

DEPARTMENT OF HEALTH

NOTICE OF SECOND EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 4937 of the Department of Health Functions Clarification Act of 2001 (Act), effective July 1, 2023 (D.C. Law 25-21; D.C. Official Code § 7-742.13), and Mayor's Order 2007-63, dated March 8, 2007, hereby gives notice of her adoption, on an emergency basis, of food vending regulations in a new Subtitle 25-L (Microenterprise Home Kitchen Regulations) of Title 25 (Food Operations and Community Hygiene Facilities) of the District of Columbia Municipal Regulations (DCMR).

This emergency and proposed rulemaking adopts rules for microenterprise home kitchen operations as authorized in the Street Vendor Advancement Amendment Act of 2023. It will ensure the public's health and safety by: 1) providing regulatory oversight of microenterprise home kitchen operations of unlicensed sidewalk food vendors who are selling food prepared in their homes for public consumption; 2) determining which "time/temperature control for safety" (previously referred to as "potentially hazardous") food products are safe to prepare, handle, package, and vend from a microenterprise home kitchen business; and 3) describing the process for pre-operational, compliance and complaint-based inspections.

Emergency action is necessary for the immediate protection of public health and safety from unlicensed sidewalk food vendors and unsafe food.

On May 3, 2024, an initial Notice of Emergency and Proposed Rulemaking was adopted by the Director of the Department of Health. The emergency rules became effective on that date and were published in the District of Columbia Register on May 17, 2024, at 71 DCMR 006244.

In response to the initial Notice of Emergency and Proposed Rulemaking, the Department of Health received comments from the Chair, Council of the District of Columbia Committee on Health, and public comments from three (3) organizations identified below. Edits were made to the following Sections 101.2(a), 103.3, 103.3(a)(4), 103.3(a)(6), 201.1, 201.2, 209.1, 213.5, 213.6, and 402.1(a) and are documented below. All comments received by the Department are summarized below with common comments grouped in numbered sets, and the Department of Health's responses are labelled as DOH Response.

This Second Notice of Emergency and Proposed Rulemaking was adopted by the Department of Health Director on December 10, 2024, and became effective on that date. These emergency rules will remain in effect for one hundred and twenty (120) days from that date of adoption, until April 9, 2025, pursuant to Section 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)), unless superseded by further emergency or final rulemaking.

This Second Notice of Emergency and Proposed Rulemaking includes the following substantive changes to the initial emergency and proposed rulemaking:

1. Locations for sales / Contrary to the DC Council’s Intent, the Proposed Regulations Limit MHK Permits to DC Food Vending Carts and Zones

Commenter: Christina Henderson, Councilmember At Large, Chair, Committee on Health

Comment: The bill as approved by the Council included broad enough language to allow for pickup/delivery (see below), but DC Health’s proposed regulations limit sales to just the vending carts. From the proposed regulations, Section 101.2: “Microenterprise home kitchen food products may only be sold: (a) Within the Columbia Heights-Mount Pleasant Sidewalk Vending Zone ...; and (b) From sidewalk vending carts with designs approved by the Department of Licensing and Consumer Protection ...”

Commenters: Beloved Community Incubator (5/30/024), Legal Aid DC and Advocacy Action Network with “chain letters” from 34 members of the public

Comment: The Committee Report for the Street Vendor Advancement Act of 2023 outlined that the Council intended to allow MHK businesses to make direct consumer sales from home. The Council also intended for the expansion of vending zones beyond Columbia Heights. However, under the proposed rules, microenterprise home kitchen food products may only be sold 1) within the Columbia Heights-Mount Pleasant Sidewalk Vending Zone or 2) from sidewalk vending carts with designs approved by the Department of Licensing and Consumer Protection (“DLCP”). This requirement deviates from the spirit of the Act, which intended to allow microenterprise food businesses to make direct consumer sales from home, akin to cottage foods.

DOH RESPONSE

DC Health deleted the proposed language Section 101.2(a) and defers to DLCP for vending locations, vending sidewalk permits, and sidewalk vending zones pursuant to Sec. 3 of the “Street Vendor Advancement Amendment Act of 2023” (the “Street Vendor Act”).

However, the Street Vendor Act does not authorize the sale of food from residential kitchens through pickup/delivery. The Street Vendor Advancement Amendment Act of 2023, compels compliance with the District’s zoning and vending regulations by requiring Microenterprise Home Kitchen Business’ operations to (1) obtain a “home occupancy permit” from the Department of Licensing and Consumer Protection pursuant to Section 203 of Title 11 of the District of Columbia Municipal Regulations (11 DCMR § 203), and to (2) apply for, and are eligible for a “vending site permit” pursuant to the Vending Regulation Act of 2009, effective October 22, 2009 (D.C. Law 18-71; D.C. Official Code § 37-131.01 *et seq.*). This requirement for a “vending site permit” limits “direct to consumer sales of ready-to-eat food products” to “vending carts” owned by the Microenterprise Home Kitchen Business at specific vending locations designated by the Mayor.

2. The Proposed Rules Fail to Reflect DOH’s Obligation to Consult with DLCP to Establish and Approve the Process for Food Vending Cart Design Blueprints

Commenters: Christina Henderson, Councilmember At Large, Chair, Committee on Health, Beloved Community Incubator (5/30/024), Legal Aid DC and Advocacy Action Network with “chain letters” from 34 members of the public

Comment: Legal Aid DC urges DOH to consult with Department of Licensing and Consumer Protection (“DLCP”) so DLCP will promulgate vendor design regulations. Under D.C. Code § 37-131.06b(b)(1), the Department of Health is required to consult with the Department of Licensing and Consumer Protection (“DLCP”) inspection in order to “establish a process through which businesses, community-based organizations, and vendors submit food vending cart designs and specifications for approval by the Department of Licensing and Consumer Protection.” Without the design regulations, many food vendors remain subject to significant fines for vending without a license, even though they are unable to complete the application process for a license because this new process has not been implemented. DLCP and DOH should make the food vending cart design process information available to food vendors immediately.

DOH RESPONSE

DC Health renumbered Section 101.2 but no changes were made to the proposed language.

Section 101.2 does require DLCP to consult with DC Health for approvals of sidewalk vending cart designs in compliance with Section 7b(a) and (b)(1), (2), and (3) of the Street Vendor Advancement Amendment Act of 2023, and reads as follows:

101.2 Microenterprise home kitchen food products may only be sold from sidewalk vending carts with designs approved by the Department of Licensing and Consumer Protection (DLCP), in consultation with the Department, in accordance with Section 7b(b)(1) of the Vending Regulation Act of 2009, effective July 1, 2023 (D.C. Law 25-21; D.C. Official Code § 37-131.06b(b)(1)).

