

## Chapter HSS 196

## RESTAURANTS

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Note: Chapter HSS 196 as it existed on June 30, 1985 was repealed and a new chapter HSS 196 was created effective July 1, 1985.

**HSS 196.01 Authority and purpose.** Section 50.57, Stats., gives the department authority to prescribe rules for restaurants, and to enforce these rules for the purpose of protecting public health and safety.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.02 Scope.** (1) **APPLICABILITY.** The provisions of this chapter shall apply to the operator of any restaurant, temporary restaurant or mobile restaurant.

(2) **APPROVED COMPARABLE COMPLIANCE.** When it appears to the department that strict adherence to a provision of this chapter is impractical for a particular restaurant, the department may approve a modification in that rule for that facility if the department is provided with satisfactory proof that the grant of a variance will not jeopardize the public's health, safety or welfare.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.03 Definitions.** In this chapter:

(1) "Adulterated" means the condition of a food if it bears or contains any poisonous or deleterious substance in a quantity which may be injurious to health; if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established under U.S. food and drug administration regulations, or in excess of the tolerance if one has been established; if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption; if it has been processed, prepared, packed or held under unsanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; if it is in whole or in part the product of a diseased animal, or an animal which has died otherwise than by slaughter; or if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

(2) "Agent" means the city or county designated by the department to issue permits to and make investigations or inspections of restaurants, temporary restaurants and mobile restaurants.

(3) "Approved" means acceptable to the department, based on its determination of conformance to this chapter and good public health practices.

(4) "Corrosion-resistant material" means a material which maintains its original surface characteristics under prolonged contact with food, cleaning compounds and sanitizing solutions.

(5) "Department" means the department of health and social services.

(6) "Easily cleanable" means readily accessible and made of a kind of material and finish and so fabricated that residue may be completely removed by normal cleaning methods.

(7) "Employee" means any person working in a restaurant.

(8) "Equipment" means, in connection with the operation of a restaurant, stoves, ranges, hoods, counter freezers, meatblocks, counters, refrigerators, sinks, ice-making machines, dishwashing machines, steam-tables, blenders, meat grinders and slicers and similar items other than utensils.

(9) "Existing", in reference to a restaurant, means operating with a permit from the department before the effective date of this chapter.

(10) "Furnishings" means, in connection with the operation of a restaurant, linens, chairs, tables, shelves, drapes, curtains, decorations, fixtures and similar items.

(11) "General public" means persons who are served a meal but are not part of the household. "General public" includes but is not limited to members and guests of churches, religious, fraternal, youth or patriotic organizations, and members, guests, employees, customers and occupants of public or private service clubs, civic organizations, industrial plants, office buildings and businesses. "General public" does not include personal guests in private homes; residents or employees of governmental institutions; residents, patients or employees of health care facilities or of community-based residential facilities, defined in s. 50.01 (1), Stats.; residents, clients or employees of facilities licensed under ch. 48, Stats.; visitors of patients or of residents of health care facilities, community-based residential facilities, defined in s. 50.01 (1), Stats., or governmental institutions; and visitors of residents or clients of facilities licensed under ch. 48, Stats.

(12) "Limited food service" means the serving of food which is prepared and packaged off the premises with preparation on the premises limited to heating and serving with single-service articles.

(13) "Meal" means food that is served, except soft drinks, ice cream, milk, milk drinks, ices and confections. "Meal" includes but is not limited to sandwiches, individual portions of cured and pickled food sold from bulk containers, hard boiled eggs, hot ready-to-eat soup, individual pastry items generally sold with a beverage, raw or cooked processed foods sold or served in individual portions, or ingredients prepared, served or sold at retail for human consumption by any fixed or mobile

restaurant or pushcart, coffee shop, cafeteria, cafe, luncheonette, grill, tearoom, sandwich shop, drive-in restaurant, caterer, whether the caterer sells meals or lunches at a stated price or is contracted by the meal or on an hourly basis, commissary, delicatessen, industrial feeding establishment, private organization operating a food service in a hospital, or temporary restaurant.

(14) "Mobile restaurant" means a restaurant operating from a movable vehicle, pushcart, trailer or boat which periodically or continuously changes location and wherein meals or lunches are prepared or served or sold to the general public, excepting those vehicles used in delivery of pre-ordered meals or lunches prepared in a licensed restaurant. "Mobile restaurant" does not include a common carrier regulated by the state or federal government.

(15) "New", in reference to a restaurant, means operating with a permit from the department for the first time on or after the effective date of this chapter.

(16) "Occasional" means fewer than 4 days during any 12-month period.

(17) "Operator" means the owner or person responsible to the owner for the operation of the restaurant.

(18) "Person" means an individual, partnership, association, firm, company, corporation, organization, municipality, county, town, or state agency, whether tenant, owner, lessee or licensee, or the agent, heir or assignee of any of these.

(19) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. "Potentially hazardous food" does not include clean, whole, uncracked, and odor-free shell eggs or foods which have a pH level of 4.6 or below or a water activity ( $a_w$ ) value of 0.85 or less.

(20) "Pre-wash" means the process of water scraping of utensils prior to washing.

(21) "Premises" means each individual building, space or stand where meals or lunches are prepared, served or sold.

(22) "Restaurant" means any building, room or place where meals are prepared or served or sold to the general public and all places used in connection with that building, room or place. "Restaurant" does not apply to:

(a) Taverns that serve free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter;

(b) Churches, religious, fraternal, youth or patriotic organizations, service clubs and civic organizations which occasionally prepare, serve or sell meals to the general public;

(c) A public or private school lunchroom except where meals are prepared or served by a private caterer;

- (d) Any food service provided solely for needy persons; or
- (e) Bed and breakfast establishments.

(23) "Sanitize" means effective bactericidal treatment of clean surfaces of equipment utensils by a process which has been approved by the department as being effective in destroying micro-organisms, including pathogens.

(24) "Secretary" means the secretary of the department of health and social services.

(25) "Service base" means an enclosed building for servicing, cleaning, inspection and maintenance of the mobile restaurant.

(26) "Single-service article" means a cup, container, lid or closure, plate, knife, fork, spoon, stirrer, paddle, straw, place mat, napkin, doily, wrapping material, or any similar article constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic or other readily destructible material, and intended by the manufacturer and generally recognized by the public as for one usage only after which it is to be discarded.

(27) "Temporary restaurant" means a restaurant that operates at a fixed location in conjunction with a single event such as a fair, carnival, circus, public exhibition, anniversary sale or occasional sales promotion.

(28) "Utensil" means any kitchenware, tableware, glassware, cutlery, container or similar item with which food or drink comes in contact during storage, preparation or serving.

(29) "Wholesome" means in sound condition, clean, free from adulteration and otherwise suitable for use as human food.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.04 Permits.** (1) **APPLICATION.** Before opening for business, every restaurant operator shall obtain a permit from the department or its agent by application made upon a form furnished by the department or agent.

Note: To obtain a copy of the application form, write: Bureau of Environmental Health, P.O. Box 309, Madison, Wisconsin 53701.

(2) **ACTION BY THE DEPARTMENT.** Within 30 days after receiving a complete application for a permit, the department or its agent shall either approve the application and issue a permit or deny the application. If the application for a permit is denied, the department or its agent shall give the applicant reasons, in writing, for the denial. A permit shall not be issued to an operator of a new restaurant without prior inspection of the restaurant by the department or its agent to ensure that the restaurant complies with the requirements of this chapter.

(3) **DISPLAY OF PERMIT.** The permit issued by the department or its agent shall be conspicuously displayed in the restaurant.

