

**Title 5
FOOD ESTABLISHMENTS***

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*Editor's note: For administrative rules relevant to this title, see BOH Title R5, Food-Service Establishments.

Chapters:

- 5.02 GENERAL PROVISIONS**
- 5.04 DEFINITIONS**
- 5.10 PUBLIC HEALTH LABELING AND REGULATION**
- 5.15 FOOD SAFETY RATING**
- 5.34 MOBILE FOOD VEHICLES**
- 5.42 TEMPORARY FOOD ESTABLISHMENTS***
- 5.50 PERMITS REQUIRED**
- 5.52 (RESERVED)**
- 5.64 FOOD ESTABLISHMENT RISK**

5.02 GENERAL PROVISIONS

Sections:

- 5.02.010 Short title.
- 5.02.020 Purpose and policy.
- 5.02.025 Applicability – State food regulations adopted.
- 5.02.030 Enforcement authority.
- 5.02.040 Authority to promulgate rules.
- 5.02.050 Construction.

5.02.010 Short title. The rules and regulations set out in this title may be cited and referred to, and shall be known as the "King County Food Code." (R&R 91 §1(part), 5-14-93).

5.02.020 Purpose and policy.

A. In compliance with 246-215 WAC, this title is enacted as an exercise of the board of health powers of King County to protect and preserve the public peace, health, safety and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes.

B. It is expressly the purpose of this title to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this title.

C. It is the specific intent of this title to place the obligation of complying with its requirements upon the owner of each food service establishment within its scope, and no provision nor term used in this title is intended to impose any duty whatsoever upon King County or any of its officers or employees, for whom the implementation or enforcement of this title shall be discretionary and not mandatory.

D. Nothing contained in this title is intended to be nor shall be construed to create or form the basis for any liability on the part of King County, or its officers, employees or agents, for any injury or damage resulting from the failure of any person subject to this title to comply with this title, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this title on the part of King County by its officers, employees or agents. (R&R 91 §1(part), 5-14-93).

5.02.025 Applicability – State food regulations adopted.

A. Except as otherwise specifically provided in this title, Chapter 246-215 WAC, Washington Food Service Regulations, as amended, are hereby adopted and by this reference made a part of this title.

B. Any person owning, operating, or working in a food establishment must comply with and is subject to the requirements of this title, including state regulations adopted by reference.

C. If a provision or definition of Chapter 246-215 WAC is inconsistent with a provision or definition otherwise established under this title, the more stringent provisions of this title shall apply. (R&R 05-06 § 1, 6-17-2005).

5.02.030 Enforcement authority. This title shall be enforced by the health officer. This title shall be enforced in accordance with Chapter 1.08 of this code. (R&R 91 §1(part), 5-14-93).

5.02.040 Authority to promulgate rules. The health officer is authorized to make rules and regulations not inconsistent with the provisions of this title for the purpose of enforcing and carrying out its

provisions. (R&R 91 §1(part), 5-14-93).

5.02.050 Construction. The provisions of this title do not apply to or govern the construction of and punishment of any offense committed prior to the effective date of the rules and regulations codified in this title or to the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this title had not been enacted. (R&R 91 §1(part), 5-14-93).

5.04 DEFINITIONS

Sections:

5.04.005	Effect of chapter
5.04.010	Apprentice meat cutter.
5.04.020	Bakery.
5.04.025	Certified booth operator.
5.04.035	Farmers market coordinator.
5.04.045	Food safety rating.
5.04.055	Food safety rating placard.
5.04.290	General food service.
5.04.370	Grocery store.
5.04.390	Health officer.
5.04.410	Local health officer.
5.04.420	Meat cutter.
5.04.450	Meat/fish market.
5.04.460	Nonprofit institution.
5.04.620	School kitchen.
5.04.625	School lunch program.
5 04 640	Seasonal food establishment.

5.04.005 Effect of chapter. This chapter establishes definitions that are additional to or that modify definitions in Chapter 246-215 WAC. (R&R 05-06 § 2, 6-17-2005).

5.04.010 Apprentice meat cutter. WAC 246-215-01115 is supplemented with the following:
Apprentice meat cutter (WAC 246-215-01115(3.1)).

"Apprentice meat cutter" means any person in a meat/fish establishment employed for the purpose of selling meat or learning meat cutting while enrolled in a meat cutter's apprenticeship program. (R&R 13-01 § 1, 3-21-2013; R&R 05-06 § 3, 6-17-2005).

5.04.020 Bakery. WAC 246-215-01115 is supplemented with the following:
Bakery (WAC 246-215-01115(6.1)).

"Bakery" means any food establishment in which food or food products are mixed and baked to final form and offered to the ultimate consumer. (R&R 13-01 § 2, 3-21-2013; R&R 05-06 § 4, 6-17-2005).

5.04.025 Certified booth operator. WAC 246-215-01115 is supplemented with the following:
Certified booth operator (WAC 246-215-01115(12.1)).

"Certified booth operator" means an individual who has successfully completed an approved certified booth operator course and holds a current, valid certificate of course completion. (R&R No. 17-02 § 3, 2017; R&R 15-04 § 3, 2015).

5.04.035 Farmers market coordinator. WAC 246-215-01115 is supplemented with the following:

"Farmers market coordinator" means an individual authorized by the health officer to be responsible for the operation of the farmers market in conformance to the requirements of this title and the lawful orders of the health officer, including providing the common facilities for and monitoring the participating food establishments. (R&R No. 17-02 § 4, 2017; R&R 15-04 § 4, 2015; R&R 13-01 § 3, 3-21-2013; R&R No. 09-05 § 5, 2009).

5.04.045 Food safety rating. WAC 246-215-01115 is supplemented with the following:
Food safety rating (WAC 246-215-01115(49.1)).