3. Time to respond after missed inspection:

Commenter: Christina Henderson, Councilmember At Large, Chair, Committee on Health

Comment 2 The proposed regulations state that if DC Health cannot gain access to a home to conduct an inspection, the business operator only has 72 hours to contact DC Health before the agency can suspend their license (Sections 201.1 and 201.2). If someone happened to be traveling or have a family

emergency, 72 hours seems very short. I encourage you to expand this to at least 3 business days.

DOH RESPONSE

DC Health revised the proposed language in Section 201.1 and 201.2 by adding “three (3) business days” to read as follows:

201.1 If a Department representative cannot gain access to conduct an inspection, the Department shall leave a Notice of Attempt to Conduct an Inspection at the premises. The Notice shall require the operator of the microenterprise home kitchen business to contact the Department within three (3) business days of the posting of the Notice.

201.2 Failure to contact the Department within three (3) business days of the posting of the Notice may result in the summary suspension of the Microenterprise Home Kitchen Business Permit.

4. Handwashing sinks:

Commenter: Christina Henderson, Councilmember At Large, Chair, Committee on Health

Comment 3 L25-0021 prohibits DC Health from requiring a microenterprise home kitchen operator to make major changes to their private homes, outside of what’s necessary for health and food safety. Specifically, the bill states that vendors do not need additional sinks, outside of a sink to wash hands. However, the proposed regulations require a sink that is only used for hand-washing. I believe this creates a conflict with the legislative mandate, and will cause enforcement challenges, as many home kitchens will not have additional sinks solely for hand-washing. Here’s the relevant language (underlines for emphasis):

DOH RESPONSE

DC Health revised the proposed language in Section 213.5 by deleting “at a sink that is and shall be used only for handwashing” to read as follows:

213.5 Liquid soap, paper towels, and warm water to the touch shall be available at all sinks.

DC Health revised the proposed language in Section 213.6 by deleting “in the home kitchen” to read as follows:

213.6 All persons must wear hair restraints and clean outer garments during the preparation, packaging, or handling of microenterprise home kitchen business food products.

5. The Frequency of Microenterprise Home Kitchen (“MHK”) Permit Inspection Exceeds the Requirements for Similarly Situated District Food Businesses

Commenters: Beloved Community Incubator (5/30/024), Legal Aid DC and Advocacy Action Network with “chain letters” from 34 members of the public

Comment: Other home cooking businesses in the District, such as cottage foods, have two years for recertification following an inspection. DC Municipal Regulations require the Department to determine inspection frequency for a food business based on the level of food safety risk in which the business is engaged. The risk level for MHKs more likely equates to cottage foods, which require a health inspection every two years, so the six-month inspection and renewal period seems excessive.

DOH RESPONSE

As stated in Section 103.3(a)(1), the inspection frequency for Microenterprise Home Kitchens is every two (2) years and is consistent with similarly situated District Food Businesses, including Cottage Food Businesses.

In addition, DC Health inspects all food vending operations every six (6) months, or more frequently pursuant to complaints, which includes Microenterprise Home Kitchen Business Vending Operations.

DC Health revised the proposed language in Section 103.3 by replacing the term “biannual” with the term “required” and in Section 103(a)(4) by adding “every six (6) months, or more frequently pursuant to complaints” to read as follows:

103.3 If an applicant passes the preoperational inspections required for new businesses or passes required compliance inspections for existing businesses for both the home kitchen and the vending operation:

(a) The Department shall:

(4) Provide a Microenterprise Home Kitchen Business Vending Operation Health Inspection Report to the applicant every six (6) months, or more frequently pursuant to complaints[.]

6. Notices of Violation for MHK Regulations Should Only be Served by DOH or DLCP

Commenters: Beloved Community Incubator (6/13/024), Legal Aid DC and Advocacy Action Network with “chain letters” from 34 members of the public

Comment: Legal Aid is deeply concerned that proposed rule 402.1(a) allows police officers to serve notice for violation of MHK regulations. In

contrast, cottage food vendors, who are similarly situated to MHK vendors are provided with notices of violation solely from DLCP. This provision if implemented, could lead to unnecessary police contact with vendors, which is contrary to the Council’s intent and could particularly be harmful to a food service community comprised primarily with immigrants and other marginalized identities.

DOH RESPONSE

DC Health revised the proposed language in Section 402.1(a) by deleting the phrase “a law enforcement officer or person authorized to serve civil process” to read as follows:

402.1 A notice issued in accordance with these regulations may be served by one (1) of the following methods:

- (a) A Department representative serving the notice on the operator of the microenterprise home kitchen business[.]

7. Transparency about microenterprise home kitchen inspection criteria

Commenter: Beloved Community Incubator (5/30/2024)

Comment 1: Will the same ‘Food Establishment Inspection Report’ template that DC Health uses for inspections of restaurants, delicatessens, bakeries, mobile vending units, etc be used for MHK inspection?

DOH RESPONSE

DC Health will be using an Inspection Report that complies with the MHK regulations.

Comment 2: How frequently will DC Health post MHK inspection reports on the DC Health food inspection report online database? DC Health’s general rule is to post reports to the online database within 1-7 days following the inspection, but we know of at least two street vendors who had their home kitchens inspected more than a week ago and their inspection reports are not available on the online database.

DOH RESPONSE

DC Health posts online Inspection Reports only for commercial retail and manufacturing operations. Therefore, MHK Inspection Reports will not be posted online. However, Inspection Reports are public documents available for disclosure upon request pursuant to the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*).

8. Lack of information on what service activities are permitted at the point of sale outside the microenterprise home kitchen.

Commenter: Beloved Community Incubator

Comment 1: In what ways is a street vendor prohibited or allowed to handle food prepared in a microenterprise home kitchen at the vending site, beyond simply handing a prepackaged item to the customer?

DOH RESPONSE

A MHK Vendor is prohibited from preparing food on site. All MHK food products must be fully cooked and transported in a food grade container to prevent cross-contamination before leaving the Microenterprise “home kitchen”.

Comment 2: For example, can a vendor open a prepackaged cup of raw fruits and, without touching the contents, add dry seasoning or non-temperature controlled sauces to the cup?

DOH RESPONSE

To ensure food safety, MHK Vendors can provide foods that are not Time/Temperature Control for Safety – “non-(TCS) foods”. Condiments such as commercially manufactured ketchup is a “non-(TCS) food” that does not require refrigeration or heating to be safe before eating and can be provided for customers to use on-site.

Comment 3: Can a vendor bring a properly-hot held container of soup or stew and ladle it into pre-measured, pre-weighed standardized cups?

DOH RESPONSE

Yes, if the soup or stew is properly stored and transported to the vending site at the proper hot holding temperatures.