(4) **CHANGE OF OPERATOR.** The operator of a restaurant shall promptly notify the department in writing of his or her intention to cease operations and shall supply the department with the name and mailing address of any prospective new operator.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

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**HSS 196.05 Food supplies.** (1) **GENERAL.** Food shall be in sound condition, free from spoilage, filth or other contamination, not adulterated, and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in an approved food processing establishment is prohibited.

(2) **SPECIAL REQUIREMENTS.** (a) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the grade A quality standards under s. 97.24, Stats., and ch. Ag 80. Dry milk and dry milk products shall be made from pasteurized milk and milk products.

(b) Fresh and frozen shucked shellfish, including oysters, clams, and mussels, shall be packed in nonreturnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used. Each container of unshucked shell stock, oysters, clams or mussels shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quantity of shell stock, and an interstate certification number issued by the state or foreign shellfish control agency.

(c) Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, or dry eggs or pasteurized dry egg products may be used, except that hard-boiled, peeled eggs, commercially prepared and packaged, may be used.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.06 Food protection.** (a) **GENERAL.** At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous food shall be 40°F. (4°C.) or below or 150°F. (66°C.) or above, as appropriate, at all times, except as otherwise provided in this chapter.

(2) **EMERGENCY OCCURRENCES.** In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately notify the department or the public health professional who directs the local environmental health program. Upon receiving notice of this occurrence, the department or the public health professional who directs the local environmental health program shall take whatever action that he or she deems necessary to protect the public health.

Note: To notify the department, phone the bureau of environmental health, 608-266-2835. To notify the public health professional who directs the local environmental health program, contact the office of the local health officer.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85; reprinted to correct note, Register, August, 1985, No. 356.

**HSS 196.07 Food storage.** (1) **GENERAL.** (a) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or service. Container covers shall be

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impervious and non-absorbent, except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.

(b) Containers of food shall be stored a minimum of 6 inches (152 mm) above the floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, except that:

1. Metal pressurized beverage containers need not be elevated; and
2. Containers may be stored on dollies, racks or pallets, if this equipment is easily movable.

(c) Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.

(d) Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.

(e) There shall be no wet storage of packaged foods and beverages except that bottled or canned beverages may be stored in ice water with a chlorine residual of at least 50 parts per million, provided that the top of the bottle is not submerged.

(f) When bulk food such as cooking oil, syrup, salt, sugar or flour is not stored in the product container or package in which it was obtained, the bulk food shall be stored in a container identifying the food by common name unless the identity of the bulk food is unmistakable to the restaurant employe or any other user of it or to an authorized employe or agent of the department.

(2) REFRIGERATED STORAGE. (a) Adequate refrigeration facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Effectively insulated facilities may be used for short periods for transporting food. Each facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to  $\pm 1^{\circ}\text{F}$ . ( $1^{\circ}\text{C}$ .), located to measure the air temperature in the warmest part of the facility and to be easily readable. Recording thermometers, accurate to  $\pm 2^{\circ}\text{F}$ . ( $1^{\circ}\text{C}$ .), may be used in lieu of indicating thermometers.

(b) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of  $40^{\circ}\text{F}$ . ( $4^{\circ}\text{C}$ .) or below. Potentially hazardous foods of large volume or prepared in large quantities shall be rapidly cooled, using shallow pans, agitation, quick chilling, water circulation external to the food container, or a similar method so that the cooling period needed to reach safe temperatures does not exceed 4 hours. Potentially hazardous food to be transported cold shall be prechilled and held at a temperature of  $40^{\circ}\text{F}$ . ( $4^{\circ}\text{C}$ .) or below.

(c) Frozen food shall be kept frozen and shall be stored at a temperature of  $0^{\circ}\text{F}$ . ( $-18^{\circ}\text{C}$ .) or below.

(d) Ice intended for human consumption may not be used as a medium for cooling stored food, food containers or food utensils, except that the ice may be used for cooling cold plates which are an integral part of the cooling unit or cold plates defined as existing equipment.

(3) **HOT STORAGE.** (a) Adequate hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to  $+2^{\circ}\text{F.}$  ( $1^{\circ}\text{C.}$ ), located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording thermometers, accurate to  $+2^{\circ}\text{F.}$  ( $1^{\circ}\text{C.}$ ), may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on bainmaries, steam tables, steam kettles, heat lamps, cal-rod units, insulated food transport carriers, or similar equipment, a product thermometer shall be available and shall be used to check internal food temperature.

(b) The internal temperature of potentially hazardous foods requiring hot storage shall be  $150^{\circ}\text{F.}$  ( $66^{\circ}\text{C.}$ ) or above except during necessary periods of preparation. Potentially hazardous food to be transported hot shall be held at a temperature of  $150^{\circ}\text{F.}$  ( $66^{\circ}\text{C.}$ ) or above.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.08 Food preparation.** (1) **GENERAL.** (a) Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

(b) An approved sink for food preparation shall be installed in new restaurants where a mechanical dish machine has been installed in lieu of a 3-compartment scullery sink. The pre-wash sink shall not be used for food preparation.

(2) **RAW FRUITS AND RAW VEGETABLES.** Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

(3) **COOKING POTENTIALLY HAZARDOUS FOODS.** Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least  $150^{\circ}\text{F.}$  ( $66^{\circ}\text{C.}$ ), except that:

(a) Poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least  $165^{\circ}\text{F.}$  ( $74^{\circ}\text{C.}$ ) with no interruption of the cooking process;

(b) Pork and pork products shall be cooked to heat all parts of the food to at least  $150^{\circ}\text{F.}$  ( $66^{\circ}\text{C.}$ ), or, if cooked in a microwave oven, to at least  $170^{\circ}\text{F.}$  ( $77^{\circ}\text{C.}$ );

(c) Beef roasts, if cooked in a microwave oven, shall be cooked to an internal temperature of at least  $145^{\circ}\text{F.}$  ( $63^{\circ}\text{C.}$ ); and

(d) Rare roast beef shall be cooked to an internal temperature of at least  $140^{\circ}\text{F.}$  ( $60^{\circ}\text{C.}$ ) unless otherwise ordered by the immediate consumer.

(4) **DRY MILK AND DRY MILK PRODUCTS.** Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products or for cooking and baking purposes.

(5) **LIQUID, FROZEN, OR DRY EGGS AND EGG PRODUCTS.** Liquid, frozen, or dry eggs and egg products may only be used for cooking and baking purposes.

(6) **REHEATING.** Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to 165°F. (74°C.) or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bainmaries, warmers, and similar hot food holding facilities are prohibited for the rapid reheating of potentially hazardous foods.

(7) **NONDAIRY PRODUCTS.** Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one quart in capacity and cooled to 40°F. (4°C.) or below within 4 hours after preparation.

(8) **PRODUCT THERMOMETERS.** Metal steam-type numerically scaled indicating thermometers, accurate to  $\pm 2^\circ\text{F}$ . ( $1^\circ\text{C}$ .), shall be provided and used to ensure that the proper internal cooking, holding, or refrigeration temperature is attained and maintained for all potentially hazardous foods, except that, as indicated under s. HSS 196.07 (2) (a) and (3), for refrigerated storage or hot storage, recording thermometers, accurate to  $\pm 2^\circ\text{F}$ . ( $1^\circ\text{C}$ .), may be used in lieu of indicating thermometers.