"Food safety rating" means a food safety inspection performance score issued by the health officer following a routine inspection of a general food service establishment, derived from up to the four most recent routine inspection results at the establishment and compared with establishments of similar food establishment risk category and geographic location as determined by the health officer. (R&R 17-01 § 2, 1-

20-2017)

5.04.055 Food safety rating placard. WAC 246-215-01115 is supplemented with the following:
Food safety rating placard (WAC 246-215-01115(49.2)).

"Food safety rating placard" means a placard displaying the food safety rating score of a general food service establishment as determined by the health officer in accordance with this title. (R&R 17-01 § 3, 1-17-2017)

5.04.290 General food service. WAC 246-215-01115 is supplemented with the following:
General food service (WAC 246-215-01115(51.1)).

"General food service" means any stationary food establishment that provides food to the public, guests, patrons or its personnel for on-premises or off-premises consumption. (R&R 13-01 § 5, 3-21-2013; R&R 05-06 § 8, 6-17-2005).

5.04.370 Grocery store. WAC 246-215-01115 is supplemented with the following:
Grocery store (WAC 246-215-01115(53.1)).

"Grocery store" means a food establishment selling commercially prepared and prepackaged potentially hazardous foods requiring refrigeration or freezer control, whole produce and/or bulk foods for consumption off-site. (R&R 13-01 § 6, 3-21-2013; R&R 05-06 § 9, 6-17-2005; R&R 91 §1(part), 5-14-93).

5.04.390 Health officer. WAC 246-215-01115 is supplemented with the following:
Health officer (WAC 246-215-01115(56.1)).

"Health officer" means the director of the Seattle-King County Department of Public Health or any of his or her authorized representatives. (R&R 13-01 § 7, 3-21-2013; R&R 05-06 § 10, 6-17-2005; R&R 91 §1(part), 5-14-93)

5.04.410 Local health officer. WAC 246-215-01115(68) is not adopted and the following is substituted:

Local health officer (WAC 246-215-01115(68)).

"Local health officer" means the director of the Seattle-King County Department of Public Health or any of the director's authorized representatives. (R&R 13-01 § 10, 3-21-2013; R&R 05-06 § 12, 6-17-2005).

5.04.420 Meat cutter. WAC 246-215-01115 is supplemented with the following:
Meat cutter (WAC 246-215-01115(70.1)).

"Meat cutter" means any person cutting or preparing for sale fresh meat. (R&R 13-01 § 11, 3-21-2013; R&R 05-06 § 13, 6-17-2005).

5.04.450 Meat/fish market. WAC 246-215-01115 is supplemented with the following:
Meat/fish market (WAC 246-215-01115(70.2)).

"Meat/fish market" means all premises, buildings or parts thereof used for the preparation for sale, sale or dispensing of meat, fish, game animals or poultry to consumers and intended for off-premises consumption. (R&R 13-01 § 12, 3-21-2013; R&R 05-06 § 14, 6-17-2005).

5.04.460 Nonprofit institution. WAC 246-215-01115 is supplemented with the following:
Nonprofit institution (WAC 246-215-01115(75.1)).

"Nonprofit institution" means a food establishment with valid, current United States Internal Revenue Code section 501(c)(3) nonprofit status, Washington State Commission for the Blind status, or a municipal jail. (R&R 13-01 § 13, 3-21-2013; R&R 05-06 § 15, 6-17-2005).

5.04.620 School kitchen. WAC 246-215-01115 is supplemented with the following:
School kitchen (WAC 246-215-01115(109.1)).

"School kitchen" means a food establishment in an institution for learning limited to the K-12 grades. (R&R 13-01 § 14, 3-21-2013; R&R No. 09-05 § 9, 2009; R&R 05-06 § 16, 6-17-2005; R&R 91 §1(part), 5-14-93).

5.04.625 School lunch program. WAC 246-215-01115 is supplemented with the following:
School lunch program (WAC 246-215-01115(109.2)).

"School lunch program" means a school kitchen participating in the United States Department of Agriculture National School Lunch Program under the Healthy Hunger-Free Kids Act of 2010 (Public Law 111-296). (R&R 13-01 § 15, 3-21-2013; R&R No. 09-05 § 10, 2009)

5.04.640 Seasonal food establishment. WAC 246-215-01115 is supplemented with the following:

Seasonal food establishment (WAC 246-215-01115(110.1)).

"Seasonal food establishment" means a food establishment that routinely operates for less than twelve consecutive months each year. (R&R 13-01 § 16, 3-21-2013: R&R 11-05 § 2, 12-15-11: R&R 05-06 § 17, 6-17-2005: R&R 91 §1(part), 5-14-93).

5.10 PUBLIC HEALTH LABELING AND REGULATION

Sections:

- 5.10.001 Suspension of operation and effect of BOH 5.10.005, 5.10.015, 5.10.022, 5.10.023.
- 5.10.005 Chapter definitions (operation and effect suspended by BOH 5.10.001).
- 5.10.015 Food nutrition labeling requirements (operation and effect suspended by BOH 5.10.001).
- 5.10.016 Nutrition labeling of standard menu items at chain restaurants.
- 5.10.022 Approved alternative methods of nutrition labeling (operation and effect suspended by BOH 5.10.001).
- 5.10.023 Approval process for proposed substantially equivalent methods of nutrition labeling (operation and effect suspended by BOH 5.10.001).
- 5.10.025 Enforcement - nutrition labeling.
- 5.10.035 Artificial trans fat restricted.
- 5.10.045 Food deemed to contain artificial trans fat.
- 5.10.055 Maintaining product labels or other documentation.
- 5.10.065 Enforcement - Artificial trans fat.

