

Chapter 16.60 - ANCHORAGE FOOD CODE^[1]

Footnotes:

--- (1) ---

Editor's note— AO No. 99-91(S), § 1, adopted July 13, 1999, repealed Ch. 16.60, in its entirety, which pertained to food and food facilities. Said ordinance enacted provisions designated as a new Ch. 16.60 to read as herein set out. See the Code Comparative Table. Also, it should be noted that § 12 of AO No. 2000-66, adopted April 18, 2000, provides that "childcare centers and educational facilities shall be in complete compliance with requirements for three compartment sinks, commercial warewash machines and food preparation sinks by not later than October 1, 2000." Subsequently, AO No. 2009-40(S), § 1, effective July 21, 2009, repealed former Ch. 16.60, and enacted provisions designated as a new Ch. 16.60 to read as herein set out. Prior to inclusion of said ordinance, Ch. 16.60 pertained to similar subject matter. It should also be noted that AO No. 2009-102, § 1, effective August 25, 2009, amended the effective date of AO No. 2009-40(S) to be January 1, 2010. See also the Code Comparative Table.

Cross reference— Food facility waiver review advisory commission, § 4.40.135; business licenses and regulations, tit. 10; fines, § 14.60.030; child care and educational center food regulations, ch. 16.70.

16.60.010 - Title, purpose, and scope.

- A. *Title*: These regulations may be known as the Anchorage Food Code.
- B. *Purpose*: The purpose of the Anchorage Food Code is to safeguard public health by requiring food be safe, wholesome, unadulterated, and honestly presented.
- C. *Scope*: The Anchorage Food Code establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, permit issuance, inspection, employee restriction, and permit suspension within the Municipality of Anchorage. Additional federal and state regulations may also apply.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10)

16.60.020 - Adoption of the 2013 FDA Model Food Code.

- A. The Food Code, 2013 Recommendations of the United States Public Health Service/Food and Drug Administration and the Supplement to the 2013 FDA Food Code released in July 2015 as published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration hereinafter known as the "2013 FDA Model Food Code" is adopted and incorporated by reference as set forth in Sections 16.60.050, 16.60.130, 16.60.140, 16.60.150, 16.60.160, 16.60.170, 16.60.180, and 16.60.190.
- B. Unless explicitly adopted and incorporated by reference herein, any future editions of, or supplements to, the FDA Model Food Code are not adopted by this chapter.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; [AO 2017-162](#), § 1, 12-19-17)

16.60.030 - Conflict between 2013 FDA Model Food Code and this chapter.

If there is a conflict between the 2013 FDA Model Food Code and the provisions of this chapter, the provisions of this chapter shall control.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; [AO No. 2017-162](#), § 2, 12-19-17)

16.60.040 - Copies of the FDA Food Code on file.

- A. At least one copy of the currently adopted and incorporated FDA Model Food Code shall be kept available for the public in the office of the municipal clerk.
- B. At least one copy of the currently adopted and incorporated FDA Model Food Code shall be kept and available for the public by the department.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10)

16.60.050 - Definitions.

The definitions from the 2013 FDA Model Food Code paragraph 1-201.10(B) are adopted and incorporated by reference, except as otherwise modified or supplemented by this section as follows:

Adulterated food means food:

1. Bearing or containing a poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance the food is not considered adulterated under this paragraph if the quantity of the substance does not ordinarily render it injurious to health;
2. Bearing or containing added poisonous or added deleterious substance which is unsafe;
3. Consisting in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;
4. Produced, prepared, packed, or held under unsanitary conditions in which it may have become contaminated with filth, or in which it may have been rendered diseased, not wholesome, or injurious to health;
5. In whole or in part, the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse;
6. In a container composed, in whole or in part, of a poisonous or deleterious substance that may render the contents injurious to health;
7. That is time and temperature control for safety (TCS) food and held at temperatures not in compliance with the requirements set forth in this chapter; or
8. Defined in the Federal Food, Drug, and Cosmetic Act part 402 (21 U.S. Code Section 342) as adulterated.

Approved facility means a non-permitted place other than a commissary or residence acceptable to the department for a specific activity or event in support of a temporary food establishment, or a mobile food unit.

Bed and breakfast means a private residence that offers overnight accommodations and limited food service to overnight guests, for which compensation is paid on a daily or weekly basis, and complies with the requirements set out in section 21.05.070D.2.

Caterer means a food operation that, either as the primary function of the food operation or as an additional activity of another food operation, under an agreement or contract:

1. Prepares food in a permitted food establishment;
2. Provides transportation for that food to another premises for consumption; and
3. Serves that food, sets up a buffet for self-service, or prepares food for immediate service.

Change of ownership means a transfer of 50 percent or more of the ownership of a food establishment.

Child care center means a child care and educational center as defined in chapter 16.55. This term does not include child care homes.

Commissary means a permitted food establishment where support services are provided to one or more caterers, vending machines, mobile food units, or temporary food establishments; these support services may include:

1. Food preparation, handling, packaging, or storage;
2. Storage of utensils, including single-service items, or supplies;
3. Washing, rinsing, and sanitizing of equipment and utensils;
4. Storage of a mobile food unit when the unit is not in use;
5. Cleaning of a mobile food unit; or
6. Supplying potable water or dumping wastewater.

Contamination means contact with dust, insects, rodents, or other pests, unsanitary equipment or utensils, coughing, sneezing, spitting, unnecessary handling, flooding, draining, leakage from overhead, condensation, poisonous or toxic materials, or any substance, organism, or entity that might threaten public health.

Continental breakfast means a morning meal consisting of ready-to-eat packaged products from approved sources such as pastries, cold cereals, dairy products, juices, coffees and teas, and cut fruit.

Cottage food operation means a person who produces cottage food products only in a non-permitted facility, only for sale directly to the consumer, and that meets the requirements of this chapter.

Cottage food product means a food other than meat, poultry, or a food product containing meat or poultry that is a non-TCS food, such as, but not limited to, baked goods produced at a cottage food operation.

Cure or curing means to preserve by means of salting, smoking, or aging.

Custom processing means the processing of a consumer's sport-caught fish or game for the consumption by that consumer, and not for subsequent sale or distribution in commerce for human consumption.

Department means the Municipality Department of Health and Human Services.

Director means the director of the department or the director's designee.

Event means an organized occurrence promoted for a special purpose with a definite time limit, and generally includes other activities besides food sales.

Event coordinator means any person, group, association, business or individual offering space for lease or rent to a temporary food establishment.

Extensively remodeled means an alteration of the basic floor plan where substantial construction, building or repair of a permitted food establishment materially affects a food preparation area, dishwashing area or other feature of the permitted food establishment regulated by this title.

Farmers market means a seasonal market where the main purpose is to provide an opportunity for producers to sell agricultural products directly to consumers.

Food demonstration means to prepare and serve without charge samples of food to promote the sale of that food or associated food preparation equipment.

Food establishment means an operation where any activity occurs related to the preparation, processing, packaging, storage, transportation, display, sale, service, or salvaging of food for consumers.

Food processing plant means a type of food establishment that manufactures, packages, labels or stores food for wholesale distribution.

HACCP plan means a written document that delineates the formal procedures for following the hazard analysis and critical control point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

Herb vinegar means commercial vinegar where a small amount of one or more herbs is added, with a resultant pH not significantly different from the original vinegar prior to adding the herb.

Imminent health hazard means a condition including, but not limited to, a loss of potable water supply or electrical power for two hours or more, a sewage backup into a food establishment or onto the grounds of a food establishment, a natural disaster, one or more employees sick with a disease communicable by food, a major insect or rodent problem, a foodborne outbreak, an extended loss of hot running water under pressure provided to all plumbing fixtures, or any other condition with the potential to adversely affect public health, as determined by the director.

Inspector means any officer, agent or employee of the department authorized to act for the department with respect to the enforcement and administration of this chapter.

Kiosk means a type of limited food service mobile facility, without permanent plumbing, located inside of a permanent building with a certificate of occupancy issued by the municipality.

Mobile food unit means a type of permitted food establishment located in a vehicle, trailer, or pushcart that:

1. Completely retains its mobility and is capable of easily moving daily for servicing of water and wastewater holding tanks;
2. Operates out of an commissary or other approved facility (unless the unit is a self-contained mobile food unit);
3. Has a menu usually restricted to service of specific food;
4. A mobile food unit, other than a pushcart, shall:
 - a. Not exceed eight feet six inches in width or forty-eight feet in length, including overhangs.
 - b. Be currently licensed by the State of Alaska as a motor vehicle or trailer having a tow hitch, chassis, axles, wheels and trailer lamps and reflectors required by AMC chapter 9.44.
 - c. Not be connected to utilities except electrical.
 - d. Meet the requirements of section 23.10.104.4.