(9) **THAWING POTENTIALLY HAZARDOUS FOODS.** Potentially hazardous foods shall be thawed:

(a) In refrigerated units at a temperature not to exceed 40°F. (4°C.);

(b) Under potable running water at a temperature of 70°F. (21°C.) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow;

(c) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

(d) As part of the conventional cooking process.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85; reprinted to correct error in (1) (a), Register, August, 1985, No. 356.

**HSS 196.09 Food display, service and transportation.** (1) **POTENTIALLY HAZARDOUS FOOD.** Potentially hazardous food shall be kept at an internal temperature of 40°F. (4°C.) or below or at an internal temperature of 150°F. (66°C.) or above during display and service, except that rare roast beef may be held for service at an internal temperature of at least 140°F. (60°C.).

(2) **MILK AND CREAM DISPENSING.** (a) Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding 1 pint in capacity, or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser. Where a bulk dispenser for milk and milk prod-  
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ucts is not available and portions of less than ½ pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be

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poured from a commercially filled container of not more than ½-gallon capacity or metric equivalent.

(b) Cream or half-and-half shall be provided in an individual service container, a covered pour-type pitcher, or shall be drawn from a refrigerated dispenser designed for the service. Re-service of cream or half-and-half provided in uncovered individual service containers is prohibited.

(3) **NONDAIRY PRODUCT DISPENSING.** Nondairy creaming or whitening agents shall be provided in an individual service container, a covered pour-type pitcher, or shall be drawn from a refrigerated dispenser designed for the service.

(4) **CONDIMENT DISPENSING.** (a) Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with sub. (8).

(b) Condiments provided for table or counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or pour-type dispenser. Sugar for consumer use shall be provided in individual packages or in covered pour-type dispensers.

(5) **ICE DISPENSING.** Ice for consumer use shall be dispensed only by employes with scoops, tongs, or other ice-dispensing utensils or through automatic self-service, ice-dispensing equipment. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air-gap.

(6) **DISPENSING UTENSILS.** To avoid unnecessary manual contact with food, suitable dispensing utensils with handles long enough to prevent handle contact with food shall be used by employes or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall be:

(a) Stored in the food with the dispensing utensil handle extended out of the food;

(b) Stored clean and dry;

(c) Stored in running water; or

(d) For dispensing utensils and malt collars used in preparing frozen desserts, stored either in a running water dipper well or clean and dry.

(7) **RE-SERVICE.** Once served to a consumer, portions of leftover food may not be served again except that packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition, may be re-served.

(8) **DISPLAY EQUIPMENT.** Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily cleanable counter, serving line or salad bar protector devices, display cases, or by other effective means. Adequate hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display. Self-service displays such as salad bars, smorgasbords or buffets shall be so located that traffic is restricted to those individuals using the displays. All displayed food on self-service units shall be arranged to minimize reaching across displayed food by the user.

(9) **RE-USE OF TABLEWARE.** Operators shall prohibit re-use of soiled tableware by self-service consumers returning to the service area for additional food. Beverage cups and glasses are exempt from this requirement.

(10) **FOOD TRANSPORTATION.** During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged in order to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of ss. HSS 196.06 and 196.07 relating to food protection and food storage.

**History:** Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.10 Personnel.** (1) **EMPLOYEE HEALTH.** (a) No person knowingly infected with a disease in a form that is communicable by food handling may be employed or work as a food handler in a public eating place or other establishment where food products to be consumed by others are handled or produced.

(b) If the restaurant operator suspects that any employe has a communicable disease that may be transmitted by food handling, the operator shall exclude the employe from the restaurant and, in the case of a reportable communicable disease defined under s. HSS 145.03 (2), shall notify the local health authority immediately.

(2) **PERSONAL CLEANLINESS.** Employes shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employes shall keep their fingernails clean and trimmed.

(3) **CLOTHING.** (a) The outer clothing of all employes shall be clean.

(b) Effective hair restraints, such as hair nets or caps, shall be used by food-preparation personnel. Hair sprays and head bands are not acceptable hair restraints. Effective hair control to eliminate unnecessary touching or handling of hair shall be practiced by serving persons and other restaurant employes.

(4) **EMPLOYEE PRACTICES.** (a) Employes may consume food only in designated areas of the restaurant. An area may not be designated for this purpose if consuming food there may result in contamination of other food, or contamination of equipment, utensils or other items needing protection.

(b) Employes shall not use tobacco in any form while engaged in food preparation or service, nor while in areas used for equipment or utensil washing or for food preparation. Employes may use tobacco only in designated areas. An employe tobacco-use area may not be designated for that purpose if the use of tobacco there may result in contamination of food, equipment, utensils or other items needing protection.

(c) Employes shall handle soiled tableware in a way that minimizes contamination of their hands.

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(d) Employes shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food service establishments.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.11 Equipment and utensils. (1) MATERIALS.** (a) Multi-use equipment and utensils shall be constructed and repaired with safe materials, including finishing materials; shall be corrosion-resistant and non-absorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, or contribute to the contamination of food.

(b) If solder or sealants are used, they shall be nontoxic food grade materials and be corrosion-resistant.

(c) Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in par. (a) may be used for cutting blocks, cutting boards, salad bowls and baker's tables. Wood may be used for single-service articles, such as chop sticks, stirrers, or ice cream spoons. The use of wood as a food-contact surface under other circumstances is prohibited.

(d) Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in par. (a) are permitted for repeated use.

(e) Mollusk and crustacea shells may be used only once as serving containers. Further re-use of the shells for food service is prohibited.

(f) Re-use of single-service articles is prohibited.

**(2) APPROVAL, DESIGN AND FABRICATION.** (a) Any equipment or utensil for use in restaurants which meets the standards of the national sanitation foundation or is approved by the U.S. public health service may be used.

Note: The National Sanitation Foundation's food service equipment standards may be consulted at the Bureau of Environmental Health, or in the offices of Secretary of State or the Revisor of Statutes. Copies may be obtained from the National Sanitation Foundation, NSF Building, P.O. Box 1468, Ann Arbor, Michigan 48106.

(b) Equipment that was installed in a food service establishment prior to the effective date of this chapter, and that does not fully meet all of the design and fabrication requirements of this section, shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in a sanitary condition, and the food-contact surfaces are nontoxic. Replacement equipment and new equipment acquired on or after the effective date of this chapter shall meet the requirements of par. (a).

(c) Equipment and utensils not suitable for use or not capable of being maintained in a sanitary condition shall be removed from the premises.

(d) All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping and crazing.

(e) Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills, griddle tops and skillets. Threads shall be designed to facilitate cleaning.

(f) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Only approved food-grade lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.

(g) Tubing conveying beverages or beverage ingredients shall be fabricated from safe materials, grommeted at entry and exit points to preclude moisture in the form of condensation from entering the ice machine or the ice storage bin, and shall be kept clean.

(h) Sinks and drain boards shall be self-draining.

(3) ACCESSIBILITY. Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

(a) Without being disassembled;

(b) By disassembling without the use of tools; or

(c) By easy disassembling with the use of only simple tools used for this purpose only and stored near the equipment.

(4) IN-PLACE CLEANING. Equipment intended for in-place cleaning shall be designed and fabricated so that:

(a) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen;

(b) Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

(c) The system is self-draining or capable of being completely evacuated.

(5) PRESSURE SPRAY CLEANING. Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches and connections.

(6) THERMOMETERS. Indicating thermometers required for immersion into food or cooking media shall be of metal stem type construction, numerically scaled and accurate to  $\pm 2^{\circ}\text{F}$ . ( $1^{\circ}\text{C}$ ).

