charged on all temporary establishments, whether operated by a profit or nonprofit organization, except for catering operations that are permitted under section 5.5, below.

5.5 Permits for Catering Operations. Any catering operation serving food within Thurston County must obtain either a food establishment permit or a temporary permit from the health officer. All foods must be prepared in an approved food establishment and facilities must be available to transport and hold the foods at all times at required temperatures. Temporary food establishments that are operated by a licensed caterer shall submit an abbreviated application form provided by the health officer.

5.6 Probation. A food establishment permit may be placed on probation for a specified period of time by the hearing officer or board of health as a result of an administrative hearing conducted in accordance with Article I. During the probation period, the food establishment is required to comply with specific conditions and requirements established in the administrative hearing decision in order to retain the food establishment permit.

SECTION 6 INSPECTIONS.

6.1 Report of Violation and Correction Requirements. Whenever the health officer inspects a food establishment and discovers that any of the requirements of Chapter 246-215 WAC or this Article have been violated, he/she shall notify the permit holder or person in charge of such violations by means of an Inspection Report Form or other written notice. In such notification, the health officer shall:

- (a) Set forth the specific violations found and the required corrective action, together with the demerit score of the establishment.
- (b) Establish a specific and reasonable period of time for the correction of the violation(s) found in accordance with the following provisions:
 - (1) All blue demerit items must be corrected according to a compliance schedule established by the health officer.
 - (2) All red demerit items must be corrected immediately, if feasible, or according to a compliance schedule established by the health officer.

6.2 Reinspection. A reinspection of a food establishment shall be required, in addition to the minimum required inspection schedule, if any of the following circumstances occur:

- (a) Any establishment receiving an inspection score of over 45 red demerit points or over 65 total demerits points on any routine inspection, shall be reinspected within ten days.
- (b) Pursuant to an administrative hearing as defined in Article I, reinspections may be required as a condition of continued operation.
- (c) Any establishment ordered CLOSED due to an expired permit shall be reinspected before a new permit is issued.
- (d) Any time the health officer determines that a reinspection is necessary in order to assure protection of the public's health.

A fee for reinspection shall be charged as per Article I. Such a fee shall be paid within 30 days of the billing date. If payment is not made prior to the permit renewal time, a new food establishment permit shall not be issued.

SECTION 7 SUSPENSION OF PERMITS.

7.1 Suspension of Permit.

- (a) The health officer may, with written notice as specified in Article I, immediately suspend any permit to operate a food establishment if the holder of the permit does not comply with the requirements of this Article, or if the operation of the food establishment otherwise constitutes a substantial hazard to the public health. Suspension shall be effective upon service of the notice as required in Article I. When a permit is suspended, food service operations shall cease immediately.
- (b) Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided in accordance with Article I. The specific reasons for the permit suspension shall also be given in writing.

7.2 Causes for Permit Suspension.

- (a) When the inspection of the establishment shows an accumulation of over 45 red demerit points or over 65 total demerit points for the

second time within a one-year period, the permit shall be suspended immediately.

- (b) Failure to comply with the time limits set for the correction of violations as specified in Section 6.1(b) may result in permit suspension. Failure to meet the established time limits for corrections may result in an administrative hearing as described in Article I.
- (c) Any violation of this Article which, in the opinion of the health officer, constitutes an emergency as described in Article I, may result in an immediate permit suspension.
- (d) In cases of temporary food establishments, red demerit point items must be corrected immediately, if feasible, or according to a compliance schedule established by the health officer; all blue demerit point items must be corrected within a specific period not to exceed 24 hours. Failure to comply may result in suspension of the permit.

SECTION 8 EXAMINATION AND CONDEMNATION OF FOOD.

8.1 General. Food may be examined or sampled by the health officer as often as necessary for enforcement of this Article. When the health officer suspects a food item to be adulterated or mishandled, he/she may, upon written notice to the person in charge specifying the reasons therefore, place a hold order on such food. No food subject to a hold order shall be used, served, or moved from the establishment. The health officer shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for a hearing may be filed within 48 hours and that if no hearing is requested, the food may be destroyed. If a hearing request is received, the hearing shall be held within ten days after receipt of the request. On the basis of evidence produced at that hearing, the hold order may be vacated or the person in charge may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this Article.

8.2 Food and Food Contact Surface Sampling. Sampling procedures and laboratory procedures will conform to those outlined in the United States Food and Drug Administration Publication entitled Bacteriological Analytical Manual.

8.3 Reimbursement. For those foods determined to be adulterated or in some other way mishandled, any samples collected by the health officer are taken at the establishment's or permit holder's expense. For those sampled on a routine basis where no mishandling or adulteration is suspected, a prorated reimbursement will be

made by the health officer if requested in writing by the person in charge. This may involve the purchase of food items at the retail price by the health officer.