Mobile retail unit means a type of permitted food establishment operated out of a vehicle or trailer, licensed by the state as a motor vehicle, with packaged retail food items or whole or packaged seafood available for sale.

Operator means the owner, permit holder, manager, or supervisor of a permitted food establishment.

Operation means a distinct food preparation or food service process wholly separable from other food preparation or food service processes.

Private event means an event held for, advertised, and limited to members and invited guests of a person, club, company, religious, political, advocacy, or similar organizations. Examples of private events include church potlucks, club or company picnics, weddings, and block parties limited to the residents of a specific neighborhood.

Public event means an event created for and advertised to the general public for the purpose of attracting revenue, support, awareness and/or entertainment purposes. Examples include street festivals, church carnivals, "taste of" events, and other similar types of events that are open to the public.

Pushcart means a wheeled, non-motorized mobile food unit, manually movable by one or two persons that:

1. Is no more than three (3) feet wide and six (6) feet long excluding attached extensions from the ends of the cart. The overall length of the pushcart with attached extensions shall not exceed ten (10) feet;
2. Is capable of easily moving daily;
3. Operates out of a commissary;
4. Has a menu restricted to service of department approved specific foods;
5. Contains on or within the cart sufficient food, utensils, paper products, cleaning supplies, potable water supply, and wastewater holding capacity necessary for operating daily; and
6. May use two additional ice chests and one additional barbecue grill placed immediately adjacent to the street pushcart.

Reasonable hours means all hours of operation including periods of food preparation and receiving, stocking or storing of foods.

Self-service food market means an unstaffed market that offers prepackaged food that is (a) not TCS food or (b) TCS food that is stored and displayed in equipment that complies with vending machine requirements as stated in section 16.60.140.

Snack means food served consisting of:

1. Pre-packaged non-TCS food from an approved source and requiring minimal handling;
2. Fruits and vegetables requiring only washing, peeling or single-service utensils for service;
3. Commercially packaged individual containers of milk; or
4. Commercially packaged, previously unopened and adequately stored bulk containers of milk and 100 percent fruit juice dispensed during a single meal service into single-service containers.

TCS food means a food that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation (formerly called a potentially hazardous food or PHF), as defined in section 1-201.10(B) of the 2013 FDA Model Code.

Vending machine means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

Vending machine location means the room, enclosure, space, or area where one or more vending machines or self-service food markets are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines and add self-service food markets.

Vending machine operator means any person, who by contract, agreement, or ownership, takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more food vending machines or self-service food markets.

Volunteer means someone who is not present at a food establishment more than two days per week and is not a paid employee.

Wholesome means in sound condition and free from spoilage, filth, and contamination.

Wild game meat means game meat that is from wild animals commonly found in and consumed by people in this state including reindeer, caribou, moose, whale, beaver, goat, muskrat, hare, sheep, squirrel, duck, and geese.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 3, 12-19-17)

16.60.060 - Applicability.

- A. Except as otherwise provided herein, the requirements of this chapter shall apply to premises, practices, and procedures of food establishments including each type of operation.
- B. The requirements of this chapter shall not apply to the following items as long as these food operations are regulated by state law:
 - 1. Milk, milk products and reindeer slaughtering and processing regulated by the state under 18 AAC 32;
 - 2. Seafood processing and inspection regulated by the state under 18 AAC 34;
 - 3. Food processing plants with a permit under state law to bottle drinking water; or
- C. The following activities and facilities are not subject to this chapter:
 - 1. Custom processing of an individual's sport-caught fish or game;
 - 2. A business, such as a convenience store, gift shop, video store, or student store, selling only prepackaged, non-TCS food from an approved source;
 - 3. A bake sale. For purposes of this subsection, "bake sale" means the occasional sale to the public at a fundraising event or a seasonal event, such as a fair or bazaar, of packaged jams, jellies, or confections, or bakery-type items, such as fruit or berry pies and cobblers, cakes, cookies, donuts, and breads. TCS food, including bakery-type items containing fillings or toppings comprised of or containing a TCS food, such as custard, whipped cream, or meringue, shall not be sold at a bake sale;
 - 4. A person or business distributing or selling only popcorn (including flavored popcorn), cotton candy, pre-packaged ice cream novelties, powdered non-dairy drinks with single service items, fresh-squeezed lemonade made with sugar, black coffee with single-service items, or coffee offered with non-dairy creamers and served with single-service items;
 - 5. A school or licensed child care center serving only snacks;
 - 6. Continental breakfasts or breakfasts cooked and immediately served at a bed and breakfast;
 - 7. The extraction of raw honey;
 - 8. The packaging or sale of extracted or unextracted raw honey;
 - 9. The packaging and sale of raw, whole vegetables and fruit at a farmers market, a roadside stand, or a seasonal event, such as a fair, if the vegetables and fruit are offered in their natural state or after rinsing, trimming of unnecessary parts, or separating greens from roots;
 - 10. The harvesting and evaporation of tree sap. However, further processing of tree sap, including packaging, is subject to this chapter;
 - 11. Food served in conjunction with the following activities, if the food is prepared or provided by and for members of the group and their invited guests:
 - a. A private event as defined in this chapter; or
 - b. A free, community picnic held by a community council, which may be open to the public.
 - c. The occasional food preparation as a part of a curriculum in a school or child care center.
 - 12. Food prepared and served at an assisted living home, as defined in AS 47.33.990, with five or fewer residents;
 - 13. The harvesting or cleaving of glacier ice, if the glacier ice is exported from the state without further processing; and
 - 14. A food establishment within a federal facility or property where inspections and regulatory oversight are provided by the federal government.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 4, 12-19-17)

16.60.065 - Display of the USDA food guide icon.

All food service facilities located on or within property under the control or ownership of the Municipality of Anchorage shall post a representation of the approved USDA food guide icon in prominent view of those being served.

([AO No. 2014-149](#), § 1, 2-1-15)

16.60.070 - Food establishment permit required.

- A. Except for a cottage food operator holding a valid license under section 16.60.105, a person shall not operate a food establishment unless the following requirements are met:
 - 1. The person complies with Section 16.60.070;
 - 2. The person applies for a permit for each operation as described in subsection D.;
 - 3. The person pays each applicable fee required by Section 16.60.110;
 - 4. The department issues a permit for each separate operation as described in subsection D.; and
 - 5. The permit for each separate operation is posted in a location conspicuous to the public.
- B. Any permit issued under this chapter is non-transferable.
- C. A business licensed as a beverage dispensary by the State of Alaska shall obtain a permit under this chapter for service of beverages, even if other food is not served.
- D. Each operation shall have a separate permit. Some examples of operations requiring a separate permit include the following:
 - 1. A food establishment that acidifies, cures, dehydrates, thermal processes low-acid food, or reduced oxygen packages food as a food processing plant as defined in Section 16.60.050.
 - 2. A bar licensed as a beverage dispensary by the State of Alaska also has a restaurant designation permit from the State of Alaska.
 - 3. If two or more operations share equipment or facilities such as warewashing, refrigerator, freezer, or storage areas, then a separate permit is required for each operation.
 - 4. A food demonstration operation not exempt under subsection E.3.
- E. A separate permit is not required for:
 - 1. A permitted food establishment under this chapter where:
 - a. Consumers serve themselves with individual prepackaged foods that may be heated; and
 - b. Single service tableware and condiments are provided.
 - 2. Service of food at an auxiliary site, if the auxiliary site:
 - a. Has the same operator as the permitted food establishment or is serviced by a caterer;
 - b. Food preparation occurs at the permitted food establishment; and
 - c. Is located on the same premises as the permitted food service.
 - 3. A food demonstration at a permitted food establishment if:
 - a. The food establishment has a permit;

- b. The demonstration station has the same operator as the permitted food establishment; and
 - c. All preparation occurs at the permitted food establishment except for final heating or portioning of ready-to-eat foods at the demonstration station.
- 4. A permitted food establishment that is also manufacturing food for use or sale within the establishment;
- F. A food establishment permit is valid only for service of the food approved for that operation at the time of application.
- G. An operator shall obtain department approval before:
 - 1. Making any significant change to the types of food, methods of preparation, or style of service at the permitted food establishment; or
 - 2. Changing the commissary used to support the permitted food establishment.
- H. The department may require more than one permit within one calendar year if there is a change in ownership, including a leasehold interest.
- I. An operator shall make this chapter and the 2005 FDA Model Food Code easily accessible for review by employees.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO [2017-162](#), § 5, 12-19-17)

16.60.080 - Permit application requirements.