5.10.001 Suspension of operation and effect of BOH 5.10.005, 5.10.015, 5.10.022 and 5.10.023.

The operation and effect of BOH 5.10.005, 5.10.015, 5.10.022 and 5.10.023 is suspended. (R&R 10-02 § 2, 2010).

5.10.005 Chapter definitions (operation and effect suspended by BOH 5.10.001). In addition to the definitions in BOH chapter 5.04, the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

A. "Chain" restaurant means any one of at least fifteen restaurants within the United States doing business under the same name and collectively having at least one million dollars in gross annual sales and offering for sale substantially the same menu items, regardless of whether the restaurants are subject to the same ownership or type of ownership. "Restaurant" means a food establishment at which any prepared, un-prepackaged foods are offered for sale and consumption on or off the premises such as, for example, sit-down restaurants, cafes, coffee stands, and fast-food outlets, but not grocery stores or movie theatres. For the purposes of this chapter, "grocery store" means a store primarily engaged in the retail sale of canned foods, dry goods, fresh fruits and vegetables, and fresh and prepared meats, fish, and poultry, and includes convenience stores. "Chain restaurant" includes any chain restaurant located within another business, regardless of whether the business within which it is located is subject to this regulation.

B. "Condiment" means a sauce or seasoning including but not limited to ketchup, mustard, hot sauce, tartar sauce and similar items offered for general use with or without charge.

C. "Menu" means a printed list or pictorial display of a food item or items available for sale from a restaurant and includes menus distributed or provided outside of the restaurant for purposes of ordering. "Menu" does not include printed or pictorial materials for the purpose of marketing.

D. "Menu board" means any list or pictorial display of a food item or items posted in and visible within a restaurant or outside of a restaurant for the purpose of ordering. "Menu board" does not include printed or pictorial materials for the purpose of marketing.

E. "Point of ordering" means the location at a chain restaurant where consumers place their orders for menu items.

F. "Reasonable basis" or "reasonable bases" means any reliable and verifiable calorie and nutrient analysis of a standard menu item, which may include the use of calorie and nutrient databases, cookbooks, laboratory analyses and other reliable and verifiable methods of analysis.

G. "Standard menu item" means food offered for sale for more than ninety days per year and includes only those items served in at least fifteen locations of a chain. "Standard menu item" does not include:

1. Food offered for sale identified only by one or more food tags. "Food tags" means labels or tags that identify any food item displayed for sale such as in a display case;
2. Unopened prepackaged foods;
3. Condiments;
4. Unique or location-specific food or meal items offered at fewer than fifteen locations of a chain;

5. Foods offered in a salad bar, buffet line, cafeteria service or similar self-serve arrangement. "Similar self-serve arrangement" means a food service location where consumers may themselves take foods from a counter, display case or hot or cold holding containers;

6. Foods served by weight or custom-ordered quantity;

7. Customized orders requested by consumers that change the standard menu item;

8. Garnishes, such as a slice of lemon or a sprig of parsley.

H. "Standard recipe" means a recipe or formula used in preparing a menu item or meal that is consistent from one restaurant to the next in a chain.

I. "Substantially the same menu items" means eighty percent or more of the menu items served in at least fifteen locations of a chain restaurant are the same and are prepared using a standard recipe. Beverages that are prepared on site using a chain's standard recipe are to be included as menu items for the purposes of calculating whether a chain restaurant meets the definition of serving substantially the same menu items. Other types of beverages are not included in this calculation. (R&R 08-02 § 2, 2008: R&R 08-01 § 2, 2008 (expired June 10, 2008): R&R 07-01 § 1, 2007).

5.10.015 Food nutrition labeling requirements (operation and effect suspended by BOH 5.10.001).

A. Nutrition labeling of food required. Each chain restaurant shall make nutrition labeling of food available to consumers for all standard menu items as required by this chapter. The nutrition labeling of food shall include, but not be limited to, the total number of calories and nutrients as follows, per standard menu item, as usually prepared and offered for sale, including condiments routinely added to a menu item as part of a standard recipe:

1. Total number of calories;

2. Total number of grams of saturated fat;

3. Total number of grams of carbohydrate; and

4. Total number of milligrams of sodium.

B. Nutrition labeling of food on menus. Each chain restaurant that provides a menu shall provide the nutrition labeling of food required under subsection A. of this section next to each standard menu item on the menu. The nutrition labeling shall be easily readable, in a typeface similar to other information about each standard menu item, and in a font no less than nine point. The menu shall include, in a clear and conspicuous manner, the following statement: "The Dietary Guidelines for Americans recommend limiting saturated fat to 20 grams and sodium to 2,300 milligrams for a typical adult eating 2,000 calories daily. Recommended limits may be higher or lower depending upon daily calorie consumption."

C. Nutrition labeling of food on menu boards. Each chain restaurant that uses a menu board shall post on the menu board the total number of calories per standard menu item. The nutrition labeling shall be in a font size and typeface that is at least as prominent as that used to post prices of menu items on the menu board. This type of chain restaurant shall make the other nutrition labeling of food required under subsection A. of this section and the statement under subsection B. of this section available on easily readable printed pamphlets, brochures, posters or similar documents that are plainly visible to consumers at the point of ordering.

D. Other methods of providing nutrition information. In lieu of the placement requirements for nutrition labeling in subsections B. and C. of this section, a chain restaurant may provide nutrition labeling through an approved alternative or approved substantially equivalent method as described in BOH 5.10.022 or 5.10.023.

E. Additional nutrition labeling of food permitted. Nothing in this section precludes restaurants from providing additional nutrition labeling of food voluntarily.