(7) NON-FOOD CONTACT SURFACES. Surfaces of equipment not intended for contact with food but which are exposed to splash or food debris or which otherwise require frequent cleaning shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections or crevices, readily accessible for cleaning, and made of a kind of

material and kept in good repair so as to be easily maintained in a clean and sanitary condition.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.12 Equipment installation and location.** (1) **GENERAL.** (a) Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.

(b) Soft drink, water or other similar dispensing devices shall not be located over a sink or basin used for ice storage or for washing, rinsing or sanitizing utensils.

(c) Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

(2) **TABLE-MOUNTED EQUIPMENT.** (a) Equipment placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a 4-inch (102 mm) clearance between the table or counter and equipment and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(b) Equipment is portable within the meaning of par. (a) if:

1. It is small and light enough to be moved easily by one person; and
2. It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

(3) **FLOOR-MOUNTED EQUIPMENT.** (a) Floor-mounted equipment, unless readily movable, shall be:

1. Sealed to the floor in a way that meets national sanitation foundation requirements for sealing;
2. Installed on a raised platform of concrete or other smooth masonry in a way that meets national sanitation foundation requirements for floor clearance; or
3. Elevated on legs to provide at least a 6-inch (152 mm) clearance between the floor and equipment, except that vertically mounted floor mixers may be elevated to provide at least a 4-inch (102 mm) clearance between the floor and equipment if no part of the floor under the mixer is more than 6 inches (152 mm) from cleaning access.

Note: The National Sanitation Foundation's food service equipment standards may be consulted at the Bureau of Environmental Health, or in the offices of Secretary of State or the Revisor of Statutes. Copies may be obtained from the National Sanitation Foundation, NSF Building, P.O. Box 1468, Ann Arbor, Michigan 48106.

(b) Equipment is readily movable if:

1. It is mounted on wheels or casters; and
2. It has no utility connection, a utility connection that disconnects quickly, or a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

(c) Unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than 1/32 inch (0.8 mm), or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings.

(4) AISLES AND WORKING SPACES. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employes to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.13 Cleaning, sanitization and storage of equipment and utensils.**

(1) **CLEANING FREQUENCY.** (a) Tableware shall be washed, rinsed, and sanitized after each use.

(b) To prevent cross-contamination, kitchenware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

(c) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be washed, rinsed, and sanitized at intervals throughout the day on a schedule based on food temperature, type of food and amount of food particle accumulation.

(d) The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day, except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

(e) Non-food contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of the accumulation of dust, dirt, food particles and other debris.

(2) **WIPING CLOTHS.** (a) Cloths used for wiping food spills on tableware, including but not limited to plates or bowls being served to the consumer, shall be clean, light-colored, dry and used for no other purpose.

(b) Moist cloths used for wiping food spills on kitchenware and food-contact surfaces of equipment shall be clean, light-colored and rinsed frequently in one of the sanitizing solutions permitted in sub. (3) (h) 5.b. and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.

(c) Moist cloths used for cleaning non-food-contact surfaces of equipment such as counters, dining table tops and shelves shall be clean, light-colored and rinsed as specified in par. (b), and used for no other purpose. These cloths shall be stored in the sanitizing solution between uses.

(3) **MANUAL CLEANING AND SANITIZING.** (a) A 2-compartment sink for manual dishwashing is permitted for existing restaurants only if the sink is in good repair.

(b) In addition to glasswashing facilities in establishments having a class B license defined in s. 125.51 (3), Stats., that have other than limited food service, utensil washing sinks as specified in this section shall be provided when deemed necessary by the department to facilitate effective washing and sanitizing of all utensils. If multi-use utensils are restricted to tongs, spatulas, cutting or spreading knives, serving spoons, and approved heating units where pre-packaged cooked food is heated and stored in the original container, additional utensil washing sinks are not required.

(c) A 3-compartment sink for washing, rinsing and sanitizing utensils and equipment, with adequate drain boards at each end, is required at all new installations and at the time of replacing sinks at existing restaurants. In addition, a single-compartment sink located adjacent to the soiled utensil drain board is required for pre-washing. The additional sink may also be used for liquid waste disposal, counter cloth washing and as an employees' handwashing facility if the utensil washing area is in the food preparation or serving room. In lieu of the additional sink for pre-washing, a well-type garbage disposal with overhead spray wash is acceptable for pre-washing purposes only.

(d) A 4-compartment sink with adequate drain boards at each end may be substituted to meet the requirements of par. (c).

(e) The size of each sink compartment shall be adequate to permit immersion of at least 50% of the largest utensil used.

(f) Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

(g) Drain boards of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(h) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

1. Sinks shall be cleaned prior to use;
2. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil;
3. Utensils and equipment shall be washed in water having a minimum temperature of 110°F. (43°C.) and containing an adequate amount of an effective soap or detergent. Water shall be kept clean by changing it frequently;
4. Equipment and utensils shall then be rinsed free of detergent and abrasives with clean water; and
5. Following washing and rinsing, all utensils and equipment shall be sanitized by one of the following methods:



a. Submerge for 30 seconds in clean water continuously maintained at a temperature of 170°F. (77°C.) or more. A thermometer with an accuracy of +2°F. (1°C.) shall be installed or placed in the final rinse compartment. Baskets of the size and design to permit complete immersion shall be provided and used;

b. Submerge for at least 2 minutes in a hypochlorite solution with a chlorine concentration continuously maintained at 100 parts per million, or another approved sanitizing solution which shall be used at the concentration at which tested and approved by the department;

c. Treatment with steam containing approved materials or additives in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

d. Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for the particular sanitizing solution in the case of equipment too large to sanitize by immersion.

(i) All sanitizing solutions shall be prepared fresh when the restaurant opens or after each meal period and shall be changed as often as necessary to keep sanitizing solutions clean.

(j) Soaps, water softeners, washing compounds or detergents shall not be added to sanitizing solutions. Wetting agents may be added if compatible with the sanitizer and approved by the department.

(k) When chemicals are used for sanitization, a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

(4) MECHANICAL CLEANING AND SANITIZING. (a) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other approved type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers and liquid sanitizer injectors, if any, shall be properly installed and maintained.

(b) The pressure of final rinse water supplied to spray-type dishwashing machines may not be less than 15 nor more than 25 pounds per square inch measured in the water line immediately adjacent to the final rinse control valve. A ¼ inch (6 mm) IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

(c) Machine or water line mounted numerically scaled indicating thermometers, accurate to +2°F. (1°C.), shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(d) Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications attached to the machines.

(e) Drain boards shall be provided and shall be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.

(f) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a pre-wash cycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

(g) Single-tank, stationary-rack and door-type machines and spray-type glass washers using chemicals for sanitization may be used, provided that:

1. The temperature of the wash water is not less than 130°F. (54°C.);
2. The wash water is kept clean;
3. Chemicals added for sanitization purposes are automatically dispensed. Liquid sanitizer dispensers shall be installed with an audible or visible warning device to indicate need to replenish the supply;
4. Utensils and equipment are exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration;
5. The chemical sanitizing rinse water temperature is not less than the temperature specified by the machine's manufacturer;
6. Chemical sanitizers used are approved by the department; and
7. A test kit or other device that accurately measures the parts per million concentration of the solution is available and used.

Note: Restaurant operators may obtain a copy of the department's list of approved chemical sanitizers by writing: Bureau of Environmental Health, P.O. Box 309, Madison, WI 53701.