- A. An applicant shall apply for a permit using a form provided by the department. A separate form is required for each separate operation. A person may not begin operation until the department issues a permit for each operation.
- B. Except as provided in subsections C. and D. below, an applicant shall apply for a permit at least 30 days before the food establishment begins operation.
- C. If there is a change of ownership, the new owner shall apply for a permit not less than seven days prior to the change of ownership. A new owner applying for a permit less than seven days prior to the change of ownership shall pay the applicable late fee.
- D. If the application is for a temporary food establishment under section 16.60.220, an applicant shall apply for a permit not less than seven days prior to the date of operation. An applicant applying for a permit less than seven days prior to the event shall pay the applicable late fee. The department may deny applications made less than three days prior to an event or may limit menu items or use of commissary facilities.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO [2017-162](#), § 6, 12-19-17)

16.60.090 - Confidentiality of trade secrets.

- A. The department may require a person subject to this chapter to disclose a trade secret to the department to assist the department in evaluating a permit application or in determining compliance with this chapter. The department shall treat the trade secret as confidential except as otherwise provided in this section.
- B. The department may disclose information that is confidential under this section under a continuing restriction of confidentiality to other departments of the municipality, state or United States or to a court:

1. To protect against an imminent threat to public health or safety;
 2. In a proceeding to deny, modify, suspend, or revoke a permit required under this chapter; or
 3. In pursuit of an enforcement activity.
- C. This section does not limit the department's authority to release confidential information during an emergency.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10)

16.60.100 - Plan review and pre-operation inspection.

- A. A person may not operate a food establishment unless the department inspects the food establishment for compliance with this chapter.
- B. A person shall submit a plan review application accompanied by one copy of plans and specifications, and the applicable plan review fee required by Section 16.60.110 to the department a minimum of 30 days before beginning any construction or remodeling if:
1. A food establishment is to be constructed;
 2. An existing structure is to be converted for use as a food establishment;
 3. An existing food establishment is proposed to be extensively remodeled; or
 4. A new type of operation is to be added to an existing permitted food establishment.
- C. Whenever plans and specifications for construction, remodeling, altering, conversion or change of operation of a food establishment are submitted to the department, the department shall inspect the completed establishment.
- D. An operator shall submit for prior department approval any significant change to the types of food, methods of preparation, or style of service.
- E. Except for a temporary food establishment subject to Section 16.60.220, an applicant for a food establishment permit shall submit plans that include at a minimum:
1. A floor plan of the entire premises showing the location of buildings, refuse storage site, approved water supply, approved waste disposal system, and access for deliveries;
 2. A detailed to-scale drawing of the food establishment showing the storage areas and type, model, and location of equipment, and plumbing fixtures, such as sinks and toilets;
 3. A plumbing schematic depicting hot and cold lines, wastewater lines, floor drains, and grease traps;
 4. The construction and design specifications for equipment;
 5. The finish materials specifications for floors, walls, and ceilings;
 6. Types and location specifications for lighting and ventilation;
 7. A description of foods to be served, projected volumes, methods of preparation and service;
 8. A description of equipment used to maintain temperatures during transportation, display, and service; and
 9. If applicable, a description of any services to be provided by a commissary or other approved facility.
- F. The department shall approve plans submitted under this section if the plans meet the requirements of this chapter.
- G. If a person fails to comply with this section, the department may:

1. Refuse to issue a permit;
2. Suspend the permit as provided in Section 16.60.320;
3. Issue a notice of closure as provided in Section 16.60.340; and
4. Impose civil penalties and fines as set forth in Section 16.60.350.

H. This section does not apply to a cottage food operation licensed under section 16.60.105.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 7, 12-19-17)

16.60.105 - Cottage food license required.

- A. Within the Municipality of Anchorage, a person shall not sell cottage food products unless that person has applied for and received a food establishment permit under this chapter, or a cottage food license in accordance with this section.
- B. The department shall issue a cottage food license only to a cottage food operator that:
 1. Attests that the products the operator seeks to sell will not be prepared, packaged, or stored in a facility permitted as a food establishment;
 2. Attests that the operator will sell food products exclusively in this state, directly to consumers; a food product sold under this subsection may not be distributed wholesale or by mail order or consignment;
 3. Attests that operator's food sales will be limited to cottage foods that do not contain meat, poultry, or a food product containing meat or poultry;
 4. Has and can provide to the department, for each food product it intends to process, prepare, or package for sale, documentation of:
 - a. The food product's formulation or recipe; information provided under this section that is considered a trade secret shall be protected by AMC 16.60.090;
 - b. The food product's pH value, unless the director of the department of health and human services or the director's designee has cause to believe:
 - i. That the food product's pH level is 4.2 or less, or
 - ii. That the food product is not a TCS food; and
 - c. If the food product's pH level exceeds 4.2, the food product's water activity value, unless the director of the department of health and human services or the director's designee has cause to believe that the food product's water-activity value precludes the food product from being a TCS food;
 5. Attests that the location where products are being prepared is served by:
 - a. A public water system, or a water well that complies with chapter 15.55, and
 - b. A public wastewater disposal system, or a wastewater disposal system that complies with chapter 15.65;
 6. Agrees to label all products with the operator's:
 - a. Name, physical address, and telephone number, or
 - b. Alaska business license number issued under 12 AAC 12;
 7. Displays conspicuously to consumers the statement "THESE PRODUCTS ARE NOT SUBJECT TO STATE INSPECTION OR MUNICIPAL INSPECTION", if the food is not processed,

prepared, or packaged in a permitted, approved, or inspected facility. To comply with this paragraph, the statement must be:

- a. Set out on a card, placard, or sign that is conspicuously posted at the point of sale; or
 - b. Conspicuously displayed on the label of each food product that is packaged;
8. Maintains a valid Municipality of Anchorage food worker card for everyone engaged in the preparation of food products in the cottage food operation; and
 9. Restricts the total gross receipts of sales of all food products permitted under this subsection to less than \$25,000.00 within a calendar year.
- C. The department may revoke a cottage food license for failure to abide by any requirement of this chapter.
- D. The department may inspect at any reasonable time or whenever the department has reason to believe the cottage food operation is:
1. Violating the requirements of this section,
 2. Operating in an unsanitary manner,
 3. Linked to a foodborne illness outbreak, or
 4. The subject of a consumer complaint related to this section.

(AO No. [2017-162](#), § 8, 12-19-17)

16.60.110 - Fees.

- A. An applicant for a food permit shall pay to the department a permit fee for each separate type of operation at the food establishment based on the results of a risk assessment according to the following tables.
- B. An operator, upon receiving notice a permit fee is due for renewal, shall pay to the department by the due date stated on the invoice an annual permit fee for each separate type of operation at the food establishment based on the results of a risk assessment according to the following tables:

Table One—Risk Assessment	
Operation Processes	Points
The operation prepares, serves or stores TCS foods	2
The operation uses or prepares raw meat items	2
The operation uses Time as a Control	2
The operation hot holds foods	2
The operation specifically serves a highly susceptible population	2
The operation cools foods from 135°-41° F for later service	2

The operation handles ready-to-eat foods	2
The operation acidifies, cures, reduced-oxygen packages or otherwise modifies foods from TCS to non-TCS	2
The operation uses multiple-use (washable) utensils for customers	1
The operation operates as a mobile food establishment	1
Total Points	

Table Two—Food Establishment Permit Fees Based on Risk Assessment		
Total Points from Section One	Risk Type	Permit Fee
0—5	1	\$260.00
6—9	2	\$460.00
10+	3	\$660.00
Supplemental fee for catering: An operator of a licensed food establishment that also operates as a caterer outside the operator's licensed establishment shall pay an additional fee of \$150.00; except this fee shall not apply to an operator that solely operates as an independent catering facility.		