F. Standards for calorie and nutrient analysis. Chain restaurants shall perform or obtain the required calorie and nutrient analysis using reasonable bases. Calorie and nutrient analysis using reasonable bases is required once per standard food item, provided that portion size is reasonably consistent and the restaurant follows a standard recipe and trains to a consistent method of preparation. Chain restaurant owners or operators shall provide to the health officer, if requested, documentation of the reasonable bases of calorie and nutrient analysis for purposes of enforcement of this regulation.

G. Disclaimer for nutrition content variation. The nutrition labeling of food required under subsection A. of this section may be presented with a disclaimer stating that there may be variations in nutrition content across servings, based on slight variations in overall serving size or quantity of ingredients, or based on special ordering.

H. Identification of chain restaurant status. Each food establishment shall identify whether or not it is a chain restaurant by a method approved by the health officer. (R&R 08-02 § 3, 2008: R&R 08-01 § 3, 2008 (expired June 10, 2008): R&R 07-01 § 2, 2007).

5.10.016 Nutrition labeling of standard menu items at chain restaurants.

A. General requirements for chain restaurants. Except for food described in subsection D. of this

section, in the case of food that is a standard menu item that is offered for sale in a restaurant that is part of a chain with fifteen or more locations doing business under the same name, regardless of the type of ownership of the locations, and offering for sale substantially the same menu items, a restaurant shall disclose the information described in subsections B. and C. of this section.

B. Information required to be disclosed by restaurants. Except as provided in subsection D. of this section, a restaurant shall disclose in a clear and conspicuous manner:

1. In a nutrient content disclosure statement adjacent to the name of the standard menu item, so as to be clearly associated with the standard menu item, on the menu listing the item for sale, the number of calories contained in the standard menu item, as usually prepared and offered for sale; and a succinct statement concerning suggested daily caloric intake posted prominently on the menu and designed to enable the public to understand, in the context of a daily diet, the significance of the caloric information that is provided on the menu. A restaurant may use the following statement: "The Dietary Guidelines for Americans recommend limiting saturated fat to 20 grams and sodium to 2,300 milligrams for a typical adult eating 2,000 calories daily. Recommended limits may be higher or lower depending upon daily calorie consumption."

2. In a nutrient content disclosure statement adjacent to the name of the standard menu item, so as to be clearly associated with the standard menu item, on the menu board, including a drive-through menu board, the number of calories contained in the standard menu item, as usually prepared and offered for sale; and a succinct statement concerning suggested daily caloric intake posted prominently on the menu board, designed to enable the public to understand, in the context of a daily diet, the significance of the caloric information that is provided on the menu board. A restaurant may use the following statement: "The Dietary Guidelines for Americans recommend limiting saturated fat to 20 grams and sodium to 2,300 milligrams for a typical adult eating 2,000 calories daily. Recommended limits may be higher or lower depending upon daily calorie consumption."

3. In a written form, available on the premises of the restaurant and to the consumer upon request, the following nutrition information:

a. The total number of calories derived from any source, and derived from the total fat, in each serving size or other unit of measure of the food; and

b. The amount of the following nutrients: total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, dietary fiber, and total protein contained in each serving size or other unit of measure; and

4. On the menu or menu board, a prominent, clear, and conspicuous statement regarding the availability of the information described in subsection B.3.a. and b. of this section.

C. Reasonable basis. For the purposes of this section, a restaurant shall have a reasonable basis for its nutrient content disclosures, including nutrient databases, cookbooks, laboratory analyses, and other reasonable means, as described in section 101.10 of title 21, Code of Federal Regulations (or any successor regulation) or in a related guidance of the Food and Drug Administration.

D. Nonapplicability to certain food - In General. Subsections A. through C. of this section do not apply to:

1. Items that are not listed on a menu or menu board, such as condiments and other items placed on the table or counter for general use;

2. Daily specials, temporary menu items appearing on the menu for less than sixty days per calendar year or custom orders;

3. Such other food that is part of a customary market test appearing on the menu for less than ninety days.

E. Definition. For the purposes of this section, "menu" or "menu board" means the primary writing of the restaurant from which a consumer makes an order selection. (R&R 10.02 § 3, 2010).

5.10.022 Approved alternative methods of nutrition labeling (operation and effect suspended by BOH 5.10.001).

A. Approved alternative methods of nutrition labeling for chain restaurants that provide menus. A chain restaurant that provides a menu may provide nutrition labeling through one of the approved alternative methods listed in this subsection in lieu of the placement requirements in BOH 5.10.015.B., but only if a statement clearly and prominently appears on each page of the menu stating the location and specific method through which nutrition information is available and only if the alternative method of nutrition labeling is available at each point of ordering.

1. Approved alternative methods for nutrition labeling on the menu are:

a. a menu insert. A menu insert shall be placed within each menu or shall be presented by the server with the menu. A menu insert shall provide the nutrition information required by this chapter next to each standard menu item. The nutrition information shall be easily readable and in a font no less than nine point. A menu insert shall list food categories and food items in the same order as these appear on the menu. A menu insert is not required to contain photos or menu item descriptions that appear on the menu;

b. a menu appendix. A menu appendix shall be attached in the back of the menu. A menu appendix shall provide the nutrition information required by this chapter next to each standard menu item. The nutrition information shall be easily readable and in a font no less than nine point. A menu appendix shall list food categories and food items in the same order as these appear on the menu. A menu appendix is not required to contain photos or menu item descriptions that appear on the menu;

c. a supplemental menu. A supplemental menu similar in general appearance to the menu shall be available at each point of ordering or shall be presented by the server with the menu. A supplemental menu shall provide the nutrition information required by this chapter next to each standard menu item. The nutrition labeling shall be easily readable, in a typeface similar to the menu, and in a font no less than nine point. A supplemental menu shall list food categories and food items in the same order as these appear on the menu. A supplemental menu is not required to contain photos or menu item descriptions that appear on the menu; and

d. electronic kiosks. An electronic kiosk shall be available at each point of ordering. An electronic kiosk shall provide the nutrition information required by this chapter for each standard menu item. The nutrition labeling shall be easily readable and shall be presented in a manner such that consumers can easily view in one place and compare nutrition information for similar menu items. An electronic kiosk shall present food categories and food items in the same order as they appear on the menu.