(h) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water are kept clean and the water is maintained at not less than the following temperature:

1. For sanitizing in a spray-type machine, dishes shall be subjected to a rinse period of at least 10 seconds at a temperature in the supply line at the machine of at least 180°F. (82°C.); and
2. For sanitizing in an immersion tank type machine, dishes shall be submerged for at least 30 seconds with the water continuously maintained at a minimum temperature of 170°F. (77°C.). There shall be a constant change of water through the inlet and overflow.

(i) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

(5) **DRYING.** After sanitization, all equipment and utensils shall be air-dried.

(6) **HANDLING.** Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks may be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.

(7) **STORAGE.** (a) Cleaned and sanitized utensils and equipment shall be stored at least 6 inches (152 mm) above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(b) Utensils shall be air-dried before being stored or shall be stored in a self-draining position.

(c) Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employe or consumer. Unless tableware is prewrapped, holders for knives, forks, and spoons at self-service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.

(8) **SINGLE-SERVICE ARTICLES.** (a) Single-service articles shall be stored at least 6 inches (152 mm) above the floor in closed cartons or containers which protect them from contamination. The closed cartons or containers shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(b) Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.

(c) Single-service knives, forks and spoons packaged in bulk shall be inserted into holders or wrapped by an employe who has washed his or her hands immediately prior to sorting or wrapping the utensils. Unless single-service knives, forks and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination and present the handle of the utensil to the consumer.

(9) **PROHIBITED STORAGE AREA.** The storage of food equipment, utensils or single-service articles in toilet rooms or vestibules is prohibited.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.14 Sanitary facilities and controls.** (1) **PUBLIC UTILITIES.** When an approved public water supply and approved public sewerage facilities are available to the restaurant premises, connection and use are required.

(2) **PRIVATE WELLS.** A private well is permitted as a source of water when a public water facility is not available to the premises. The well shall be located on the premises, constructed and the pump installed in accordance with ch. NR 112, rules of the department of natural resources governing well drilling and pump installation. Whenever safe water can-

not be obtained consistently from a well constructed in apparent compliance with ch. NR 112, as evidenced by laboratory reports, the well shall be reconstructed or a new well constructed in accordance with the requirements of the department of natural resources. If reconstruction or new construction is determined to be impractical or is found to be ineffective, the use of the well shall be discontinued and water shall be transported on a temporary basis from a source and in a manner approved by the department.

(3) **BOTTLED WATER.** Bottled and packaged potable water shall be obtained from a source that complies with all laws and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

(4) **WATER UNDER PRESSURE.** Hot and cold potable water under pressure shall be available at all sink compartments in rooms in which food is prepared or utensils are washed and at all lavatories in all employe and public toilet rooms.

(5) **STEAM.** Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified by the department.

(6) **PRIVATE SEWAGE DISPOSAL.** (a) A private sewage disposal system as defined in s. 145.01 (12), Stats., is permitted when a public sewer facility is not available to the premises. The system shall be located on the premises and shall be designed, constructed and operated in accordance with s. 144.245, Stats., ch. ILHR 82, and s. ILHR 83.03 (3).

(b) Failed on-site private waste disposal systems shall be replaced or rehabilitated. In this paragraph, "failed system" has the meaning prescribed for "failing private sewage system" in s. 144.245 (4), Stats.

(c) An operator may not construct, alter or extend a private sewage disposal system prior to receiving approval of the plans and installation details covering the design and construction, alteration or extension of the system from the department of industry, labor and human relations or a designated agent of that department.

(7) **PLUMBING.** All plumbing and fixtures shall meet the requirements contained in the Wisconsin state plumbing code, ch. ILHR 82, and shall be maintained in good repair and in a sanitary condition.

(8) **NONPOTABLE WATER SYSTEM.** A nonpotable water system is permitted only for purposes such as air-conditioning and fire protection and only if the system is installed according to law and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food or utensils. The piping of any nonpotable water system shall be identified so that it is readily distinguishable from piping that carries potable water.

(9) **TOILET ROOMS.** (a) The number of toilet rooms and fixtures in restaurants and the required ventilation of toilet rooms shall be as required under ss. ILHR 52.50 to 52.64, 54.12 and 55.32.

(b) Carryout restaurants with no on-premise dining shall have at least one toilet room for up to 10 employes. Restaurants with 10 or more employes shall conform to s. ILHR 54.12.

(c) At drive-in restaurants, toilet fixture requirements shall be based on 2¼ customers per car stall.

(d) Toilet rooms shall be under the supervision of the restaurant operator.

(e) Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing, solid doors which shall be closed except during cleaning or maintenance.

(f) All public toilet rooms shall be located so that it is not necessary for patrons using the facilities to pass through a food preparation, serving or storage area or an area where utensils are washed.

(g) Public toilet rooms at new restaurants shall be located contiguous to the dining or serving areas.

(h) The door leading into each toilet room shall be marked to identify whether it is for men or women. Words such as "men" or "women" shall be in letters not less than one inch high. Symbols may be used in place of words or in addition to words.

(i) Toilet room fixtures shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

(10) LAVATORIES. (a) Handwashing facilities shall be located in all toilet rooms.

(b) Sinks used for food preparation or for washing equipment or utensils may not be used for handwashing.

(c) Employes' handwashing facilities shall be separate from utensil washing facilities. The prewash sink may be used as an employe handwashing facility if the utensil washing facilities are located in the food preparation or serving area.

(d) In existing restaurants, employe handwashing facilities shall be located in or immediately adjacent to the food preparation area whenever possible.

(e) In new restaurants and at the time of change in the operator of an existing restaurant, handwashing facilities for employes shall be provided in the food preparation area.

(f) Soap and single-service towels for drying hands shall be provided at employes' handwashing facilities and in public toilet rooms. Approved electric hand dryers may be used in accordance with s. ILHR 52.60 (3).

(g) Lavatories, soap dispensers, hand-drying devices and all other fixtures related to handwashing shall be kept clean and in good repair.

(11) GARBAGE AND REFUSE. (a) *Containers.* 1. Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers.

2. Garbage and refuse containers used in food preparation and utensil washing areas shall be kept covered after they are filled and when the restaurant is closed.

3. Garbage and refuse containers stored outside the establishment, and dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times except during cleaning.

4. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

5. Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils or food preparation areas.

(b) *Storage*. 1. Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.

2. Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof and shall be large enough to store the garbage and refuse containers that accumulate.

3. Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean.

4. Fly-tight containers with covers shall be provided for recyclable products such as cans, bottles and other rubbish.

(c) *Disposal*. 1. Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

2. Where garbage or refuse is burned on the premises, burning shall be done by controlled incineration that prevents the escape of particulate matter in accordance with state and local law. Areas around incineration facilities shall be clean and orderly.

(12) INSECT AND RODENT CONTROL. (a) Effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises shall be used. The premises shall be kept in a condition that prevents the harborage of feeding of insects or rodents.

(b) Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting and self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts and other openings to the outside shall be tight-fitting and free of breaks. Screening materials may not be less than 16 mesh to the inch (2.5 cm).

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.15 Construction and maintenance of physical facilities. (1) BUILDING STRUCTURE.** All restaurants shall comply with the state build-

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ing code, chs. ILH 50 to 64, as enforced by the department of industry, labor and human relations.

(2) **FLOORS.** (a) *Material.* Floors and floor coverings of all food preparation, food storage, and utensil-washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth durable material approved by the department, and shall be maintained in good repair. Nothing in this subsection shall prohibit the use of approved antislip floor covering in areas where necessary for safety reasons.

(b) *Special floor covering.* In areas subject to spilling or dripping of grease or fatty substances, the floor coverings shall be of grease-resistant material.