Table Three—Temporary Food Establishment Fees		
Temporary Food Establishment Type	Risk Type	Permit Fee (Per event)
For a Temporary Food Establishment Operating 1 day	1	\$35.00
For a Temporary Food Establishment Operating 2 to 4 days	2	\$50.00
For a Temporary Food Establishment Operating 5 to 21 days	3	\$75.00

Table Four—Seasonal Temporary Food Establishment Fees		
Total Points from Section One	Risk Type	Permit Fee
0—5	1	\$130.00
6—9	2	\$230.00
10+	3	\$330.00

Table Five—Child Care Centers and Public School Fees	
The fee for child care centers and public schools is a flat fee and not based on a risk assessment.	
Child Care Centers	\$150.00
Public Schools	\$160.00

Table Six—Cottage Food License Fees	
Cottage Food License	\$25.00

- C. In addition to the fee required by subsections A. and B. above, the department shall charge a fee of \$300.00 for each enforcement inspection conducted according to section 16.60.290.
- D. A consultation fee for design assistance prior to plan review submission or food sanitation education shall be assessed at the rate of \$150.00 per hour billed in one-tenth hour (six minute) increments. These fees shall be in addition to other fees in this chapter.
- E. The food establishment permit fee for a business operating solely as an independent catering facility will be based on the results of a risk assessment according to Tables 1 and 2 in this section.
- F. Inspection of a food establishment requested by the food establishment outside of normal business hours shall be assessed at the rate of \$150.00 per hour billed in one-tenth hour (six-minute) increments.

- G. At the time of application for plan review under section 16.60.100, the applicant shall pay to the department a plan review fee as set forth below:
1. 0—1,000 square feet \$220.00
 2. 1,001—4,000 square feet \$330.00
 3. More than 4,000 square feet \$550.00
 4. Plan review for tax exempt nonprofit corporations under the laws of Alaska will be charged one-half (50%) of the fee above.
 5. Incomplete submittals resulting in the need for additional submittals of information required in section 16.60.100 will be charged an additional fee of one-half (50%) of the original fee.
 6. Plan revisions or change-orders requiring more than one-half hour review time will be charged a fee for additional time at the rate of \$150.00 per hour billed in one-tenth hour (six minute) increments.
- H. Department provided food worker certification shall be assessed as follows:
1. Training classes, per person, minimum ten persons \$25.00
 2. Food Worker's examination \$10.00
 3. Food Worker's Card—Replacement fee \$5.00
- I. A person who seeks a variance under section 16.60.190 shall pay a variance application review fee of \$100.00 at the time of application.
- J. When ownership changes for a permitted food establishment, the new owner shall apply to the department for issuance of a new permit and shall pay a fee of \$150.00 for each physical location where a new permit is issued.
- K. The fees imposed under this section are nonrefundable, except the department shall approve a refund upon written request received within 90 days of fee payment:
1. One hundred percent of a fee that is paid or collected in error;
 2. Eighty percent of the permit fee when a permit is cancelled prior to opening inspection or operation of a facility;
 3. Eighty percent of a plan review fee if the refund is requested before any review has begun;
 4. Eighty percent of a temporary event permit fee if requested at least three working days prior to the event.
- L. The department may prorate an annual permit fee.
- M. The annual fee required under subsection B. is due on the due date of the invoice. Late fees shall be assessed as follows:
1. Ten percent of the applicable fee, if payment is not postmarked or paid by the due date stated on the invoice.
 2. Twenty-five percent of the applicable fee, if payment is more than 30 days past the due date on the invoice.
 3. Failure to pay the fees within 30 days of the due date shall constitute cause for the department to issue a notice of closure for failure to comply with permit renewal requirements of this chapter.
- N. Change of ownership and temporary food establishment late fees shall be assessed as follows:
1. Ten percent of the applicable fee for a permit application received less than seven days prior to the change of ownership; and

2. Fifty percent for a temporary food establishment permit application received less than seven days prior to the date of operation.
- O. An operator of a food establishment who ceases to operate a food establishment remains responsible for past due fees.
- P. Charitable operations and organizations are required to have a permit under this chapter but the department may waive permit fees for inspection and service for food establishments meeting all of the following criteria:
1. The food establishments prepare and provide food to the public at no charge; and
 2. The food establishments are operated by tax exempt nonprofit corporations under the laws of Alaska.
- Q. The department may waive permit fees for pre-school, elementary and secondary school organizations where all proceeds collected are used for the benefit of the students. These organizations are exempt from the three-consecutive day restriction set forth in section 16.60.225C.
- R. Vending machine and self-service food market operators shall pay a fee for vending machines and self-service food markets serving TCS foods other than novelty ice cream as follows:
1. \$130.00 for not to exceed ten vending machines or ten self-service food markets, or a combination of not more than ten vending machines and self-service food markets.
 2. \$1.00 for each vending machine and/or self-service food market over ten.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. 2013-100, § 4, 1-1-14; [AO No. 2015-111\(S-1\), § 5, 1-1-16](#); AO No. [2017-162](#), § 9, 12-19-17)

16.60.120 - Service of notice.

Except as otherwise provided in this chapter, notice shall be served personally on the operator or in compliance with the Alaska Rules of Civil Procedure.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10)

16.60.130 - 2013 FDA Model Food Code: Management and personnel.

The 2013 FDA Model Food Code Chapter 2 governing "Management and Personnel" is adopted and incorporated by reference herein, except as follows:

Section 2-201.11 shall not apply to vending machine operators at the vending machine locations.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 10, 12-19-17)

16.60.140 - 2013 FDA Model Food Code: Food.

The 2013 FDA Model Food Code Chapter 3 governing "Food" is adopted and incorporated by reference herein except as follows:

- A. Section 3-201.11(D) of the 2013 FDA Model Food Code shall not be adopted.
- B. Section 3-301.11 "Preventing Contamination from Hands" is amended by replacing paragraph (B) to allow bare hand contact with ready-to-eat food that is used as garnish for beverages, as follows:

- (B) Except when washing fruits and vegetables as specified under § 3-302.15, or when garnishing beverages, or as specified in ¶¶ (D) and (E) of this section, food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.
 - (1) If the Regulatory Authority has documented a violation on two (2) consecutive inspections regarding garnishing beverages, then the Regulatory Authority may order that a Permit Holder's Food Employees may not contact garnishes with bare hands or may impose restrictions pursuant to Section 3-301.11(E).
- C. Section 3-402.11(A) "Parasite Destruction" is amended to add an additional method of preparing fish to minimize the possibility of parasite transmission to consumers for raw, raw marinated, or undercooked fish in ready-to-eat form, as follows:
 - 1. As an alternative to the freeze destruction procedures stipulated in Section 3-402.11(A), fish may be partially cooked to a minimum temperature of 125°F throughout;
 - 2. If the procedure in the preceding subsection B.1 is used, the permit holder shall provide a consumer advisory as specified for undercooked foods in Section 3-603.11.
- D. Section 3-201.17, "Game Animals" is supplemented as follows:

Except for food prohibited under 18 AAC 31.210, traditional wild game meat, seafood, plants, and other food may be donated to a food service of an institution or a nonprofit program, including a residential child care facility with a license from the department as required by chapter 16.55, a school lunch program, or a senior meal program, if the operator of the food service:

 - 1. Ensures that the food is received whole, gutted, gilled, as quarters, or as roasts, without further processing;
 - 2. Makes a reasonable determination that:
 - a. The animal was not diseased;
 - b. The food was butchered, dressed, transported, and stored to prevent contamination, undesirable microbial growth, or deterioration; and
 - c. The food will not cause a significant health hazard or potential for human illness;
 - 3. Conducts any further preparation or processing of the food at a different time or in a different space at the food service from the preparation or processing of other food to prevent cross-contamination;
 - 4. Cleans and sanitizes food-contact surfaces of equipment and utensils after processing the food;
 - 5. Labels donated seafood and game meat with the name of the food and stores it separately from other food through storage in a separate freezer or refrigerator or a separate compartment or shelf in the freezer or refrigerator; and
 - 6. Meets all other applicable requirements of this chapter.
- E. Section 3-603.11 "Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens" is amended with the addition of the following section:
 - (D) The operator of a food establishment that sells, uses, or serves mushrooms picked in the wild shall ensure the mushrooms are conspicuously identified by a label, placard, or menu notation that states:
 - 1. The common and usual name of the mushroom; and
 - 2. The statement "Wild mushrooms; not an inspected product".

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 11, 12-19-17)

16.60.150 - 2013 FDA Model Food Code: Equipment, Utensils and Linens.

The 2013 FDA Model Food Code Chapter 4 governing "Equipment, Utensils, and Linens." is adopted and incorporated by reference herein.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 12, 12-19-17)

16.60.160 - 2013 FDA Model Food Code: Water, plumbing, and waste.