2. Each of the approved alternative methods for nutrition labeling on the menu shall include, in a clear and conspicuous manner, the following statement: "The Dietary Guidelines for Americans recommend limiting saturated fat to 20 grams and sodium to 2,300 milligrams for a typical adult eating 2,000 calories daily. Recommended limits may be higher or lower depending upon daily calorie consumption."

3. A chain restaurant that provides a menu and uses an approved alternative method for nutrition labeling on the menu shall also provide consumers in the restaurant who are ordering menu items for carryout with access to nutrition labeling that is equivalent to that provided for all other consumers.

B. Approved alternative methods of nutrition labeling for chain restaurants that use menu boards. A chain restaurant that uses a menu board may provide nutrition labeling through one of the approved alternative methods listed in this subsection in lieu of the placement requirements in BOH 5.10.015.C.

1. Approved alternative methods for labeling of calories. A chain restaurant may use one of the following approved alternative methods in lieu of posting calorie information on menu boards, but only if the chain restaurant provides the other nutrition labeling in accordance with the provisions for nutrient labeling in this chapter.

a. a sign adjacent to the menu board. A sign adjacent to the menu board shall appear on the same wall as the menu board and shall be in the same field of vision as the menu board viewed by consumers at the point of ordering. A sign adjacent to the menu board shall provide the calorie labeling required by this chapter next to each standard menu item. The calorie labeling shall be in a font size and typeface that is at least as prominent as that used to post prices of menu items on the menu board. A sign adjacent to the menu board shall be easily readable and shall list food categories and food items in the same order as these appear on the menu board; and

b. a sign in queue at eye level. A sign in queue at eye level shall be no less than two feet by three feet, shall be posted with the bottom of the sign no lower than four feet and the top of the sign no higher than eight feet from the ground, and shall be in clear view to consumers in queue, whether standing or in a drive-through, at or before the point of ordering. A sign in queue shall provide the calorie labeling required by this chapter next to each standard menu item. A sign in queue shall be easily readable, in a typeface similar to the menu board, and in a font no less than forty point.

2. Approved alternative method for providing nutrition information other than calories to consumers in a drive-through. A chain restaurant may provide the other nutrition labeling to consumers in queue in a drive-through at the first window of the drive-through or at another location where it is easily accessible to drive-through consumers in lieu of the requirement in BOH 5.10.015.C. that it be plainly visible to consumers at the point of ordering, but only if the chain restaurant provides calorie labeling to consumers in a drive-through in accordance with the provisions for calorie labeling in this chapter.

C. Other approved alternative methods of nutrition labeling.

1. Approved alternative method of nutrition labeling for alcoholic beverages. An approved alternative method for nutrition labeling of each alcoholic beverage is to collectively label alcoholic beverages in a clear and prominent position using the average nutritional values for beers, wines and spirits. Nutrition labeling of alcoholic beverages collectively shall otherwise be in accordance with the provisions for calorie and nutrient labeling in this chapter.

a. Chain restaurants that collectively label alcoholic beverages shall use the following average nutritional values:

(1) wine – 5 ounces: 122 calories; 4 grams carbohydrate; 7 milligrams sodium;

- (2) regular beer – 12 ounces: 153 calories; 13 grams carbohydrate; 14 milligrams sodium;
- (3) light beer – 12 ounces: 103 calories; 6 grams carbohydrate; 14 milligrams sodium; and
- (4) distilled spirits (80 proof gin, rum, vodka, or whiskey) – 1.5 ounces: 96 calories.

b. Chain restaurants that collectively label alcoholic beverages may add to the nutrition labeling the following statement: "Signature drinks or liqueurs with added ingredients may increase caloric content."

2. Approved alternative method of nutrition labeling for combination meals that are posted on a menu board. A combination meal means a standard menu item that is comprised of two or more food items with options of food items. Chain restaurants may use the following approved alternative method of nutrition labeling for combination meals that are posted on a menu board. An approved alternative method for nutrition labeling of calories and nutrient values for each possible combination of food items offered in a combination meal is to provide calorie labeling for a combination meal that uses a range of the lowest and highest values of calorie content among all possible combinations of food items offered in a combination meal. Labeling of other nutrient values for combination meals is not required, but only if nutrition labeling is provided for the individual food items that comprise a combination meal. Nutrition labeling using calorie ranges shall otherwise be in accordance with the provisions for calorie labeling in this chapter. (R&R 08-02 § 4, 2008).

5.10.023 Approval process for proposed substantially equivalent methods of nutrition labeling (operation and effect suspended by BOH 5.10.001).

A. A chain restaurant may propose a method of nutrition labeling not otherwise identified in BOH chapter 5.10 for approval by the health officer as a substantially equivalent method for use in lieu of requirements in BOH 5.10.015.B or C. A chain restaurant shall obtain approval from the health officer of any proposed substantially equivalent method for nutrition labeling before implementation.

B. A chain restaurant shall seek approval of a proposed substantially equivalent method by submitting a written proposal to the health officer that demonstrates how the proposed method is expected to allow for consumers at the point of ordering to:

1. Perceive that nutrition information is readily available;
2. Encounter nutrition information routinely and automatically; and
3. Access nutrition information in a manner that does not interrupt the normal flow of business.

C. The written proposal shall include documentation of at least one of the following:

1. Sample nutrition labeling materials or other documents such as photographs that demonstrate that the form in which nutrition information would be provided to consumers is substantially equivalent to BOH 5.10.015.B. or C.