(c) *Carpeting.* Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food preparation, equipment-washing and utensil-washing areas where it would be exposed to large amounts of grease and water, and in food storage areas, back bar areas, and rooms in which urinals or toilet fixtures are located.

(d) *Floor drains.* Properly installed and trapped floor drains shall be provided in floors that are water-flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Floors shall be constructed only of sealed concrete, terrazzo, ceramic tile or similar materials, and shall be graded to drain.

(e) *Mats and duckboards.* Approved mats, where used, shall be easily washable and maintained in a clean and sanitary condition. Wooden duckboards may not be used.

(f) *Floor junctures.* An impervious base of materials approved by the department shall exist at the juncture of the floor and wall in food preparation and utensil washing areas at all new and remodeled installations.

(g) *Utility line installation.* Exposed utility service lines and pipes shall be installed in ways that do not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

(3) **WALLS AND CEILINGS.** (a) *Maintenance.* Walls and ceilings, including doors, windows, skylights, and similar closures shall be maintained in good repair.

(b) *Construction.* The walls and ceilings of walk-in refrigerating units, food preparation and storage areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules shall be light-colored, smooth, nonabsorbent and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface.

(c) *Exposed construction.* Studs, joists, and rafters shall not be exposed in walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms or vestibules. If exposed in other rooms or areas, studs, joists and rafters shall be finished to provide an easily cleanable surface.

(d) *Utility line installation.* Exposed utility service lines and pipes shall be installed in ways that do not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms or vestibules.

(e) *Attachments.* Light fixtures, vent covers, wall-mounted fans, decorative materials and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

(f) *Covering material installation.* Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable.

(4) **CLEANING OF FLOORS AND WALLS.** Floors, mats, duckboards, walls, ceilings and attached equipment and decorative materials shall be kept clean. Cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. Only dustless methods of cleaning floors and walls may be used, such as vacuum cleaning, wet cleaning or the use of dust-arresting sweeping compounds with brooms.

(5) **UTILITY CLEANING FACILITY.** In new or extensively remodeled establishments at least one utility sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mopwater or similar liquid wastes. Lavatories, utensil-washing sinks, equipment-washing sinks, or food preparation sinks may not be used for the cleaning of mops or similar wet floor cleaning tools or for the disposal of mop water or similar liquid wastes.

(6) *Lighting.* (a) Permanently fixed artificial light sources shall be installed to provide at least 20 foot-candles of light on all food preparation surfaces and at equipment or utensil-washing work levels.

(b) Permanently fixed artificial light sources shall be installed to provide illumination which, at a distance of 30 inches from the floor, is equivalent to:

1. At least 20 foot-candles of light in utensil and equipment storage areas and in lavatory and toilet areas; and
2. At least 10 foot-candles of light in walk-in refrigerating units, dry food storage areas and in all other areas. This shall also include dining areas during cleaning operations.

(7) **PROTECTIVE SHIELDING.** (a) Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, beside, or within food storage, preparation, service and display facilities, and facilities where utensils and equipment are cleaned and stored.

(b) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

(8) **VENTILATION.** (a) All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and oper-



ated according to the requirements of ch. ILHR 64, and, when vented to the outside, shall not create an unsightly, harmful or unlawful discharge.

(b) Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

(c) An adequately sized and approved ventilation hood with grease filters shall be provided over all grease-producing cooking equipment. Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filters or other grease extracting equipment shall be kept in good repair and shall be readily removable for cleaning and replacement if not designed to be cleaned in place. Filters shall be cleaned as often as necessary.

(9) **DRESSING ROOMS AND LOCKER AREAS.** (a) If employes routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas may not be used for food preparation, food service, or utensil washing, nor may they be used for the storage of food or utensils.

(b) If an establishment has designated rooms or areas in which employes may change clothes, these designated rooms or areas shall contain enough lockers or other suitable facilities for orderly storage of employe clothing and other belongings, and the employes shall use those lockers or other facilities for that purpose. Lockers or other suitable facilities may be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single-service articles.

(10) **STORAGE OF POISONOUS OR TOXIC MATERIALS.** (a) Restaurants may keep on premises only those poisonous or toxic materials necessary for maintaining the establishment, cleaning and sanitizing equipment and utensils and controlling insects and rodents.

(b) Containers of poisonous or toxic materials shall be prominently and distinctly labeled for easy identification of contents.

(c) Poisonous or toxic materials are categorized as follows:

1. Insecticides and rodenticides;
2. Detergents, sanitizers, and related cleaning or drying agents; and
3. Caustics, acids, polishes, and other chemicals.

(d) Each of the 3 categories set forth in par. (c) shall be stored and physically located separate from each other. All poisonous or toxic materials shall be stored in cabinets or in a similar physically separate place used for no other purpose. To preclude contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils or single-service articles, except that this requirement does not prohibit keeping detergents or sanitizers conveniently available at utensil or dishwashing stations.

(e) Bactericides, cleaning compounds or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on the surfaces or that constitutes a hazard to employes or other persons.

(f) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment or utensils, or in a way that constitutes a hazard to employes or other persons, or in a way other than in full compliance with the manufacturer's labeling.

(11) **STORAGE OF PERSONAL MEDICATIONS.** Personal medications may not be stored in food storage, preparation or service areas.

(12) **STORAGE OF FIRST-AID SUPPLIES.** First-aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

(13) **PREMISES.** (a) Restaurants and all parts of property used in connection with their operations shall be kept free of litter.

(b) Food may be served at drive-ins, open-air dining rooms and other similar restaurants where screening is not provided for the dining room, provided that the areas where food is served are kept free of flies and other insects through the use of approved, properly applied chemicals and that all food served and all utensils used in serving that food are covered or wrapped until served or used.

(c) The walking and driving surfaces of all exterior areas of food service establishments shall be surfaced with concrete or asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces shall be graded to prevent pooling and shall be kept free of litter.

(d) Only articles necessary for the operation and maintenance of the food service establishment may be stored on the premises.

(e) The traffic of unnecessary persons through the food-preparation and utensil-washing areas is prohibited.

(14) **LIVING AREAS.** No operation of a food service establishment may be conducted in any room used as living or sleeping quarters. Food service operations shall be separated from any living or sleeping quarters by complete partitioning including floor to ceiling partitioning, and solid, self-closing doors.

(15) **LAUNDRY FACILITIES.** (a) Laundry done by a food service establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If these items are laundered on the premises, an electric or gas dryer shall be provided and used.

(b) Separate rooms shall be provided for laundry facilities except that these operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.

(16) **LINENS AND CLOTHES STORAGE.** (a) Clean clothes and linens shall be stored in a clean place and protected from contamination until used.

(b) Soiled clothes and linens shall be stored in nonabsorbent containers or washable laundry bags until removed from the restaurant for laundering.

(17) **STORAGE OF CLEANING TOOLS, SUPPLIES, IMPLEMENTS AND EQUIPMENT.** Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment or linens and shall

be stored in an orderly manner to facilitate the cleaning of that storage location.

(18) **ANIMALS.** Live animals, including birds and turtles, shall be excluded from within the restaurant and from adjacent areas under the control of the operator. This exclusion does not apply to edible fish, crustacea, shellfish or to fish in aquariums. Patrol dogs accompanying security or police officers, guide dogs accompanying blind persons or certified hearing dogs accompanying deaf persons shall be permitted in dining areas.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.16 Mobile restaurants. APPLICABLE RULES.** In addition to requirements of ss. HSS 196.01 to 196.15 that apply to mobile restaurants as well as other restaurants, the following specific rules apply to mobile restaurants:

(1) **RESTRICTED OPERATION.** Mobile restaurants serving only food prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of this chapter, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment are not subject to s. HSS 196.13 (3) and (4) if required equipment for cleaning and sanitizing equipment and utensils exists at the service base and an employe handwashing facility is provided on the mobile restaurant.