The 2013 FDA Model Food Code Chapter 5 governing "Water, Plumbing, and Waste" is adopted and incorporated by reference herein with the addition of the following:

- A. Section 5-203.13 of the 2013 FDA Model Food Code shall not apply to a mobile food unit or kiosk.
- B. Section 5-402.10 is amended to add:

The grease interceptor, if installed, must be maintained at the time interval specified in the current version of the Anchorage Wastewater Utility Tariff for Wastewater Service. If no specific interval is specified in the Tariff for Wastewater Service, grease interceptors must then be serviced at least quarterly or as often as necessary in accordance with AMC 23.25.1014.1 - Grease interceptors. Permit holder must make grease interceptor maintenance records available to an inspector upon request.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 13, 12-19-17)

16.60.170 - 2013 FDA Model Food Code: Physical facilities.

The 2013 FDA Model Food Code Chapter 6 governing "Physical Facilities" is adopted and incorporated by reference herein.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 14, 12-19-17)

16.60.180 - 2013 FDA Model Food Code: Poisonous or toxic materials.

The 2013 FDA Model Food Code Chapter 7 governing "Poisonous or Toxics Materials" is adopted and incorporated by reference herein.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 15, 12-19-17)

16.60.190 - 2013 FDA Model Food Code: Compliance and enforcement.

The 2013 FDA Model Food Code Chapter 8 Sections 8-103.10, 8-103.11, 8-103.12, 8-201.12, 8-201.13, 8-201.14, 8-404.11, 8-501.10, 8-501.20, 8-501.30, 8-501.40, 8-903.30(A), 8-903.30(B), 8-903.30(C), 8-903.30(E), 8-903.70, 8-903.80, and 8-903.90 governing Compliance and Enforcement are

adopted and incorporated by reference herein. No other provisions of 2013 FDA Model Food Code Chapter 8 are adopted.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 16, 12-19-17)

16.60.200 - Water supply.

- A. The operator of a permitted food establishment not directly connected to a water supply and subject to 18 AAC 80 shall ensure the potable water is obtained from an approved source and is transported, delivered, and stored in accordance with 18 AAC 80.
- B. In addition to subsection A. above, the operator of a permitted food establishment not directly connected to a water supply and subject to 18 AAC 80 shall take the following actions at least annually or, for food establishments operating seasonally, no more than seven days prior to opening:
 - 1. Superchlorinate each potable water tank for at least two hours with 50 ppm chlorine solution;
 - 2. Drain, thoroughly rinse, and refill the tank;
 - 3. Submit samples of potable water being used in the facility to a certified laboratory for coliform analysis every 12 months during operation; and
 - 4. Forward a copy of the coliform analysis report to the department within five days of receiving the results of the analysis.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 17, 12-19-17)

16.60.210 - Ventilation.

- A. The operator of a permitted food establishment shall ensure equipment producing excessive heat, steam, condensation, vapors, noxious odor, smoke, or fumes is adequately vented to the outside air through a hood and filter system complying with applicable law, and preventing grease, condensation, or debris from collecting on walls and ceilings or from dripping onto food or food-contact surfaces.
- B. The operator of a permitted food establishment shall ensure equipment producing grease-laden vapors is vented through a hood and grease collection system designed and installed in accordance with the International Mechanical Code and maintained as required in the International Fire Code as adopted under Title 23.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 18, 12-19-17)

16.60.220 - Temporary food establishment.

- A. In addition to the other requirements of this chapter, the operator of a temporary food establishment shall comply with this section.
- B. A temporary food permit shall be issued for only one location for no more than 21 consecutive days and shall be in conjunction with a single event.
- C. Food shall be prepared at the temporary food establishment unless the department approves prior preparation at a commissary or approved facility under subsection D.3. below.

- D. Depending on the adequacy of facilities, equipment, and utensils for the types and volume of food, and methods of preparation and service, the department may:
1. Limit the foods to be prepared and sold;
 2. Limit preparation steps;
 3. Authorize prior preparation of food at a commissary or approved facility if:
 - a. The commissary or approved facility has adequate equipment for the type and volume of food and methods of preparation;
 - b. TCS food is maintained at temperatures in accordance with 2013 FDA Model Food Code Section 3-501.16;
 - c. All food is protected from contamination during transportation to the temporary food establishment; and
 - d. A letter of agreement signed by the operator of the commissary or approved facility is attached to the temporary food establishment application specifying the food, and the dates and times the food is prepared and stored.
- E. The operator of a temporary food establishment shall provide documentation the operator:
1. Is a certified food protection manager in accordance with section 16.60.270; or
 2. Is a certified food worker in accordance with section 16.60.280.
- F. The operator of a temporary food establishment shall ensure:
1. TCS food cooked and/or hot-held at the temporary food establishment is not cooled and later served to the public.
 2. Except as provided in subsection F.3. below, a hand washing station is provided for employees, including:
 - a. A container with a minimum capacity of two gallons, equipped with a faucet-type spigot, and filled with warm water or if the container is not insulated, a means to heat the water;
 - b. A container to catch wastewater from hand washing; and
 - c. Soap and single-service towels.
 3. Upon approval from the department, temporary food establishments with minimal handling may use chemically treated towelettes as specified in 2013 FDA Model Food Code paragraph 5-203.11(C).
- G. The operator of a temporary food establishment shall ensure wastewater is disposed of into an approved wastewater disposal system.
- H. The operator of a temporary food establishment shall ensure toilets and hand washing facilities are available within 200 feet of the temporary food establishment.
- I. All temporary food establishments must operate under the auspices of an event coordinator.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 19, 12-19-17)

16.60.225 - Seasonal food establishment.

- A. A seasonal food establishment shall comply with the requirements codified for temporary food establishments in subsections 16.60.220A. and 16.60.220C. through I.

- B. A seasonal food permit shall be issued for only one location for no more than 180 consecutive days in conjunction with a single event and may not be re-issued for the same location within 180 days of the expiration of the last permit.
- C. In addition to the requirements in section 16.60.220, a seasonal food establishment shall operate no more than three days in any one week and they must be consecutive days. The operator shall confine operations to the three consecutive days of the week.

(AO No. [2017-162](#), § 20, 12-19-17)

16.60.226 - Temporary or seasonal event coordinator.

- A. All temporary and seasonal food establishments must be operated under the auspices of an event coordinator. The event coordinator shall:
 - 1. Provide the department with a list of all temporary or seasonal food establishments and operators participating in the planned event at least seven days prior to the event with a map indicating proposed sites of each food establishment and all public toilets and hand wash facilities at least 48 hours prior to the event;
 - 2. Inform all temporary or seasonal food establishment operators participating in the event that a food establishment permit is required from the department; and
 - 3. Ensure, at events open to the public for two hours or longer, public toilets and hand washing facilities are provided and:
 - a. The number of toilets furnished is adequate based on the peak crowd anticipated and are conveniently located and available to all vendors;
 - b. Toilet facilities are serviced as often as necessary to maintain them as clean and sanitary, have cleanable interior surfaces, screened openings for ventilation, self-closing doors, and otherwise prohibit the entrance of insects and rodents.
 - c. If running water is not practically available, portable toilets are provided instead of flush toilets and the number of portable toilets meets the minimum requirements of Title 23; and
 - d. Lavatories are supplied for washing hands from an insulated container with a minimum capacity of two gallons each, equipped with a faucet-type spigot and filled with warm water. The department may approve other handwashing systems.

(AO No. [2017-162](#), § 21, 12-19-17)

16.60.230 - Mobile food units and kiosks.