9. High and unclear associated fees

Commenter: Beloved Community Incubator

Comment 1: Will applicants be required to pay \$100 for each of the Microenterprise Home Kitchen Business Registry Certificate, Vending Operation Health Inspection Certificate, and Business Permit (\$300 total), or \$100 total?

DOH RESPONSE

Section 103.4 clearly states that new, and renewal applicants pay the same fee. However, the proposed language was revised by deleting the phrase “and the Microenterprise Home Kitchen Business Permit” that is issued by DLCP to only reflect DC Health’s issuance of MHK Business Certificate and MHK Business Vending Operation Health Inspection Certificate and reads as follows:

103.4 New and renewal applicants shall pay the required application fee in the amount of \$100.00 for the Microenterprise Home Kitchen Business’ Registry Certificate and the Microenterprise Home Kitchen Business Vending Operation Health Inspection Certificate to the Department.

Comment 2: Will renewal applicants be required to pay \$100 every six months for their renewed Health Inspection Certificate, or \$100 every two years for their Business Registry Certificate and Business Permit?

DOH RESPONSE

Renewal applicants will be required to pay a \$100.00 application fee every two (2) years for (1) the Microenterprise Home Kitchen Business’ Registry Certificate and (2) the Microenterprise Home Kitchen Business Vending Operation Health Inspection Certificate to the Department.

Comment 3: Will applicants be required to secure a separate health certificate for the cart from which they sell products made in their home kitchen?

DOH RESPONSE

Yes, a Vending Operation Health Inspection Certificate is required for MHK Vending carts and all food vending operations in the District of Columbia.

And finally, Section 103.3(a)(6) is deleted for redundancy. Section 102.1(b) requests the submission of DLCP’s Vending Site Permit and documents the deleted information.

In reissuing this emergency and proposed rulemaking, the Department of Health will continue to work with community stakeholders, advocates, residents, and other stakeholders before the adoption of final regulations.

The Director of the Department of Health also gives notice of her intent to take final rulemaking action to adopt the proposed rules in not less than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*.

Title 25 DCMR, FOOD OPERATIONS AND COMMUNITY HYGIENE FACILITIES, is amended by adding a new subtitle 25-L (MICROENTERPRISE HOME KITCHEN REGULATIONS) to read as follows:

SUBTITLE 25-L MICROENTERPRISE HOME KITCHEN REGULATIONS

CHAPTER 1: APPLICATION AND PERMIT REQUIREMENTS

100 Title – Microenterprise Home Kitchen Regulations

101 Intent and Scope

102 Application and Required Documents

- 103 Application – Department Review**
- 104 Application – Denial Notice**

CHAPTER 2: REQUIRED INSPECTIONS AND OPERATING REQUIREMENTS

- 200 Required Inspections – Department Right of Entry**
- 201 Denying Department Access to Inspect**
- 202 Department Issuing Inspection Report and Obtaining Acknowledgement of Receipt**
- 203 Refusing to Acknowledge Receipt**
- 204 Operating Requirements**
- 205 Operating Requirements – Food Labeling Requirements**
- 206 Operating Requirements – Preventing Contamination**
- 207 Preventing Contamination – Food Temperature Requirements**
- 208 Preventing Contamination – Food Temperature Requirements at Vending Site**
- 209 Preventing Contamination – Equipment and Utensils at Vending Site**
- 210 Preventing Contamination – Food Contact Surfaces**
- 211 Preventing Contamination – Storage**
- 212 Preventing Contamination – Food Transport**
- 213 Preventing Contamination – Safe Food Practices**
- 214 Preventing Contamination – Prohibiting Food Handling When Sick**
- 215 Preventing Contamination – Prohibiting Animals and Pests**
- 216 Preventing Contamination – Food Vending Carts, Storage and Servicing Requirements**
- 217 Approved Foods, Sources, Processes, and Activities**
- 218 Unauthorized Foods**
- 219 Unauthorized Food Processes and Activities**

CHAPTER 3: LAWFUL OPERATIONS, RECORDS RETENTION, AND NOTICES OF INFRACTION

- 300 Documents Required to Operate**
- 301 Maintaining and Renewing Permits and Certificates**
- 302 Microenterprise Home Kitchen Business Permits Not Transferable**
- 303 Records Retention and Public Information**
- 304 Required Microenterprise Home Kitchen Business Recordkeeping**

CHAPTER 4: ADMINISTRATIVE ENFORCEMENT, SERVICE OF PROCESS, AND JUDICIAL REVIEW

- 400 Administrative Enforcement – Summary Suspensions and Other Department Directives**
- 401 Administrative Enforcement – Notices of Infractions, Civil Fines and Penalties**
- 402 Service of Process – Department Issued Notices of Summary Suspension, Notices of Infraction, and Other Department Directives**
- 403 Judicial Review- Appeals**

CHAPTER 99: DEFINITIONS**9900 General Provisions****9901 Definitions****CHAPTER 1 APPLICATION AND PERMIT REQUIREMENTS****100 TITLE – MICROENTERPRISE HOME KITCHEN REGULATIONS**

100.1 The provisions in this subtitle shall be known as the Microenterprise Home Kitchen Regulations, hereinafter referred to as “these regulations.”

101 INTENT AND SCOPE

101.1 The purpose of these regulations is to:

- (a) Regulate microenterprise home kitchen businesses operating in the District of Columbia;
- (b) Identify the food items that are approved for sale by microenterprise home kitchen businesses;
- (c) Identify food items and specialized food processes that are prohibited in microenterprise home kitchen businesses;
- (d) Ensure microenterprise home kitchen businesses comply with packaging, storage, labeling, and sale requirements; and
- (e) Authorize the Department to conduct inspections as specified in §§ 103 and 200.

101.2 Microenterprise home kitchen food products may only be sold from sidewalk vending carts with designs approved by the Department of Licensing and Consumer Protection (DLCP), in consultation with the Department, in accordance with Section 7b(b)(1) of the Vending Regulation Act of 2009, effective July 1, 2023 (D.C. Law 25-21; D.C. Official Code § 37-131.06b(b)(1)).

101.3 Pursuant to Section 4936 of the Department of Health Functions Clarification Act of 2001, effective July 1, 2023 (D.C. Law 25-21; D.C. Official Code § 7-742.12) these regulations shall not:

- (a) Apply to “food establishments” as defined in Title 25-A DCMR 9901.1; or
- (b) Exempt a microenterprise home kitchen business from any applicable District or federal tax laws.