(2) **PERMIT.** (a) For each mobile restaurant and for each service base, the operator shall obtain a restaurant permit from the department before operating.

(b) No permit may be issued without a prior inspection.

(c) Permits may not be transferred from one person to another, from one service base to another or from one mobile restaurant to another mobile restaurant, and are valid only for the service base for which issued.

(d) The permit shall identify the mobile restaurant by make, model, serial number or other means approved by the department.

(e) A mobile restaurant permit does not in any way limit or interfere with the rights of any town, village or city, as provided or established in chs. 60 to 62, Stats.

(f) The permit and any other identification issued by the department shall be conspicuously displayed on the premises of each service base and in each mobile restaurant.

(g) Operators of mobile restaurants whom the department has found to be habitual violators of this chapter may be refused renewal of a permit to operate or may have their permit revoked.

(3) **SERVICE BASE.** Every mobile restaurant shall have a service base of operations consisting of an enclosed building for servicing, cleaning, inspecting and maintaining all vehicles.

(4) **BOUNDARY OF OPERATION.** (a) The boundary of a mobile restaurant's operation shall be limited to the distance it can reasonably be expected to travel in one direction in 4 hours.

(b) Itineraries of each mobile restaurant shall be available at the service base. Each mobile restaurant shall return to its service base not less than once in each 24 hours for servicing and maintenance and oftener if necessary.

(c) On request of a representative of the department, each mobile restaurant shall be made available for inspection for a pre-arranged period of not less than one hour between 8 a.m. and 5 p.m. at the service base. A mobile restaurant shall also be open to inspection by a department representative at any time while it is in operation.

(5) WATER. (a) *Watering point.* 1. The watering point for the mobile restaurant shall be located in the service base and shall consist of a threaded tap installed and maintained in a manner that will assure protection against contamination.

2. Hoses shall be of food grade material. Each end of the hose shall have a threaded attachment for connection to the service base watering tap fixture and the water storage tank respectively. Both ends of the hose shall be prevented from touching the ground or any contaminating material by permanent placement of a 6-inch (15 cm) metal disk near each end. Hoses shall be used for this purpose only and shall be stored on a special reel or in a special locker labeled "for water point hose only."

(b) *Storage tank.* 1. Every mobile restaurant shall be equipped with a gravity or pressurized water storage tank. Mobile restaurants which prepare beverages or food or heat prepared foods shall have a water storage tank with a capacity of at least 10 gallons (38 L) for employe handwashing. Mobile restaurants which prepare food or beverages on the mobile unit shall have a water storage tank with a capacity of at least 40 gallons (151 L) for utensil washing and sanitizing purposes. Water for the tank shall be obtained from the service base watering point and the vehicle shall return to the service base whenever the amount of water in storage does not equal at least one gallon (4 L). With the approval of the department, limited food service utensils may be returned to the base for washing and sanitizing.

2. The water storage tank containing a threaded inlet shall be of durable construction using at least 14 gauge metal or other durable food grade material. The tank shall be provided with a glass-sight gauge graduated to read water volume in gallons. A U-bend overflow directed downward shall be provided. A threaded opening on the inlet line or on the tank with a locking device shall be provided for flushing and sanitizing the tank. Following flushing, a chlorine sanitizing solution of 100 parts per million for a contact period of at least 2 minutes shall be used each time prior to filling. The sanitizing solution may be discharged to the liquid waste disposal tank.

(c) *Water intake.* Water shall be conducted from the service base fixture to the mobile restaurant storage tank through an approved hose and fitting specified in par. (a)2. After connecting the hose to the watering point tap, and before using any water from it, the hose shall be thoroughly flushed. The water filling attachment on the water tank shall be flushed just before the hose is attached for filling the tank.

(6) LIQUID WASTE. (a) *Storage tank.* 1. Mobile restaurants with handwashing facilities only shall be equipped with a wastewater storage tank having a capacity of at least 15 gallons (57 L), but at least 5 gallons

(19 L) larger than the water storage tank. Mobile restaurants with utensil washing facilities on the unit shall be equipped with a wastewater storage tank having a capacity of at least 50 gallons (190 L), but at least 10 gallons (38 L) larger than the water storage tank. The contents of the tank may be emptied only at the service base, in an approved manner and to an approved sewage disposal system. The tank shall be completely emptied each time the water supply is replenished.

2. The waste storage tank shall be of durable construction, using at least 14 gauge metal or other durable smooth surfaced material. The tank discharge connection shall contain a minimum 1½ inch half-union attachment for gravity draining. A tight-closing valve shall be located between the attachment and tank proper. The waste storage tank shall be maintained in a reasonably sanitary condition.

(b) *Disposal*. 1. Every service base shall have provision for the sanitary disposal of liquid wastes to receive the gravity flow of wastewater from the vehicle wastewater collection tank. The discharge pipe of the waste collection tank shall contain a tight-closing valve.

2. When liquid waste cannot be discharged directly to sanitary sewers, a hose with a minimum 1½ inch half-union type attachment for connection to the vehicle wastewater tank shall be provided. The hose shall be maintained in a clean and serviceable condition and when not in use shall be stored in a separate cabinet labeled "for wastewater hose only."

(7) *SEPARATION OF FACILITIES*. No food, food containers, wrappers, packaging materials or utensils may be kept in the driver's compartment of any mobile restaurant. The driver's compartment shall be separated by a complete partition from the area for food preparation, service or storage.

(8) *BOTTLE OR LIQUIFIED GAS*. If bottle or liquified gas is used within a mobile restaurant, the operator shall show, upon demand, that the installation conforms to ch. ILHR 11, rules of the department of industry, labor and human relations for design, construction, location and installation of this equipment.

(9) *MOBILE RESTAURANT TOILET FACILITIES*. The operator of a mobile restaurant shall arrange by written agreement with operators of public or private toilet facilities for use by personnel operating the mobile restaurant of those toilet facilities located within the boundary of operation of the mobile restaurant at all hours the mobile restaurant is in operation.

(10) *RESTRICTIONS*. (a) No mobile restaurant may be used for living or sleeping purposes.

(b) Mobile restaurants shall not be used for any non-restaurant purposes or business.

(c) Non-employees are not permitted in the vehicle.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.17 Temporary restaurants. APPLICABLE RULES.** In addition to requirements under ss. HSS 196.01 to 196.15 that apply to temporary restaurants as well as other restaurants, the following specific requirements apply to temporary restaurants:

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(1) PERMIT. (a) No temporary restaurant may be operated before being granted a permit.

(b) No permit may be issued without a prior inspection.

(c) The permit shall be conspicuously displayed in the temporary restaurant.

(d) An operator of a temporary restaurant whom the department has found to be an habitual violator of this chapter may be denied a permit to operate or may have the permit revoked.

(2) ROOF, SIDEWALLS AND FLOORS. (a) No temporary restaurant may be operated without an approved roof and sidewalls.

(b) Floors shall be maintained in a sanitary condition. Dirt floors shall be covered with an approved material which will provide protection from splash and dust.

(3) LOCATION. No temporary restaurant may be located within 100 feet (30.5 M) of a barn or enclosure housing animals or other source of odors or flies.