- A. In addition to the other requirements of this chapter, the operator of a mobile food unit or kiosk shall comply with this section.
- B. The operator of a mobile food unit or kiosk, except a self-contained mobile food unit or kiosk described in section C. below, shall:
 - 1. Ensure functions that cannot be performed in the mobile food unit or kiosk, but are required by this code, be performed at least once each day in a commissary or other location approved by the department, such as cleaning the unit, equipment, and utensils; servicing potable water and wastewater tanks; and restocking food and supplies;
 - 2. Provide to the department a letter of agreement between the operator and the commissary outlining:
 - a. The days and hours the commissary is to be used; and

- b. The extent of support services to be provided at the commissary.
- 3. Advise the department in writing immediately, but not later than 72 hours, if use of the commissary is discontinued or the commissary used is changed.
- C. The operator of a self-contained mobile food unit or kiosk is not required to work out of a commissary as described in section B. above if the department determines the unit has:
 - 1. Installed on the unit, adequate for one full day of operation, water and wastewater holding tanks, hand washing, and ware washing facilities; and
 - 2. Adequate storage facilities on the unit for all food, equipment, utensils, including single-service items, and supplies used in the operation.
- D. The operator of a mobile food unit shall:
 - 1. Provide only single-service articles to consumers;
 - 2. Ensure toilet facilities are available within 200 feet of the unit or conveniently located and available to employees during work hours, as approved by the department; and
 - 3. Provide on both sides of the mobile food unit, in at least three-inch-high letters and numbers, the name of the facility and the permit number as printed on the permit, if the mobile food unit is not a pushcart.
- E. In addition to the other requirements of this section, the operator of a pushcart shall ensure:
 - 1. The name of the facility and the permit number as printed on the permit are provided on the main customer service side of the pushcart, in at least three-inch-high letters and numbers.
 - 2. A pushcart is limited to preparing and serving ready-to-eat foods.
 - 3. Sufficient food, utensils, paper products, cleaning supplies, potable water supply, and wastewater holding capacity necessary for daily operations are contained on or within the cart, except the operator of the pushcart may provide:
 - a. Two additional ice chests; and
 - b. One additional barbecue grill.
 - 4. Water tanks installed for hand washing only are at least a five-gallon capacity.
 - 5. Pre-preparation of food, including washing, slicing, peeling, cutting, and assembly, occurs at the commissary.
 - 6. TCS food heated and/or hot held at the push cart is not cooled and later served to the public.
 - 7. Pushcarts return each day to a commissary approved by the department, to ensure functions that cannot be performed on the push cart are properly performed; such as cleaning the unit, equipment, and utensils; servicing potable water and wastewater tanks; and restocking food and supplies.
- F. In addition to the other applicable requirements of this chapter, the operator of a mobile retail unit:
 - 1. Shall drain, wash, rinse, and sanitize refrigerators and ice chests after each day's operation or as approved by the department.
 - 2. Shall not process seafood as defined in 18 AAC 34 at the mobile retail unit or commissary.
 - 3. Shall provide approved and adequate hand washing, this shall include, at a minimum:
 - a. A container with a minimum capacity of five gallons, equipped with a faucet-type spigot, and filled with warm water or, if the container is not insulated, a means to heat the water;
 - b. A container to catch wastewater from hand washing; and
 - c. Soap and single-service towels.

4. Chemically treated towelettes as specified in 2013 FDA Model Food Code paragraph 5-203.11(C) may be substituted for handwashing requirements in subsection F.3. above.
- G. Mobile food units wider than eight feet six inches that were permitted in the Municipality of Anchorage prior to the adoption of the width requirement listed in section 16.60.050, shall be exempt from the width requirement in section 16.60.050.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 22, 12-19-17)

16.60.240 - Child care centers.

- A. In addition to the other applicable requirements of this chapter, the operator of a child care center shall comply with this section.
- B. Food provided to child care centers by parents/guardians for service to children other than their own shall be limited to:
 1. Snacks; or
 2. Confections or bakery-type items, such as fruit or berry pies and cobblers, cakes, cookies, donuts, and breads. Potentially hazardous food, including bakery-type items containing potentially hazardous fillings or topping, such as custard, whipped cream, or meringue, shall not be allowed under this section.
- C. Formula, breast milk and juice served to infants shall be:
 1. Supplied daily to the child care center by the parent(s)/guardian as packaged (ready-to-feed) and fully prepared, except breast milk, if frozen, may be provided in baby bottles or bottles liners and identified for the appropriate child; or
 2. Supplied to the child care center by the parent(s)/guardian as unopened containers of powdered or liquid formula concentrate, provided the containers are identified for the appropriate child and the formula is prepared as prescribed by the child's physician or parent(s)/guardian and fed only to that parent's child and after opening.
- D. Any excess formula, breast milk, or juice shall be discarded after each feeding.
- E. Warning of baby food, formula, milk and breast milk shall be done by placing the containerized food item in hot water (not boiling), shaking or stirring the food well, and temperature testing the food before feeding. Bottles and baby food shall not be warned in a microwave oven.
- F. Commercially prepared and homemade baby food provided by the parent(s)/guardian shall be:
 1. Provided as needed, except homemade baby food shall be provided only on a daily basis;
 2. Labeled with the child's name;
 3. Served only to the parent's/guardian's child;
 4. Served from a cup or bowl, not directly from the container; and
 5. After opening, used, discarded, or returned to the parent at the end of the day.
- G. Commercially prepared baby food, after opening, shall be:
 1. Served from a cup or bowl, not directly from the container; and
 2. Used, discarded, or returned to the parent at the end of the day.
- H. Employees, while engaged in food handling and/or preparation activities, shall not be involved in diapering or toilet training unless it is an emergency situation.

- I. Toilet room doors are exempt from the requirements of 2013 FDA Model Food Code Section 6-202.14.
- J. Outside doors at a child care center governed by this section are exempt from the self-closing requirements in 2013 FDA Model Food Code subparagraph 6-202.15(A)(3).

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 23, 12-19-17)

16.60.250 - Food processing plant.

- A. In addition to the other applicable requirements of this chapter, the operator of a food processing plant shall comply with this section.
- B. The operator of a food processing plant may not use a packaging process or material that may:
 - 1. Transmit a contaminant or objectionable material to the food;
 - 2. Impart additives;
 - 3. Fail to prevent food contamination; or
 - 4. Allow the growth of infectious or toxigenic microorganisms.
- C. In addition to the labeling requirements listed in 2013 FDA Model Food Code paragraph 3-201.11(C), the owner or operator of a food processing plant shall ensure food products made by the processor are labeled:
 - 1. With a lot number or other code allowing production lots to be identified in the event the food is recalled, contaminated, or otherwise found to be unfit for human consumption. The operator shall keep lot records for a period exceeding the shelf life of the product by six months, or for two years, whichever is less.
 - 2. So known allergens, including fish, tree nuts, mollusks, wheat, milk crustacea, eggs, and legumes (particularly peanuts and soybeans) used in food product formulations are declared on the label, even if a processing or incidental additive. The name of the ingredient may be accompanied by a parenthetical statement such as "processing aid" for clarity.
 - 3. So all foods in reduced oxygen packaging relying on refrigeration as a barrier to microbial growth must bear the statement "Important — Must be kept refrigerated at 41°" or "Important — Must be kept frozen," in the case of foods relying on freezing as a primary safety barrier.
 - 4. So each container of food in reduced oxygen packaging must bear a "use-by" date. This date cannot exceed 14 days from retail packaging or repackaging without further variance granted by the regulatory authority. The date assigned to a repackaged food cannot extend beyond the manufacturer's recommended "pull date" for the food. The "use-by" date must be listed on the principal display panel in bold type on a contrasting background.
- D. The operator of a food processing plant shall develop and maintain procedures for notifying the department and consumers of a product recall and shall implement those procedures for any product the operator or the department knows or has reason to believe might cause illness, injury, or gross consumer deception.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 24, 12-19-17)

16.60.260 - Responsibilities of a food establishment permit holder.

- A. Upon acceptance of the permit issued by the department, the permit holder, in order to retain the permit shall:
1. Post the permit in a location in the food establishment that is conspicuous to consumers as specified under subsection 16.60.070A.5.;
 2. Comply with the provisions of this code including the conditions of a granted variance specified under section 8-103.12 of the 2013 FDA Model Food Code and meet the requirements of section 16.60.100;
 3. If a food establishment is required under section 8-201.13 of the 2013 FDA Model Food Code to operate under a HACCP plan, comply with the plan as specified under section 8-103.12 of the 2013 FDA Model Food Code;
 4. Immediately contact the department to report an illness of a food employee or conditional employee as specified under section 2-201.11(B) of the 2013 FDA Model Food Code;
 5. Immediately discontinue operations and notify the department if an imminent health hazard exists as defined in section 16.60.050;
 6. Allow representatives of the department access to the food establishment as specified under section 16.60.290;
 7. Comply with directives of the department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the department in regard to the permit holder's establishment or in response to community emergencies;
 8. Accept notices issued and served by the department according to law; and
 9. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this code or a directive of the department, including time frames for corrective action specified in an inspection reports, notices, orders, warnings, and other directives.