102 APPLICATION AND REQUIRED DOCUMENTS

102.1 To obtain a Microenterprise Home Kitchen Business Registry Certificate and Microenterprise Home Kitchen Business Vending Operation Health Inspection Certificate, an applicant applying for new certificate or renewing an existing certificate shall complete the Department's online application and submit the following documentation for review and approval:

- (a) A Microenterprise Home Kitchen Business Home Occupancy Permit issued by the Department of Buildings (DOB);
- (b) A Vending Site Permit issued by the DLCP;
- (c) For food sold by weight, proof of calibrated scales that comply with DLCP regulations;
- (d) Proof that persons who supervise the home kitchen and vending operations have successfully passed a nationally accredited Certified Food Protection Manager examination recognized and approved by the Department;
- (e) A Department-issued Certified Food Protection Manager Certificate obtained by the operator of the microenterprise home kitchen business, which shall be valid for three (3) years from the date of the nationally recognized exam specified in § 102.1(d);
- (f) A list of food products the microenterprise home kitchen business is seeking approval to prepare, handle, package, store, or sell; provided that the Department may request a copy of recipes it deems necessary;
- (g) Sample labels with the information specified in § 205 for each food product; and
- (h) Written standard operating procedures (SOPs) for the home kitchen and vending operations.

102.2 Applicants for a Microenterprise Home Kitchen Business shall attest that only food products listed in their microenterprise home kitchen business application and approved by the Department shall be prepared, handled, packaged, stored, or sold by the microenterprise home kitchen business.

103 APPLICATION – DEPARTMENT REVIEW

- 103.1 The Department shall approve or deny a Microenterprise Home Kitchen Business application within thirty (30) business days after receiving a properly completed application.
- 103.2 If the Department approves the application, the Department shall conduct a preoperational inspection of the applicant's home kitchen premises and vending operation within fourteen (14) business days after approval.
- 103.3 If an applicant passes the preoperational inspections required for new businesses or passes required compliance inspections for existing businesses for both the home kitchen and the vending operation:
- (a) The Department shall:
 - (1) Assign the microenterprise home kitchen business a Registry Number, which shall be valid for two (2) years from the passing date of the preoperational inspection;
 - (2) Add the microenterprise home kitchen business to the Department's Microenterprise Home Kitchen Business Registry Certificate;
 - (3) Issue a Microenterprise Home Kitchen Business Registry Certificate to the applicant;
 - (4) Provide a Microenterprise Home Kitchen Business Vending Operation Health Inspection Report to the applicant once every six (6) months, or more frequently pursuant to complaints; and
 - (5) Issue a Vending Operation Health Inspection Certificate to the applicant.
- 103.4 New and renewal applicants shall pay the required application fee in the amount of \$100.00 for the Microenterprise Home Kitchen Business Registry Certificate and the Vending Operation Health Inspection Certificate.
- 103.5 All required permits and certificates shall be available for inspection at the home kitchen and vending location upon request by the Department.
- 103.6 The Department shall:
- (a) Maintain a copy of an applicant's documentation and microenterprise home kitchen business' certificates on file; and
 - (b) Provide a copy of the documentation to the operator.

104 APPLICATION – DENIAL NOTICE

104.1 If an application for a new or renewal Microenterprise Home Kitchen Business Registry Certificate or a new or renewal Vending Operation Health Inspection Certificate is denied, the Department shall provide the applicant with written notice that includes:

- (a) The specific reasons and legal authority for denying a new or renewal of a Microenterprise Home Kitchen Business Registry Certificate or a Vending Operation Health Inspection Certificate;
- (b) The actions, if any, that the applicant must take to qualify for a new certificate or to renew an existing certificate; and
- (c) Notice of the applicant's right to request a hearing before the Office of Administrative Hearings within fifteen (15) days after receiving the Notice.

CHAPTER 2 REQUIRED INSPECTIONS AND OPERATING REQUIREMENTS

200 REQUIRED INSPECTIONS – DEPARTMENT RIGHT OF ENTRY

200.1 The operator of a microenterprise home kitchen business shall grant a Department representative access to inspect a microenterprise home kitchen business during the operating hours of the microenterprise home kitchen to conduct an inspection to ensure compliance with §§ 101.2, 204, 205, 206, and 207 through 219:

- (a) Scheduled preoperational inspections, including any needed follow-up preoperational inspections;
- (b) Compliance inspections, with reasonable advance notice of the inspection, to determine if the microenterprise home kitchen business is complying with these regulations; and
- (c) Unannounced inspections when the Department has a valid reason to investigate conditions that may impact the public's health, including:
 - (1) A consumer complaint; or
 - (2) A reasonable suspicion that a microenterprise home kitchen business:
 - (A) Poses an imminent health hazard;
 - (B) Is the source of adulterated food; or
 - (C) Is the source of an illness outbreak caused by contaminated food.

200.2 The operator of a microenterprise home kitchen business shall not interfere with any inspection conducted by a Department representative.

201 DENYING DEPARTMENT ACCESS TO INSPECT

201.1 If a Department representative cannot gain access to conduct an inspection of a microenterprise home kitchen, the Department shall leave a Notice of Attempt to Conduct an Inspection at the premises. The Notice shall require the operator of the microenterprise home kitchen business to contact the Department within three (3) business days of the posting of the Notice.

201.2 Failure to contact the Department within the required three (3) business days may result in the summary suspension of the Microenterprise Home Kitchen Business Registry Certificate.

201.3 Refusing to allow the Department entry during operating hours may result in the summary suspension or revocation of the Microenterprise Home Kitchen Business Registry Certificate.

201.4 If the Department issues a Notice of Summary Suspension of the Microenterprise Home Kitchen Business Registry Certificate or the Vending Operation Health Inspection Certificate, the operator may appeal the decision by requesting a hearing before the Office of Administrative Hearings within fifteen (15) days of receiving the notice.

202 DEPARTMENT ISSUING INSPECTION REPORT AND OBTAINING ACKNOWLEDGEMENT OF RECEIPT

202.1 At the conclusion of an inspection, the Department shall provide a copy of its completed inspection report to the operator of the microenterprise home kitchen business. The inspection report shall document any violations the inspector observed and specify the timeframe to correct the cited violations. The inspector shall request the operator’s signature acknowledging receipt of the inspection report.

203 REFUSING TO ACKNOWLEDGE RECEIPT

203.1 The Department shall inform an operator who declines to sign an acknowledgment of receipt of an inspection report that:

- (a) An acknowledgment of receipt is not an agreement with the finding;
- (b) Refusing to sign an acknowledgment of receipt will not affect the operator’s obligation to correct the violations noted in the inspection report within the time frames specified; and

- (c) A refusal to sign an acknowledgment of receipt will be noted in the inspection report for the microenterprise home kitchen business.