2. Existing data and other evidence from customer surveys that demonstrate that the proposed nutrition labeling method results in a percentage of consumers who see nutrition information before placing their order that is equal to or higher than the percentage in the menu labeling equivalency benchmark established in accordance with this subsection.

a. Customer surveys used to support a proposed substantially equivalent method must be conducted independently by professionals using scientifically valid survey methods, including the use of random sampling methods to conduct customer assessments.

b. Pending the results of menu labeling research, the health officer establishes a preliminary menu labeling equivalency benchmark as seventy-five percent of consumers see nutrition information in the chain restaurant before placing their orders. The health officer shall collaborate with the restaurant industry in revising the preliminary benchmark based on scientifically valid menu labeling research.

3. A plan for evaluation of the proposed method and timeline for the submittal to the health officer of the data and other results of the evaluation. The evaluation plan shall be based on scientifically valid customer surveys that meet the requirements of subsection C.2.a. of this section.

D. The health officer may request that additional information be submitted before a proposal is considered for approval.

E. The health officer may approve a substantially equivalent method conditional on changes to the proposed method.

F. The health officer may limit approval of a substantially equivalent method to use in one chain and for a limited time.

G. Where an approved method may be applicable to several chain restaurants, the health officer shall propose these methods to the Board of Health for inclusion in this regulation as approved substantially equivalent methods of nutrition labeling.

H. Any changes in form to an approved substantially equivalent method require submittal of a new written proposal and approval by the health officer before implementation. (R&R 08-02 § 5, 2008).

5.10.025 Enforcement – nutrition labeling.

A. The director of the Seattle-King County Department of Public Health or his or her authorized

representative is authorized to enforce the nutrition labeling requirements of this chapter in accordance with the food establishment inspection and other enforcement provisions of BOH chapters 5.02 and 5.60.

B. If the health officer questions the accuracy of nutrition labeling for a menu item, the health officer may refer a nutrition professional from the Seattle-King County department of public health to the restaurant to review and determine if the nutrition information requires correcting. The health officer shall verify any required corrections at the next regular inspection.

C. Owners and operators of chain restaurants shall have a transition period while preparing to comply with BOH 5.10.016. The transition period shall commence on the effective date of this rule and remain in effect until the effective date of federal regulations adopted pursuant to Section 4205 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148.

D. During the transition period described in subsection C. of this section, the owner or operator of a chain restaurant that provides a menu does not violate BOH 5.10.016 if the restaurant makes nutrition labeling of calories, saturated fat, carbohydrate and sodium and the dietary statement available through an alternative method described in suspended BOH 5.10.022.

E. During the transition period described in subsection C. of this section, the owner or operator of a chain restaurant that provides a menu board does not violate BOH 5.10.016 if the restaurant:

1. Makes nutrition labeling of calories available through an alternative method described in suspended BOH 5.10.022; or

2. Makes nutrition labeling of saturated fat, carbohydrate and sodium and the dietary statement available as described in suspended BOH 5.10.015 or 5.10.022, as applicable. (R&R 10-02 § 4, 2010: R&R 08-02 § 6, 2008: R&R 08-01 § 6, 2008: (expired June 10, 2008): R&R 07-01 § 3, 2007).

5.10.035 Artificial trans fat restricted.

A. Foods deemed to contain artificial trans fat as set forth in this chapter shall not be distributed, held for service, used in preparation of any menu item or served in any food establishment operating under permit issued by the health officer. This restriction on artificial trans fat does not apply to food served directly to patrons in a manufacturer's original sealed package, or any food served in a school.

B. The King County Board of Health intends, in consultation with the health officer, school representatives, and other interested parties, to identify strategies supporting healthy food choices in schools. (R&R 07-02 § 1, 2007).

5.10.045 Foods deemed to contain artificial trans fat. For the purposes of this chapter, a food shall be deemed to contain artificial trans fat if the food is labeled as, lists as an ingredient, or has vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil. However, a food whose nutrition facts label or other documentation from the manufacturer lists the trans fat content of the food as less than 0.5 grams per serving, shall not be deemed to contain artificial trans fat. (R&R 07-02 § 2, 2007).

5.10.055 Maintaining product labels or other documentation.

A. Original labels. Except as otherwise provided in this section, food establishments shall maintain on site the original labels for all food products:

1. That are, or that contain, fats, oils or shortenings,

2. That are, when purchased by such food establishments, required by WAC 246-215-051(3), as amended, to have labels, and

3. That are currently being distributed, held for service, used in preparation of any menu items or served by the food establishment.

B. Documentation instead of labels. Documentation from the manufacturers of such food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content, may be maintained instead of original labels.

C. Documentation required when food products are not labeled. If baked goods, or other food products restricted pursuant to this chapter, that are or that contain fats, oils or shortenings, are not required to be labeled when purchased, food establishments dispensing such food products shall obtain and maintain documentation, from the manufacturers of the food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content. (R&R 07-02 § 3, 2007).

5.10.065 Enforcement – Artificial trans fat. The director of the Seattle-King County Department of Public Health or his or her authorized representative is authorized to enforce the artificial trans fat restrictions and requirements of this chapter in accordance with the food establishment inspection and other enforcement provisions of chapters 5.02 and 5.60 of this title. (R&R 07-02 § 4, 2007).

5.15 FOOD SAFETY RATING

Sections:

5.15.010 Food safety rating placards.

5.15.010 Food safety rating placards.

A. The requirements of this section apply to general food service establishments and not to any other category of food establishment.