(4) ENCLOSURE OF KITCHEN. (a) All food preparation and utensil washing areas with extensive food preparation maintained in connection with temporary restaurants shall be effectively enclosed or screened.

(b) All means for limited cooking at counters that are not enclosed shall be equipped with a glass or metal shield covering the front, ends and a portion of the top of the cooking and preparation area.

(c) Grills or barbecue pits outside of the enclosed area shall be effectively separated in order not to be accessible to the public.

(5) TOILET FACILITIES. Public toilet facilities for each sex shall be provided in connection with temporary restaurants in accordance with s. ILHR 55.32 and shall be approved by the department.

(6) WATER. (a) Water under pressure through a conventional piping system shall be available at the restaurant or be transported from an approved public or private water supply. If water is transported, the containers for hauling and water storage shall be smooth, easily cleanable and provided with a tight-fitting cover. The containers shall be emptied at the end of each day's operation. Prior to each day's operation, the containers shall be cleaned and sanitized. The container for water storage at the restaurant shall be equipped with an outlet protected from contamination. The container shall be stored on a clean, elevated surface.

(b) There shall be hot water for handwashing and dishwashing.

(7) SANITARY WASTE DISPOSAL. Connection shall be made to an approved sewage collection system when such a system is available. When it is not available, a container for liquid waste storage shall be provided and shall be emptied when necessary into a public sewer. If a public sewer is not available, disposal shall be at a location which will not create a fly, odor or nuisance problem.

(8) MANUAL DISHWASHING. (a) A 3-compartment sink plus pre-wash sink for pre-washing, washing, rinsing and sanitizing multi-use utensils

shall be provided when water is available under pressure. The pre-wash sink may be used as an employe handwashing sink.

(b) When water is not available under pressure, food service shall be limited in terms of the number of persons served, the kinds of utensils used or the food that is served, as determined by the department. In making its determination, the department shall consider the types of food served, whether the food is potentially hazardous or not, the method of its preparation, and the amount and kind of utensils and equipment used in the operation. Three dish-pans may be substituted for the 3-compartment sink when water is not available under pressure and food service is limited as determined by the department.

(c) A facility for air-drying utensils shall be provided.

(d) Except for the pre-wash sink, utensil washing facilities may not be used for employes' handwashing, counter cloth washing or any other use.

(9) EMPLOYES' HANDWASHING FACILITIES. (a) When water is available under pressure, handwashing facilities with approved liquid waste disposal shall be provided for employes.

(b) When water is not available under pressure, a minimum of 2 pans or basins for handwashing and rinsing shall be provided. A single basin with 2 compartments may be substituted for 2 pans or basins.

(c) Soap and single-service towels for handwashing and drying hands shall be provided for employes' handwashing facilities.

(10) DISPENSING OF CONDIMENTS. Sugar, cream, mustard, catsup and other condiments shall be individually packaged or served from an approved dispensing device.

(11) FOOD STORAGE. Wet storage of packaged foods and beverages is prohibited except that bottled or canned beverages may be stored in ice water, provided that the tops of bottles are not submerged and that a chlorine residual of at least 50 parts per million is maintained in the ice water.

(12) SINGLE-SERVICE ARTICLES. (a) Single-service articles shall be used in serving all foods and beverages unless the restaurant has hot and cold potable water under pressure and a suitable sewage collection system serving all fixtures with connection to an acceptable sewage disposal system.

(b) Single-service articles shall be stored in the original closed container at least 6 inches (152 mm) above the floor.

(c) Straws, knives, forks, spoons and toothpicks shall be individually wrapped or, if unwrapped, served through an approved dispenser. Single-service cups shall be dispensed by means of a covered dispenser which provides protection of the interior and lip contact surfaces from dust and handling.

(13) HOUSEKEEPING. (a) The roof, sidewalls, counters, floors and all equipment and utensils shall be maintained in a clean and sanitary condition. The grounds immediately surrounding the restaurant, including the refuse and garbage storage area, shall be kept free of food scraps, paper and other debris.

(b) In areas where flies are prevalent, an effective and acceptable insecticide shall be used in a manner which will not contaminate food or food equipment.

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.

**HSS 196.18 Enforcement.** (1) **ACCESS.** Authorized employes or agents of the department, upon presenting proper identification, shall be permitted to enter any restaurant at any reasonable time for the purpose of inspecting the restaurant to determine compliance with this chapter. The representatives shall be permitted to examine the records of the restaurant to obtain information about food and supplies purchased, received or used.

(2) **ENFORCEMENT POLICY.** (a) *Notification.* If upon inspection of a restaurant the authorized employe or agent of the department finds that the restaurant is not planned, operated or equipped as required by this chapter, the employe or agent shall, except as provided under par. (b), notify the operator in writing and shall specify the changes required to make the restaurant conform to the standards established in this chapter and the time period within which compliance shall take place. If the order to correct violations is not carried out by the expiration of the time period stipulated in the order, or any extension of time granted for compliance, the department may issue an order suspending or revoking the permit to operate the restaurant. The suspension or revocation order shall take effect 15 days after the date of issuance unless a request for a hearing has been received under sub. (3).

(b) *Order to deal with an immediate danger to health.* Where there is reasonable cause to believe that any construction, sanitary condition, operation or method of operation of the premises of a restaurant or of equipment used on the premises creates an immediate danger to health, an authorized employe or agent of the department may, pursuant to s. 50.575, Stats., acting as the designee of the administrator of the department's division of health, and without advance written notice, issue a temporary order to remove the immediate danger to health. That order shall take effect on delivery to the operator or other person in charge of the restaurant. The order shall be limited to prohibiting the sale or movement of food, prohibiting the continued operation or method of operation of specific equipment, requiring the premises to cease other operations or methods of operation, or a combination of these, except that if a more limited order will not remove the immediate danger to health the order may direct that all operations authorized by the permit shall cease. If before scheduled expiration of the temporary order, the department determines that an immediate danger to health does in fact exist, the temporary order shall remain in effect. The department shall then schedule and hold the hearing required under s. 50.575 (3), Stats., unless the immediate danger to health is removed or the order is not contested and the operator and the department mutually agree that no purpose would be served by a hearing.

Note: Under s. 50.575, Stats., the temporary order is effective for 14 days and may be extended for another 14 days to permit the department to complete its examination. The order expires at the end of the 14-day or 28-day period unless it is terminated by the department by notice to the operator within that period, or is kept in effect beyond that period, pending a hearing, by department notification to the operator. The hearing is to be held by the department no later than 15 days after the notice is served on the operator unless the department and the operator agree on a later date, and the department must issue a final decision on the matter within 10 days after the hearing.



(3) **APPEAL BY THE OPERATOR.** Any operator aggrieved by an order of the department under this chapter, except for an order issued pursuant to s. 50.575, Stats., may request a hearing to challenge the order. A request for a hearing under this subsection shall be submitted to the department's office of administrative hearings and shall be received by that office within 15 days after issuance of the order. Procedures for the hearing shall be in accordance with ch. 227, Stats. After the hearing, the department shall affirm, set aside or modify the order. The final decision of the department may be appealed to the circuit court as provided in ch. 227, Stats.

Note: The mailing address of the office of administrative hearings is P.O. Box 7875, Madison, Wisconsin 53707.

(4) **LOCAL ENFORCEMENT.** Notwithstanding subs. (2) and (3), if an agent issues permits directly under this chapter, the agent shall create enforcement and appeal procedures in accordance with ss. 50.535 (2) (g) and 66.124, Stats., which shall supersede subs. (2) and (3).

History: Cr. Register, June, 1985, No. 354, eff. 7-1-85.