204 OPERATING REQUIREMENTS

- 204.1 The operator of a microenterprise home kitchen business shall prepare, handle, package, store, and sell food in compliance with the Department's regulations.
- 204.2 A microenterprise home kitchen business shall only prepare, handle, package, store, or sell Department-approved food products.
- 204.3 A microenterprise home kitchen business shall obtain food from sources that comply with federal and state laws and are inspected by their respective regulatory authority that oversees their geographical areas.
- 204.4 A microenterprise home kitchen business that does not hold a valid Registry Certificate or Vending Operation Health Inspection Certificate from the Department to operate as a microenterprise home kitchen business shall not sell food at any vending location in the District of Columbia.
- 204.5 Only operators of a microenterprise home kitchen business and persons under their direct supervision may prepare, handle, package, store, or sell the business's food products or their ingredients.
- 204.6 A microenterprise home kitchen business shall develop and follow written standard operating procedures (SOPs).
- 204.7 The SOPs shall include:
- (a) Procedures and methods for how all food products will be prepared, handled, packaged, stored, and transported;
 - (b) Procedures, methods, and schedules for cleaning utensils and equipment;
 - (c) Procedures and methods for the disposal of refuse; and
 - (d) A plan for maintaining time/temperature control for safety food at the appropriate temperatures for each food product.
- 204.8 The operator shall display a printed notification at its vending site that the vending site sells products produced in a microenterprise home kitchen business and that the microenterprise home kitchen business products do not meet the same requirements of a commercial retail food establishment and are not subject to the District of Columbia's Food Code Regulations.

205 OPERATING REQUIREMENTS – FOOD LABELING REQUIREMENTS

205.1 A microenterprise home kitchen business shall meet labeling requirements as specified in §§ 102.1(g), 205.2 and 205.3.

205.2 A microenterprise home kitchen business shall sell only approved microenterprise home kitchen food products that are:

- (a) Stored on the premises of the microenterprise home kitchen business; and
- (b) Prepackaged with a label that contains the following information:
 - (1) The name and address of the business;
 - (2) The business's registry number;
 - (3) The name of the food product;
 - (4) The ingredients of the food product in descending order of the amount of each ingredient by weight;
 - (5) The net weight or net volume of the food product;
 - (6) Allergen information as specified by federal labeling requirements in 21 CFR part 101, Food Labeling;
 - (7) If any nutritional claim is made, nutritional information as specified by federal labeling requirements in 21 CFR part 101, Food Labeling and 9 CFR part 317, part A, subpart B, Nutrition Labeling; and
 - (8) A statement printed in ten (10)-point or larger type letters in a color that provides a clear contrast to the background of the label that reads:

MADE BY A MICROENTERPRISE HOME KITCHEN
BUSINESS THAT IS NOT SUBJECT TO THE DISTRICT
OF COLUMBIA'S FOOD CODE REGULATIONS.

205.3 A sample label is shown below.

Microenterprise Home Kitchen Registry Number: [Registry #]

ABC Home Bakers
7500 East Capitol Street, NE
Washington, DC 20000

Product: Sugar Cookies

Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin, and folic acid), butter (milk, salt), soy lecithin, sugar, eggs, salt, artificial vanilla extract, baking soda.

Contains: Wheat, eggs, milk, soy

Net Wt. 3 oz.

MADE BY A MICROENTERPRISE HOME KITCHEN FOOD BUSINESS THAT IS NOT SUBJECT TO THE DISTRICT OF COLUMBIA'S FOOD CODE REGULATIONS

206 OPERATING REQUIREMENTS – PREVENTING CONTAMINATION

206.1 A microenterprise home kitchen business operator shall ensure that:

- (a) The microenterprise home kitchen business is preparing, handling, packaging, or selling only those food products included in its application and approved by the Department;
- (b) Only individuals authorized to prepare, handle, or package microenterprise home kitchen business food products are permitted in the kitchen facility during microenterprise home kitchen business operations;
- (c) Individuals preparing, handling, or packaging microenterprise home kitchen business food products are:
 - (1) Prohibited from working in the kitchen facility when ill, as specified in § 214;
 - (2) Required to wash their hands thoroughly before any food preparation or food packaging activities; and
 - (3) Required to use single-service gloves, bakery papers, tongs, or other utensils to avoid bare-hand contact with ready-to-eat foods;

- (d) Only standard, residential (non-commercial) kitchen equipment and utensils are used to prepare the microenterprise home kitchen business food products;
- (e) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any microenterprise home kitchen business food products are smooth and easily cleanable, in good repair, washed, rinsed, and sanitized before each use, and properly stored;
- (f) Microenterprise home kitchen business food products are not prepared, handled, or packaged in the kitchen facility at the same time as any domestic activities, including family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment;
- (g) The microenterprise home kitchen business operation is free from the presence of insects, rodents, and other pests and their entry points;
- (h) Microenterprise home kitchen business food products are stored in authorized premises, as defined in § 9901, in the following manner:
 - (1) A clean and dry location;
 - (2) With no exposure to dust or other contaminants;
 - (3) At least fifteen centimeters (15 cm) or six inches (6 in.) above the floor; and
- (i) Microenterprise home kitchen business food and food products are prohibited from being stored or prepared in toilet rooms, dressing rooms, under leaking water lines or under lines on which water has condensed, under open stairwells, or under other potential sources of contamination.

207 PREVENTING CONTAMINATION – FOOD TEMPERATURE REQUIREMENTS

207.1 A microenterprise home kitchen business shall comply with the following food cooking temperature requirements:

- (a) Raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:
 - (1) 145° F or above for fifteen (15) seconds – fish/meat;

- (2) 155° F or above for fifteen (15) seconds – ratites/comminuted fish/comminuted meat; and
 - (3) 165° F or above for fifteen (15) seconds – poultry/stuffed fish/stuffed meat/stuffed pasta/stuffed poultry/stuffed ratites/stuffing containing fish, meat, poultry, or ratites; and
 - (b) Fruits and vegetables that are cooked for hot holding shall be cooked to a minimum temperature of 135° F.
- 207.2 Food shall be cooled as follows:
- (a) From 135° F to 70° F within two (2) hours;
 - (b) From 70° F to 41° F within four (4) hours; and
 - (c) Within six (6) hours from 135° F to 41° F.
- 208 PREVENTING CONTAMINATION – FOOD TEMPERATURE REQUIREMENTS AT VENDING SITE**
- 208.1 When preparing, handling, or packaging food for sale at the vending site, a microenterprise home kitchen business shall:
- (a) Hold hot food at 135° F or above after cooking or reheating; and
 - (b) Reheat all food to 165° F or above for fifteen (15) seconds before sale.
 - (c) Hold cold food at 41° F or below.
- 209 PREVENTING CONTAMINATION – EQUIPMENT AND UTENSILS AT VENDING SITE**
- 209.1 All equipment, utensils, and food contact surfaces such as counters, sinks, and work surfaces shall be constructed of safe materials, easily cleanable as defined in § 9901, and maintained in good repair.
- 209.2 Food temperature measuring devices shall be provided, readily accessible, and calibrated for use in ensuring the attainment and maintenance of food temperatures. A food temperature measuring device shall have a suitable probe (sensor or stem).