B. The general food service establishment owner or operator shall post, at the establishment, a food safety rating placard or placards provided by the health officer. Each placard must be posted:

1. Within five feet of the main public entrance or entrances of the general food service establishment, positioned conspicuously in a window or display case to ensure the placard is clearly visible to passersby and to patrons entering the establishment; or

2. In a conspicuous location at the general food service establishment as determined and directed in the discretion of the health officer to ensure the placard is clearly visible to passerby and to patrons entering the establishment.

C. After the conclusion of each routine food safety inspection, the health officer shall recalculate the food safety rating of the general food service establishment, and provide the establishment owner or operator one or more updated food safety rating placards for display at the establishment. (R&R 17-01 § 5, 1-17-2017)

5.34 MOBILE FOOD VEHICLES

Sections:

5.34.005 Mobile food units – Limited food service – requirements.

5.34.030 Mobile food units – Requirements and restrictions - requirements.

5.34.005 Mobile food units - Limited food service - requirements. WAC 246-215-09180 is not adopted and the following is substituted:

Mobile food units - Limited food service - requirements.

(1) The health officer may allow a person to operate a mobile food establishment with a limited menu with or without permanent plumbing under applicable provisions of this chapter.

(2) The owner, permit holder or person in charge of a limited food service shall ensure that toilet facilities and facilities for cleaning and sanitizing are located within two hundred feet of the limited food service and available at all times that the limited food service is operating. (R&R 13-01 § 18, 3-21-2013.)

5.34.030 Mobile food units – Requirements and restrictions - requirements. WAC 246-215-09100 is not adopted and the following is substituted:

Mobile food units – Requirements restrictions- requirements (WAC 246-215-09100).

(1) The owner, permit holder and person in charge of a mobile food unit shall comply with the requirements of this chapter, except as otherwise provided in this section.

(2) The owner, permit holder or person in charge of a mobile food unit shall obtain approval from other applicable regulating agencies prior to operating a mobile food unit, including the Washington state department of labor and industries.

(3) The owner, permit holder or person in charge of a mobile food unit operating in King County shall operate the mobile food unit from a commissary kitchen or servicing area located in King County and approved by the health officer, and shall return to such location for supplies, thorough cleaning, and other servicing activities, as approved in a plan of operation. The owner, permit holder or person in charge shall store the mobile food unit at a servicing area or other location approved by the health officer while the mobile food unit is not in operation.

(4) The owner of a mobile food unit shall obtain a single, separate mobile food unit permit for each mobile food unit.

(5) Except for limited food services, the owner of a mobile food unit shall obtain a single, separate commissary permit for each commissary kitchen used, regardless of whether any other mobile food unit owner uses the same commissary kitchen.

(6) The owner, permit holder or person in charge of a mobile food cart shall ensure the cart body size is limited to three feet by six feet with each extension no longer than eighteen inches. (R&R 13-01 § 17, 3-21-2013; R&R No. 09-05 § 11, 2009; R&R 05-06 § 23, 6-17-2005).

5.42 TEMPORARY FOOD ESTABLISHMENTS*

*Revisers note: BOH 5.42.010 was repealed by BOH 13-01. However, BOH 11-05 added a new section to chapter 5.42, which was erroneously not codified until January 2015.

Sections:

5.42.015 Farmers markets.

5.42.015 Farmers markets. WAC 246-215-09200 is supplemented with the following:
Farmers markets (WAC 246-215-09200(4)).

(a) The health officer shall designate each farmers market as tier 1, tier 2 or tier 3 based on the number of permitted temporary food establishments participating at the farmers market and the standards of this title.

(b) Any farmers market where all participating food establishments are exempt from the food establishment permit requirement under WAC 246-215-08305 shall be designated as tier 1.

(c) A farmers market coordinator shall be responsible for the operation of the farmers market in conformance with the requirements of this title and the lawful orders of the health officer, including providing the common facilities for and monitoring the participating food establishments and vendors. The farmers market coordinator shall pay the applicable farmers market permit fee as set forth in BOH chapter 2.10.

(d) The Seattle-King County department of public health shall report to the board of health on the number of farmers markets in each tier, the frequency and severity of food code violations at farmers markets, and identification of any noteworthy changes from the preceding calendar year. The department shall provide a written report by March 31 each year in electronic format to the board of health administrator who will distribute the report to all board of health members. (R&R No. 17-02 § 5, 2017: R&R 15-04 § 6, 2015: R&R 11-05 § 3, 12-15-2011).

5.50 PERMITS REQUIRED

Sections:

- 5.50.010 License required.
- 5.50.020 Application and issuance.
- 5.50.030 Activity authorized by occupational licenses.
- 5.50.040 Employing unlicensed persons.

5.50.010 License required. It is unlawful for any person to engage in the business of, operate or be employed as a meat cutter or apprentice meat cutter without having a valid, appropriate personal license from the health officer. (R&R 05-06 § 25, 6-17-2005).

5.50.020 Application and issuance.

A. Meat Cutter's License. Any applicant for an original meat cutter's license shall obtain such license only upon achieving a passing score on an examination administered by the health officer and paying the required license fee; provided, that any valid original or renewal meat cutter's license issued pursuant to this section may be renewed annually upon payment of the applicable annual fee. The examination shall test an applicant's competency in the cutting, handling, care of meat, knowledge of sanitation and code requirements and the applicant's ability by the senses to recognize in meat decomposition and other taints and conditions deleterious to health.

B. Apprentice Meat Cutter's License. Any applicant for an original apprentice meat cutter's license shall obtain such license only upon submitting evidence, to the satisfaction of the health officer, of enrollment in a meat cutters' apprenticeship program, and paying the required license fee; provided, that a valid original apprentice meat cutter's license issued pursuant to this section may be renewed for a maximum period of one additional year upon payment of the applicable renewal fee. Any apprentice meat cutter's license renewed pursuant to this section shall be ineligible for further renewal. (R&R 05-06 § 26, 6-17-2005).