(AO No. [2017-162](#), § 25, 12-19-17)

16.60.270 - Certified food protection manager.

- A. The operator of a permitted food establishment categorized as Risk Type 2 or Risk Type 3 in section 16.60.110 shall have at least one certified food protection manager for each operation who is an active on-site person responsible for the day to day operation of the establishment.
- B. The department may require the operator of a permitted food establishment to have a certified food protection manager present during all hours of operation if there is a documented inability to maintain safe and sanitary food handling practices as demonstrated by a foodborne disease outbreak or serious and repeated violations of this chapter.
- C. A person shall be considered a certified food protection manager if the person provides documentation of successful completion of a food safety examination for food managers from an accredited program.
1. For certification purposes, the certificate date shall be the date the individual successfully completed the examination.
 2. The certificate shall expire five years from the date of the original issuance.
- D. If more than one permitted food establishment is being operated by the same owner and is located on the same property, only one certified food protection manager shall be required if that person is an active on-site person in charge for each permitted activity.

- E. The operator of a Risk Type 2 or Risk Type 3 food establishment shall ensure that a new certified food protection manager is hired and active on-site within 30 days of the termination or departure of the previous certified protection manager.
- F. Upon change of ownership of permitted food establishment, the permit holder shall provide a copy of the certified food manager certificate at the time of application for the new permit required pursuant to section 16.60.080C.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 26, 12-19-17)

16.60.280 - Certified food worker.

- A. The operator of a food establishment shall ensure each food worker employed in the establishment, within 21 days after the date of hire, has been trained in basic food safety including employee health requirements.
- B. The operator of a food establishment shall provide proof of compliance with section A. by providing documentation of one of the following:
 - 1. A food worker card issued by the department; or
 - 2. A food worker card issued by other food worker card programs as approved by the department.
- C. An individual shall be considered a certified food worker if they provide documentation indicating successful completion of a food safety examination for food workers from a program provided by or approved by the department.
- D. The certificate shall expire three years from the date of the original issuance and be provided to the department upon request by the department.
- E. In this section, "food worker" means:
 - 1. An individual working with unpackaged food, TCS food, or food-contact surfaces; and
 - 2. Does not include the following individuals, or an individual whose activities are limited to one or more of the following:
 - a. An individual responsible for greeting, seating, or transacting the exchange of money or credit with customers;
 - b. A grocery checker or an individual responsible for bagging groceries;
 - c. A delivery driver;
 - d. A patient or resident in an institution;
 - e. An individual who assists patients or residents in an institution with meals;
 - f. A volunteer;
 - g. An individual responsible for stocking shelves or display areas;
 - h. An individual responsible for receiving, stocking, shipping, delivering, or picking product in a warehouse; or
 - i. An individual under the age of 18 who is assisting in a school kitchen with school meal service.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 27, 12-19-17)

16.60.290 - Compliance inspections.

- A. The department may conduct inspections to determine compliance with this chapter.
- B. The person operating a food establishment shall allow an inspector to enter and have free access to the food establishment during reasonable hours to conduct an inspection in order to determine compliance with this chapter. During an inspection the department may, but is not limited to:
 - 1. Inspect all or any portion of the establishment, including each type of operation required to have a permit under Section 16.60.070;
 - 2. Inspect all or any portion of any commissary, servicing area, or other facility supporting or operating in conjunction with the establishment, including areas supporting vending machines;
 - 3. Examine records relating to food and supplies purchased, received, or used;
 - 4. Examine employees' illness or absenteeism if investigating a possible foodborne disease outbreak; and
 - 5. Examine food, observe procedures, obtain samples, or conduct tests to assure compliance with this chapter.
- C. Failure to grant free access as described in section B. above shall constitute cause for the suspension or revocation of the food establishment permit pursuant to Sections 16.60.320 and 16.60.330 or a Notice of Closure under Section 16.60.340.
- D. During an inspection, the inspector shall record the findings on forms developed by the department. The department shall develop and utilize a compliance inspection report form that incorporates a scoring system based on the 2013 FDA Food Code that assigns point values based on the importance of that item in the prevention of food-borne disease. A compliance inspection report shall include these findings:
 - 1. An overall inspection score from 0 to 100 determined by subtracting the sum of the point values requiring correction from the total points possible, dividing by the total points possible and then multiplying by 100 to compute the percentage of possible points obtained. The inspection score shall be expressed as the nearest whole percentage of this computed value. Scores shall not be assigned to change of ownership inspections, enforcement inspections, additional inspections, or structural inspections.
 - 2. The identification of improper food handling, storage, preparation, cooking or housekeeping processes that are in need of correction.
 - 3. A notation indicating what further action is warranted based on the number or types of items noted for correction or the overall inspection score.
- E. The department shall conduct inspections as follows:
 - 1. *Regular inspections.* The department shall make a reasonable effort to inspect every permitted food establishment at least once per year. When a regular inspection is made, the inspector shall inspect the entire permitted food establishment. The department may conduct additional inspections of permitted food establishments based upon the potential risk of foodborne illness transmission.
 - 2. *Re-inspections.* The department may conduct re-inspections to verify compliance with this chapter. When a re-inspection is conducted, the inspector shall complete an inspection in its entirety.
 - a. A re-inspection may be conducted by the department as needed, subsequent to a regular inspection, where critical violations were noted and the department issued a compliance schedule pursuant to section 16.60.300, repeat noncritical violations were noted on two or more consecutive inspections, or to monitor correction of items listed on the last regular inspection form. A re-inspection may occur within 30 calendar days of the initial inspection.

- b. The department may issue a compliance schedule pursuant to Section 16.60.300 for any new violations found during a re-inspection.
 - c. An enforcement inspection may be scheduled subsequent to a re-inspection according to section E.3. below.
 - 3. *Enforcement inspections.* An enforcement inspection may be conducted by the department as needed, subsequent to a regular inspection or re-inspection, where repeat critical violations were noted or repeat noncritical violations were noted on three or more consecutive inspections. Following permit suspension or closure, a re-opening inspection will be conducted and charged as an enforcement inspection.
 - a. During an inspection resulting in the need for an enforcement inspection:
 - i. The operator shall receive written notice an enforcement inspection shall be made on a specific date, which shall be within 15 days of the current inspection date;
 - ii. Written notice shall be given should the operator fail to correct the identified violation(s) by the time of the enforcement inspection, the department may suspend or revoke the food establishment permit in accordance with Sections 16.60.320 and 16.60.330;
 - b. The operator shall be assessed a fee for such enforcement inspection(s) at the current department rate set forth in Section 16.60.110.
 - c. Should an enforcement inspection reveal critical violations identified on the previous inspection continue to exist:
 - i. The department may initiate the suspension or revocation of the permit in accordance with Sections 16.60.320 and 16.60.330; or
 - ii. The department may schedule additional enforcement inspections pursuant to this subsection.
 - 4. *Change of ownership inspections.* A change of ownership inspection shall be conducted by the department following receipt of an application for a permit indicating a change of ownership. The inspection shall check for compliance with this chapter.
 - 5. *Additional inspections.* The department may conduct additional inspections of permitted food establishments:
 - a. Subsequent to extensive remodeling of a permitted food establishment;
 - b. In response to a complaint;
 - c. Prior to issuance of a permit and to opening of a new food establishment;
 - d. After fire, flood, extended interruption of potable water or electrical service, or other emergency in the permitted food establishment potentially affecting food safety; or
 - e. As needed to protect public health or to assure compliance with this chapter.
 - 6. *Structural inspections.* The department may conduct an inspection of a structure, where plans are approved by the department, to monitor compliance with this chapter.
- F. An operator may not interfere with or threaten an inspector performing an inspection under this section.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; [AO No. 2015-31, § 1, 4-14-15](#); AO No. [2017-162](#), § 28, 12-19-17)

16.60.300 - Correction of violations.

- A. The operator shall correct violations found by the department during an inspection pursuant to Section 16.60.290 as follows:
 - 1. Violations shall be corrected immediately unless the department agrees immediate correction is not possible and interim measures are initiated to protect the public health. In such a case, the department may, in its discretion, issue a compliance schedule to the operator.
 - 2. The operator of a permitted food establishment shall notify the department in writing when the operator has corrected critical violations noted. The department may conduct an inspection to conform correction.
 - 3. The operator of a temporary food establishment shall immediately correct any violation(s). If the violation cannot be corrected, the department may immediately suspend the operator's temporary food establishment permit.
- B. The department may suspend or revoke a permit in accordance with Sections 16.60.320 and 16.60.330 for failure to comply with this section.
- C. If a permitted food establishment is required to cease operation, the operator shall not resume operations until the department confirms the conditions causing the suspension no longer exist. The department may, if public health is protected and the purpose of this chapter is otherwise satisfied, enter into a compliance agreement with the operator establishing a schedule for correcting deficiencies.
- D. The inspection report is a public record and is available for public review. The department may publish individual inspection reports or ratings, summaries or trend data extracted from groups of inspection reports.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10)

16.60.310 - Detention and destruction of food.