SECTION 9 FOOD WORKER CARDS.

9.1 Food Worker Cards. No food employee shall work, or be employed in a food establishment without a valid food worker card as required by Ch. 69.06 RCW and Ch. 246-217 WAC.

9.2 Replacement of Current Card. Any person having misplaced or lost a current food worker card can replace such a card if records are available to confirm that one has been issued. The cost of the replacement card will be according to the fee schedule in Article I.

9.3 Temporary Food Worker Card. All temporary food establishments shall comply with the requirements of Ch. 246-217 WAC.

SECTION 10 MANAGEMENT CERTIFICATION PROGRAM.

10.1 Food establishments may participate in a voluntary management certification program. Food establishments in full compliance with the requirements of the management certification program will receive a 25% reduction in the cost of their permit.

10.2 Requirements for participation in the management certification program are as follows:

- (a) Each establishment participating in the management certification program must employ a certified food manager who holds a valid certified food manager card.
- (b) A sanitation self-inspection form, furnished by the health officer and completed by a certified food manager, shall be submitted to the health officer monthly. The self inspection form shall be submitted no later than the 10th day of the month that follows the month of the inspection. Items which are indicated as nonconforming, must be corrected according to the schedule outlined in Section 6.1(b).
- (c) Inspections will be made by the health officer to determine an official demerit score for the establishment. If the inspection by the health officer indicates a demerit score greater than 45 red demerit points or 65 total demerit points, the certified status of the establishment will be revoked immediately.
- (d) If an establishment fails to comply with any requirement of subsection (a), (b), or (c), above, the establishment will be required

to pay the balance of the permit fee and the establishment will be removed from the certification program.

10.3 A food establishment removed from the management certification program will only be reinstated as a certified establishment as follows:

- (a) The establishment will not be eligible for reinstatement for at least six months from the date of removal.
- (b) A minimum of two inspections of the establishment made by the health officer over a period of at least six months, must indicate a demerit score of 20 red demerit points or less and 35 total demerit points or less.

10.4 Requirements and provisions for certified food managers are as follows:

- (a) Any person may become a certified food manager by completing the following requirement:
 - (1) Attend and successfully complete a food manager certification course approved by the health officer and pass the examination;
 - (2) Attend a Thurston County Manager Certification Self-Inspection Class; and
 - (3) Pay the fee set forth in Article I.
- (b) The certified manager's card is valid for five years after issuance. The health officer may require an examination and/or a refresher course prior to renewing the card. A fee shall be charged in accordance with Article I.
- (c) The certified food manager's card may be revoked in the same manner as provided in WAC 246-217-060.

SECTION 11 TEMPORARY FOOD ESTABLISHMENTS.

11.1 The person legally responsible for a temporary food establishment or their agent shall apply for a permit to operate a temporary food establishment at least two weeks before the scheduled event to allow adequate time for review by the health officer. Applications that are received less than 14 days before the event will be charged a late fee as per Article I. A permit investigation fee as specified in Article I will be charged in addition to the temporary food establishment permit fee for any establishment that opens without a valid permit.

11.2 The health officer may modify specific requirements for physical facilities when in his/her opinion no imminent hazard will result, or may impose additional requirements to protect against health hazards related to the operation of the temporary food establishment.

SECTION 12 APPEALS. Any person aggrieved by a decision, an inspection or notice made by the health officer shall have the right to appeal the matter as specified in Article I.

SECTION 13 WAIVER OF CODE PROVISIONS.

13.1 **Physical Facilities and Equipment Standards.** The hearing officer, upon written application of the food establishment, may grant a variance modifying or waiving any section or sections of these regulations covering physical facilities and equipment standards when no health hazard or nuisance would exist as a result of this action and the variance is consistent with the intent of this article and Chapter 246-215 WAC. The information required by section 8-103.11 of the *Food Code* must be included with the application. Variance requests under this section will be decided by the hearing officer without a hearing. No appeal of the hearing officer's decision pursuant to this section shall be allowed, but the applicant may submit a request pursuant to section 13.2 of this article.

13.2 **Strict Interpretation.** Whenever a strict interpretation of this article would result in a significant hardship, a person may request a waiver of the provision causing the hardship from the administrative hearing officer pursuant to Article 1, Section 13. In addition to the requirements set forth in Article I for seeking a waiver, the information required by section 8-103.11 of the *Food Code* must be included with the application. A waiver may be approved in accordance with the procedure set forth in Article I.

SECTION 14 FEES. Fees shall be charged in accordance with those set forth in Article I.

Adopted: October 6, 2009