210 PREVENTING CONTAMINATION – FOOD CONTACT SURFACES

210.1 The food-contact surfaces of all utensils and equipment shall be clean to the sight and touch before beginning to process microenterprise home kitchen business food products and cleaned often while in use to limit the potential for contamination of the food or the ingredients.

211 PREVENTING CONTAMINATION – STORAGE

211.1 The microenterprise home kitchen business shall store food as follows:

- (a) Refrigerated, ready-to-eat, time/temperature control for safety food that is prepared and held for more than twenty-four (24) hours shall be clearly marked to indicate the date or day by which the food shall be sold or discarded when held at a temperature of 41° F or less for a maximum of seven (7) days;
- (b) Food ingredients and products intended for public consumption shall either be stored separately or labeled to distinguish it from food intended for private use; and
- (c) A separate shelf or portion of a shelf within a refrigerator shall be an acceptable form of separate storage.

212 PREVENTING CONTAMINATION – FOOD TRANSPORT

212.1 When transporting food to a vending location, a microenterprise home kitchen business shall use equipment that can maintain temperatures as specified in §§ 207 and 208.

213 PREVENTING CONTAMINATION – SAFE FOOD PRACTICES

213.1 The operator of a microenterprise home kitchen business shall apply the safe food practices in this section to limit the potential for foodborne illnesses.

213.2 Only operators of a microenterprise home kitchen business or persons under the operator's direct supervision shall be authorized to be in the kitchen while microenterprise home kitchen business food products are being prepared, packaged, or handled.

213.3 Authorized persons involved with the preparation, packaging, or handling of microenterprise home kitchen food products shall wash their hands and exposed portions of their arms before starting food preparation and food packaging activities.

- 213.4 Bare-hand contact with ready-to-eat foods is prohibited and single-service gloves, bakery paper, tongs, and other utensils shall be used when handling ready-to-eat foods.
- 213.5 Liquid soap, paper towels, and water warm to the touch shall be available at all sinks.
- 213.6 All persons must wear hair restraints and clean outer garments during the preparation, packaging, or handling of microenterprise home kitchen business food products.
- 213.7 Operators of a microenterprise home kitchen business or persons under the operator's direct supervision shall not eat, drink, or engage in any smoking activity, as defined in § 9901, in the home kitchen during the processing, preparation, packaging, or handling of microenterprise home kitchen business food products.
- 213.8 Operators of a microenterprise home kitchen business or persons under the operator's direct supervision shall not use a utensil more than once to taste any microenterprise home kitchen business food product or ingredient and shall not thereafter use that utensil for any food preparation until the utensil is properly washed.
- 213.9 Personal care items shall not be stored in the home kitchen unless stored in a manner that does not allow contamination of food products or food-contact surfaces.
- 213.10 Spray bottles containing cleaning solutions shall be labeled with the name of the solution.
- 213.11 Pest control chemicals shall not be used during any food handling activities or stored in the home kitchen to prevent contamination of food products and food-contact surfaces.
- 214 PREVENTING CONTAMINATION – PROHIBITING FOOD HANDLING WHEN SICK**
- 214.1 Operators of a microenterprise home kitchen business or persons under the operator's direct supervision shall not prepare, package, or handle microenterprise home kitchen business food products if they have any of the following symptoms:
- (a) Diarrhea;
 - (b) Vomiting;

- (c) Jaundice;
 - (d) Sore throat with fever; or
 - (e) Lesion containing pus, unless protected by an impermeable cover.
- 214.2 Operators of a microenterprise home kitchen business or persons under the operator's direct supervision shall not prepare, package, or handle microenterprise home kitchen business food products if a licensed health practitioner has diagnosed him or her with an illness due to:
- (a) Norovirus;
 - (b) Hepatitis A virus;
 - (c) *Shigella* spp.;
 - (d) Enterohemorrhagic or Shiga Toxin-Producing *Escherichia coli*;
 - (e) *Salmonella* Typhi; or
 - (f) *Salmonella* (non-typhoidal)
- 215 PREVENTING CONTAMINATION – PROHIBITING ANIMALS AND PESTS**
- 215.1 Animals shall be prohibited in the home kitchen during the preparation, packaging, or handling of microenterprise home kitchen business food products.
- 215.2 The home kitchen shall be free from pests and shall be kept clean to prevent the harborage of pests. The premises shall allow for easy visual monitoring for pest activity.
- 216 PREVENTING CONTAMINATION – FOOD VENDING CARTS, STORAGE AND SERVICING REQUIREMENTS**
- 216.1 Food vending carts used by a microenterprise home kitchen business may be serviced and stored in the following locations:
- (a) A vending depot that meets the requirements of 24 DCMR § 574;
 - (b) A shared kitchen or support facility;

- (c) An existing brick-and-mortar food establishment with a fixed location, such as a delicatessen, bakery, or restaurant;
 - (d) A community center; and
 - (e) A microenterprise home kitchen business if the vending cart belongs to the microenterprise home kitchen business.
- 216.2 A shared kitchen or support facility, existing food establishment with a fixed location, or a community center may support the servicing and storage of food vending carts if:
- (a) The food vending carts are stored in a space and manner that protects the carts from contamination;
 - (b) There is adequate space for the proper storage of inventory, such as food, supplies, and utensils used by the vendor;
 - (c) There is adequate space for the cleaning of all food vending carts serviced and stored at the facility;
 - (d) The vendor has access to on-site food preparation and food handling areas, if needed; and
 - (e) The facility will provide access to hot and cold potable water, electrical outlets, and receptacles or systems for the proper disposal of trash and food waste.
- 216.3 A microenterprise home kitchen business may support the service and storage of up to two (2) food vending carts if:
- (a) The food vending carts are stored in a space and manner that protects the carts from contamination;
 - (b) The storage area is clearly designated, identified, and approved by the Department with relocation of the area prohibited without the Department's approval; and
 - (c) The microenterprise home kitchen business can support the proper preparation and storage of the food being sold from the food vending cart.
- 216.4 An alternative service and storage facility, such as a private garage, may support the service and storage of up to four (4) food vending carts if:
- (a) The vendors sell only prepackaged food or non-potentially hazardous uncut fruits and vegetables;

- (b) The facility provides the vendor with access to on-site potable water;
- (c) The service and storage areas are free of pests; and
- (d) Food items are not prepared or stored in the facility.

217 APPROVED FOODS, SOURCES, PROCESSES, AND ACTIVITIES

217.1 A microenterprise home kitchen business may engage in the following food processes and activities:

- (a) Fully cooking food, including meat, fish, fruit, and vegetables;
- (b) Offering for sale whole or chopped raw fruit and vegetables that are washed;
- (c) Cooking any other time/temperature control for safety food to the temperature and time required for the specific food in accordance with §§ 207 and 208; and
- (d) Offering for sale bakery items for which further cooking is not required for safety.