- A. The department may examine, sample, and test food offered or displayed for sale to the public to determine compliance with this code.
- B. If the department finds or has cause to believe a food product or food ingredient is adulterated, misbranded, not honestly presented or labeled according to law, processed, or harvested in violation of this chapter the department shall:
 - 1. Detain the food product or food ingredient;
 - 2. Order affixed in a conspicuous place to the food product or food ingredient a "detained" tag or other appropriate marking that gives notice the food product or food ingredient is detained in accordance with Sections 8-903.30(A), 8-903.30(B), 8-903.30(C) and 8-903.30(E) of the 2013 FDA Model Food Code;
 - 3. Order that the food product or food ingredient shall not be removed, disposed, moved, reprocessed, re-labeled, destroyed, or otherwise altered without the department's written consent or order of the court; and
 - 4. Issue a detention order and inform the person operating the food establishment of conditions required to terminate the detention.
- C. If the department has reasonable cause to believe that the detention order will be violated, or finds that the order is violated, the department may remove the food that is subject to the order and retain it in a place for safekeeping.
- D. Upon request, the department shall notify the operator of the results of any laboratory analysis conducted by the department of a food product or food ingredient detained under subsection B. above.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; AO No. [2017-162](#), § 29, 12-19-17)

16.60.320 - Summary permit suspension.

- A. *Suspension.* The department may, without prior warning, notice, or hearing, suspend a permit and require the permitted food establishment cease operating if:
 - 1. An imminent health hazard exists;
 - 2. Repeated violations of this chapter constitute an unacceptable public health risk;
 - 3. A permitted food establishment is placed under a "boil water" notice under 18 AAC 80;
 - 4. Samples of the permitted food establishment's public drinking water supply are positive for fecal coliforms;
 - 5. The operator or an employee interferes with a department employee or agent in the performance of official duties; or
 - 6. The permitted food establishment fails to attain a minimum score of 71 during a compliance inspection.
- B. *Effect of suspension.* The permitted food establishment shall cease all preparation and service of food immediately upon notice of suspension upon on the operator by the department.
- C. *Notice of suspension.* The notice of suspension shall include the reasons for the suspension and the right to appeal the suspension.
- D. *Reinstatement of permit.* A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination is confirmed by the department through re-inspection and other means as appropriate.
- E. *Posting of suspension.* The department may order posting of a notice of suspension, affixed to prominent locations at the food establishment. Removal of the notice by anyone other than the department is a violation of this chapter.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10; [AO No. 2015-31, § 2, 4-14-15](#).)

16.60.330 - Permit revocation.

- A. *Revocation.* The department may, in its discretion, revoke a permit if:
 - 1. Serious and repeated violations of any requirement of this chapter occur;
 - 2. A food establishment permit is suspended three times within any 12-month period and any inspection in the subsequent 12 months reveals repeated critical violations;
 - 3. Repeated interference with an inspector in the performance of their official duties; or
 - 4. Assault upon an inspector in the performance of their official duties.
- B. *Notice of revocation.* The department shall notify the operator of the pending revocation by providing written notice to the address provided on the permit application and by delivering a second copy of that notice to the operator at the permitted food establishment. The notice of pending revocation shall state:
 - 1. The permit shall be revoked on the 11th day following delivery of a revocation notice to the operator at the permitted food establishment, in the absence of a request for a hearing; and
 - 2. The reason(s) for the pending revocation.

- C. *Application for permit following revocation.* The holder of a revoked permit shall not be granted a new permit for at least six months after revocation, and then only if satisfactory evidence is provided to the department demonstrating the conditions causing the revocation were corrected.
- D. *Posting of revocation.* Upon revocation, the department may order a notice of revocation affixed to prominent locations at the food establishment. Removal of the notice by anyone other than the department is a violation of this chapter.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10)

16.60.340 - Notice of closure.

- A. It is unlawful to operate a food establishment without a permit.
- B. The department may issue a "notice of closure" to a food establishment operating without a permit as required by this chapter.
 - 1. The notice of closure shall order the food establishment to close immediately and cease all preparation and service of food.
 - 2. The notice of closure shall state the closure is for operating a food establishment without a permit as required by municipal law.
 - 3. A notice of closure is effective upon personal service of the notice of closure on the owner or person operating the food establishment without a permit.
- C. The department may order the notice of closure affixed to prominent locations at the food establishment. Removal of the notice by anyone other than the department is a violation of this chapter.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10)

16.60.350 - Penalties and remedies.

- A. It is unlawful for a person to violate any provision of this chapter or the terms, conditions, or provisions of any permit issued under this chapter.
- B. Penalties for violations of this chapter are as set forth in Section 14.60.030. If no penalty is provided for in Section 14.60.030, the penalty for a violation of this chapter or the terms, conditions, or provisions of any permit issued under this chapter, shall be not less than \$100.00 and not more than \$1,000.00.
- C. In addition to any other penalty under this chapter, the municipality may seek injunctive relief to restrain a person from violating or threatening to violate this chapter or the terms, conditions, or provisions of any permit issued under this chapter. Upon application for injunctive relief and a finding a person is violating or threatening to violate any provision of this chapter, the superior court shall grant injunctive relief to restrain the violation.
- D. Each day of violation of any provision of this chapter shall constitute a separate offense.
- E. Civil penalties and fines imposed under this section shall be enforced pursuant to Title 14.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10)

16.60.360 - Appeal of penalties and remedies or a decision to deny, suspend, or revoke a permit, or to issue a notice of closure.

- A. A person aggrieved by a decision of the department to enforce a civil penalty or fine under Section 16.60.350 may request an administrative hearing under title 14. A hearing requested under this subsection shall be conducted pursuant to title 14, except as otherwise provided in this section.
- B. A person aggrieved by a decision of the department to deny, suspend or revoke a permit, or an order to detain food, or to issue a notice of closure may appeal to the administrative hearing officer. An appeal requested under this subsection shall be conducted pursuant to chapter 3.60, except as otherwise provided in this section.
- C. An appeal made under section B. above shall be filed within 15 days from service of the department's decision to deny, suspend, or revoke a permit, or to issue a notice of closure, or to issue an order to detain food.
- D. The application for an appeal made under section B. above shall include:
 - 1. The operator's name, mailing address, food establishment physical address, telephone number, and facsimile number or email address;
 - 2. The decision being appealed;
 - 3. A clear and concise statement of the reason for the appeal, including:
 - a. A statement of the nature and scope of the operator's disagreement with the department decision;
 - b. The specific nature of the right, authority, license, permit or privilege desired by the operator;
 - c. Any legal authority in support of the operator's position; and
 - d. The proposed alternatives the operator believes will adequately address the operator's and the department's concerns.
 - 4. Any other information the operator believes will assist the department in reviewing the department decision.
- E. A hearing on an appeal made under section B. above to suspend a permit, revoke a permit, issue a notice of closure, or to issue an order to detain food shall be held within five days of a timely request for appeal.
- F. A hearing on an appeal made under section B. above to deny a permit shall be held no later than 30 days from a timely request for appeal.
- G. The time periods set forth in this section, Chapter 3.60, and Title 14 may be extended with the agreement of all parties to the action and the approval of the administrative hearing office.
- H. The administrative hearing officer shall prepare findings of fact, conclusions of law and a final decision on the appeal made under sections A. and B. above. This decision is appealable to the superior court as provided in section I. below.
- I. A party may appeal an administrative hearing officer decision under section H. above to the superior court within 30 days of issuance of the final decision by the administrative hearing officer. Review by the superior court shall be limited to whether the decision of the administrative hearing office is supported by substantial evidence. Failure to file an appeal within 30 days shall be a waiver of the right to appeal.
- J. This section shall not preclude the department from choosing an appeal under section B. above to be governed by Section 16.02.020.

(AO No. 2009-40(S), § 1, 7-21-09; AO No. 2009-102, § 1, 8-25-09, eff. 1-1-10)