218 UNAUTHORIZED FOODS

218.1 A microenterprise home kitchen business shall not sell the following time/temperature control for safety foods:

- (a) Fresh, dried, or dehydrated meat or meat products, including jerkies;
- (b) Fresh, dried, or dehydrated poultry or poultry products;
- (c) Cheese made with unpasteurized milk;
- (d) Raw-seed sprouts, including but not limited to alfalfa sprouts or bean sprouts;
- (e) Raw cookie dough;
- (f) Canned pickled products such as corn relish, pickles, or sauerkraut;
- (g) Milk and dairy products including hard, soft, and cottage cheeses, ice cream, and yogurt;
- (h) Mushrooms;

- (i) Garlic or vegetable in oil mixtures;
- (j) Sugar-free products, such as jams, jellies, syrups, marmalades and other preserves;
- (k) Pumpkin or fruit butters;
- (l) Ice or ice products;
- (m) Sauces, ketchups, or mustards;
- (n) Foods not intended for human consumption such as pet foods or treats;
- (o) Alcohol infused food products;
- (p) Foods products containing cannabis, CBD (cannabidiol), Kava, Kratom, any food not considered GRAS (generally recognized as safe), or any unapproved food additive; or
- (q) Other foods the Department determines to be unsafe.

219 UNAUTHORIZED FOOD PROCESSES AND ACTIVITIES

219.1 A microenterprise home kitchen business shall not:

- (a) Manufacture food;
- (b) Process acidified and low-acid canned food;
- (c) Process food using reduced oxygen packaging;
- (d) Smoke or cure food;
- (e) Press juices or vegetables;
- (f) Pasteurize;
- (g) Can any food products, including fruits, vegetables, vegetable butters, salsas, and similar foods;
- (h) Hermetically seal food in jars;
- (i) Offer for sale adulterated or misbranded food;

- (j) Prepare food with processes that require a Hazard Analysis Critical Control Points (HACCP) Plan pursuant to 25-A DCMR § 4202; or
- (k) Prepare food by other methods that the Department prohibits.

CHAPTER 3 LAWFUL OPERATION, RECORDS RETENTION, AND NOTICES OF INFRACTION

300 DOCUMENTS REQUIRED TO OPERATE

- 300.1 No person shall operate, prepare, handle, package, store, or sell microenterprise home kitchen food products in the District without a valid Microenterprise Home Kitchen Business Registry Certificate issued by the Department.
- 300.2 No person shall sell microenterprise home kitchen food products in the District from a food vending cart or stand without a valid Microenterprise Home Kitchen Vending Operation Health Inspection Certificate issued by the Department.

301 MAINTAINING AND RENEWING PERMITS AND CERTIFICATES

- 301.1 The operator of a microenterprise home kitchen business shall apply for and obtain the renewal of all required approvals and certificates as provided in §§ 301.2 through 301.5 to lawfully conduct business. Failing to maintain all necessary approvals may result in summary suspension, suspension, or revocation of the Microenterprise Home Kitchen Business Registry Certificate and Microenterprise Home Kitchen Vending Operation Health Inspection Certificate.
- 301.2 A Microenterprise Home Kitchen Business Registry Certificate shall remain valid for two (2) years. To maintain the validity of Microenterprise Home Kitchen Business Registry Certificate, the operator shall contact the Department to schedule an inspection and upon passing the microenterprise home kitchen inspection, pay all applicable fees and obtain an updated certificate before the existing certificate expires.
- 301.3 A Microenterprise Home Kitchen Vending Operation Health Inspection Certificate shall remain valid for six (6) months. To maintain the validity of this Vending Operation Health Inspection Certificate, the operator shall contact the Department to schedule a health inspection, and upon passing the health inspection, obtain an updated certificate before the existing certificate expires.
- 301.4 A Certified Food Protection Manager Certificate remains valid for three (3) years after successful completion of an accredited, Department-approved food protection manager exam. The operator shall ensure that each person who supervises the operations of the home kitchen maintains a valid Certified Food Protection Manager Certificate.

- 301.5 The operator shall reapply for the Microenterprise Home Kitchen Business Registry Certificate every two (2) years by submitting a new on-line application to the Department. The operator shall submit the following with the application:
- (a) The existing Microenterprise Home Kitchen Business Registry Certificate;
 - (b) A valid Microenterprise Home Kitchen Business Vending Operation Health Inspection Report;
 - (c) The existing Vending Operation Health Inspection Certificate; and
 - (d) The applicable fee.

302 MICROENTERPRISE HOME KITCHEN BUSINESS CERTIFICATES NOT TRANSFERABLE

- 302.1 A Microenterprise Home Kitchen Business Registry Certificate or Microenterprise Home Kitchen Vending Operation Health Inspection Certificate shall not be transferred from one person to another person, from one business to another business, or from one location to another location even if owned, leased, or operated by the same person.
- 302.2 An operator may request an amendment to the Microenterprise Home Kitchen Business Registry Certificate by submitting a new on-line application to the Department.

303 RECORDS RETENTION AND PUBLIC INFORMATION

- 303.1 The Department shall maintain a copy of all inspection reports, complaints, applications, DLCP and DOB permits, Food Protection Manager Certifications, suspensions, and other documents relating to a microenterprise home kitchen business in the office as active records for (1) year, and then as inactive records for two (2) additional years. The Department shall destroy inactive records at the end of the two (2)-year inactive period.
- 303.2 In the case of an audit or investigation, the Department shall keep all records until the audit or investigation has been completed.
- 303.3 The Department shall treat an inspection report as a public document and shall make it available for disclosure upon request pursuant to the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*).

304 REQUIRED MICROENTERPRISE HOME KITCHEN BUSINESS RECORDKEEPING

304.1 A microenterprise home kitchen business shall maintain copies of all permits, certificates, inspection reports, certificates of occupancy and make them available for inspection by the Department at both the Microenterprise Home Kitchen and at the vending site location(s).

**CHAPTER 4 ADMINISTRATIVE ENFORCEMENT,
SERVICE OF PROCESS, AND JUDICIAL REVIEW****400 ADMINISTRATIVE ENFORCEMENT – SUMMARY SUSPENSIONS AND OTHER DEPARTMENT DIRECTIVES**

400.1 The Department may immediately suspend a Microenterprise Home Kitchen Business Registry Certificate and Microenterprise Home Kitchen Vending Operation Health Inspection Certificate by issuing a summary suspension order if the Department determines the microenterprise home kitchen business:

- (a) Is not operating in compliance with these regulations;
- (b) Is operating in an unsanitary manner;
- (c) Is suspected of causing a foodborne outbreak or other public health emergency; or
- (d) Has failed to comply with a cease-and-desist order or other Department directive.

400.2 A summary suspension shall remain in effect until the Department confirms through re-inspection or other means, that the public health hazard cited in the summary suspension order has been corrected. The Department shall provide the operator of the microenterprise home kitchen business with a Notice of Reinstatement.

400.3 If the operator of a microenterprise home kitchen business does not comply with any provision of these regulations or refuses to comply with a cease-and-desist order, summary suspension order, or any Department directive, the Microenterprise Home Kitchen Business Registry Certificate and Microenterprise Home Kitchen Vending Operation Health Inspection Certificate may be revoked. The operator shall be required to file a new application with the Department to resume business.

400.4 If the Department issues a Notice of Summary Suspension or a Notice to Revoke a Microenterprise Home Kitchen Business Registry Certificate and Microenterprise Home Kitchen Vending Operation Health Inspection Certificate, the operator may

appeal the decision by requesting a hearing before the Office of Administrative Hearings within fifteen (15) days of receiving the notice.

401 ADMINISTRATIVE ENFORCEMENT – NOTICES OF INFRACTIONS, CIVIL FINES AND PENALTIES

401.1 The Department may impose civil infraction fines and penalties, as alternative sanctions against a microenterprise home kitchen business operator for violations of these regulations pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01 *et seq.*).

401.2 An operator who receives a Notice of Infraction as specified in § 401.1 may pay the assessed fines and penalties or request a hearing before the Office of Administrative Hearings in accordance with the 1 DCMR § 2808.

402 SERVICE OF PROCESS – DEPARTMENT ISSUED NOTICES OF SUMMARY SUSPENSION, NOTICES OF INFRACTION AND OTHER DEPARTMENT DIRECTIVES

402.1 A notice issued in accordance with these regulations may be served by one (1) of the following methods:

- (a) A Department representative, serving the notice on the operator of the microenterprise home kitchen business; or
- (b) The Department sending notice to the last known home or business address of the operator in accordance with section 205(a) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1802.05(a)), or by other means that result in a written acknowledgment of receipt by the respondent or
- (c) In accordance with the Office of Administrative Hearings Rules of Practice and Procedures in 1 DCMR §§ 2811 or 2841.

403 JUDICIAL REVIEWS – APPEALS

403.1 Any person aggrieved by a final order or decision of the Office of Administrative Hearings may seek judicial review in accordance with section 110 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Official Code § 2-1831.16).

CHAPTER 99 DEFINITIONS

9900 GENERAL PROVISIONS

9900.1 The terms and phrases used in this subtitle shall have the meanings set forth in § 9901 unless the text or context of a particular chapter, section, or paragraph provides otherwise.

9901 DEFINITIONS

9901.1 As used in this subtitle, the following terms and phrases shall have the meanings ascribed:

Adulterated or misbranded food – food that:

- (a) Contains poisonous or unsanitary ingredients;
- (b) Contains unsafe color additives;
- (c) Bears or contains alcohol in excess of one-half of one percent (1/2%) by volume;
- (d) Has had a valuable constituent omitted or abstracted from it in whole or in part;
- (e) Has had a substance substituted for it in whole or in part or has had damage or inferiority concealed in any manner; or
- (f) Has been transported under conditions that are not in compliance with these regulations.

Authorized premises– the portion of a domestic residence housing the home kitchen where the preparation, packaging, storage, or handling of microenterprise home kitchen business food products occurs, and that has been inspected and approved by the Department to operate as a microenterprise home kitchen business.

Consumer – a person who is a member of the public, takes possession of food and is not functioning in the capacity of an operator of a microenterprise home kitchen business.

Department - Department of Health.

Domestic residence – a single-family dwelling or a unit within a building where a single person or family resides. This term does not include any group or

communal residential setting within any type of structure or any outbuilding, shed, barn, or other similar structure.

Easily cleanable – a characteristic of a food-contact surface that under normal use is safe, durable, corrosion-resistant, and nonabsorbent, sufficient in weight and thickness to withstand repeated washing, finished to have a smooth surface, resistant to pitting, chipping, scratching, scoring, distortion, and decomposition and that allows effective removal of soil by normal cleaning methods.

Equipment – a non-commercial grade household article such as a freezer, grinder, hood, ice maker, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device, or dishwashing machine.

Food – a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption, or chewing gum.

Foodborne disease outbreak – the occurrence of two (2) or more cases of a similar illness resulting from the ingestion of a common food.

Hazard Analysis Critical Control Point (HACCP) Plan – a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

Microenterprise home kitchen business – a business that operates out of a non-commercial kitchen located in a private home, that is operated by a resident of the home, and where ready-to-eat food is handled, stored, or prepared to be offered for sale through an associated vending facility. A microenterprise home kitchen business is not a catering business, cottage food business, bed and breakfast, residence-based group home facility, or food truck.

Microenterprise Home Kitchen Business Certificate – a legal document issued by the Department to an operator for the purpose of authorizing the operation of a microenterprise home kitchen business.

Operator – an individual who resides in a private home and who manages or controls the microenterprise home kitchen business.

Packaged – any individual package that prohibits/prevents outside contamination and does not require additional food handling once packaged at the microenterprise home kitchen through the point of sale at the vending location.

Personal care items – any non-food related items that may be used to maintain or enhance a person’s health, hygiene, or appearance, which may include items such as medicines, first aid supplies, cosmetics, and toiletries such as toothpaste and mouthwash.

Time/temperature control for safety food – foods requiring temperature control for safety because they can support the rapid growth of pathogenic or toxigenic microorganisms, or the growth and toxin production of clostridium botulinum.

Ready-to-eat food:

- (a) Fully cooked food, including meat, fish, fruit, and vegetables;
- (b) Raw fruit and vegetables that are washed and offered for sale whole or chopped;
- (c) Any other time/temperature control for safety food that is cooked to the temperature and time required for the specific food in accordance with Department’s Food Code Regulations and this subtitle; or
- (d) A bakery item for which further cooking is not required for food safety.

Reasonable advance notice – with respect to an inspection, five (5) business days prior to date of the inspection.

Smoking – the inhaling, exhaling, burning, or carrying of a lighted or heated cigar, cigarette, pipe, electronic smoking device, or any other tobacco or plant product intended for human consumption through inhalation, in any manner or in any form.

All persons wishing to comment on these proposed rules should submit written comments no later than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*, to Olga Clegg (Senior Assistant General Counsel) in the Office of the General Counsel, Department of Health, 2201 Shannon Place, SE, 4th Floor, Washington, D.C. 20020, on (202) 535-1914 or via email at Olga.Clegg@dc.gov. Copies of the proposed rules may be obtained from the above address, excluding weekends and holidays.