5.50.030 Activity authorized by occupational licenses.

A. Meat Cutter's License. A valid meat cutter's license shall entitle its lawful holder to cut for sale fresh meat to a consumer from a licensed meat/fish establishment.

B. Apprentice Meat Cutter's License. A valid apprentice meat cutter's license shall entitle its lawful holder to engage in all activity in which a licensed meat cutter may engage; provided, that an apprentice meat cutter may prepare (cut, grind, etc.) fresh meat for sale only while under the immediate direction and supervision of a licensed meat cutter. (R&R 05-06 § 27, 6-17-2005).

5.50.040 Employing unlicensed persons. It is unlawful for anyone to employ a person as a meat cutter or apprentice meat cutter when such person does not possess a valid license within fourteen (14) calendar days of employment to act in such capacity as required under this title, and does not also possess a valid food worker card. (R&R 05-06 § 28, 6-17-2005).

5.52 (RESERVED)

Reviser's note: Former BOH chapter 5.52, entitled Fees, was amended in its entirety by Rule and Regulation No. 05-05, and recodified in BOH Title 2.

5.60 PERMIT SUSPENSION, REVOCATION AND COMPLIANCE METHODS

Sections:

- 5.60.005 Permit to operate - Issuance - Existing establishments, permit renewal, and change of ownership.
- 5.60.007 Access – Refusal, reporting.
- 5.60.020 Permits required, suspension, revocation, enforcement.
- 5.60.030 Permit suspension process.
- 5.60.040 Permit revocation process.
- 5.60.050 Closure.
- 5.60.060 Examination, hold orders, condemnation, and destruction of food.

5.60.005 Permit to operate - Issuance - Existing establishments, permit renewal, and change of ownership. WAC 246-215-08335 (2009 FDA Food Code 8-303.20) is not adopted and the following is substituted:

Permit to operate - Issuance - Existing establishments, permit renewal, and change of ownership.

(1) The health officer may renew a permit, issue duplicate or name change permits for an existing food establishment or issue a permit to a new owner of an existing establishment after a properly completed application is submitted, reviewed and approved, the applicable fees are paid, and an inspection by the health officer shows that the establishment is in compliance with this chapter.

(2) The health officer may deny an application for permit if the applicant has any outstanding monies owed to the Seattle-King County Department of Public Health for permit fees, late fees, checks returned by the bank, civil penalties, or other applicable fees.

(3) Each permit shall expire on the date set forth on the face of the permit. (R&R 13-01 § 19, 3-21-2013)

5.60.007 Access - Refusal, reporting. WAC 246-215-08425 (2009 FDA Food Code 8-402.30) is not adopted and the following is substituted:

Access - Refusal, reporting. If after the health officer presents credentials and provides notice as specified under WAC 246-215-08415, explains the authority upon which access is requested, and makes a final request for access as specified under WAC 246-215-08420, the person in charge continues to refuse access, the health officer shall provide details of the denial of access on an inspection report form and may suspend the permit to operate the food establishment in accordance with this chapter. (R&R 13-01 § 20, 3-21-2013).

5.60.020 Permits required, suspension, revocation, enforcement. WAC 246-215-08600(2) is not adopted and the following is substituted:

Permits required, suspension, revocation, enforcement (WAC 246-215-08600(2)).

The health officer may suspend any permit to operate a food establishment if:

(a) Continued operation of the food establishment constitutes an imminent or actual health hazard;

(b) Operations, facilities, or equipment in the food establishment fail to comply with these regulations;

(c) The owner, permit holder or person in charge does not comply with these regulations;

(d) Interference with the health officer in the performance of his or her duties has occurred; or

(e) The owner, permit holder or person in charge does not comply with the conditions of a variance. (R&R 13-01 § 21, 3-21-2013; R&R 05-06 § 30, 6-17-2005).

5.60.030 Permit suspension process. WAC 246-215-08600(6) is not adopted and the following is substituted:

Permit suspension process (WAC 246-215-08600(6)).

The health officer may adopt and use a permit suspension process different than specified under subsections (2), (3), (4), or (5) of this section, including the permit suspension process of BOH chapter 1.08. (R&R 13-01 § 22, 3-21-2013; R&R 05-06 § 31, 6-17-2005).

5.60.040 Permit revocation process. WAC 246-215-08600(10) is not adopted and the following is substituted:

Permit revocation process (WAC 245-215-08600(10)).

The health officer may use a permit revocation process different than specified under subsections (7), (8), and (9) of this section, including the permit revocation process of BOH chapter 1.08. (R&R 13-01 § 23, 3-21-2013; R&R 05-06 § 32, 6-17-2005).

5.60.050 Closure. WAC 246-215-08600 is supplemented as follows:

Closure (WAC 246-215-08600(12)).

(a) Issuance. The health officer may issue a notice of closure to a food establishment requiring the owner, permit holder or person in charge to cease operation immediately if the owner, permit holder or person in charge has:

i. Failed to submit plans or receive approval from the health officer of plans as required by this title, or an inspection indicates construction or renovation at the food establishment is not in substantial compliance with plans approved by the health officer;

ii. Failed to submit a permit application or receive approval from the health officer of a permit application for a food establishment or failed to submit a change of ownership application as required by this title; or

iii. Failed to pay a permit fee or any other applicable fee required by this code.

(b) Notice of closure. The notice of closure shall state:

i. That the food establishment shall close immediately upon issuance of the notice of closure to an owner, permit holder or person in charge and that all preparation and service of food shall immediately cease.

ii. That no food preparation or service shall occur at the food establishment after a notice of closure has been received by the owner, permit holder or person in charge;

iii. The reason(s) for the notice of closure; and

iv. That the owner, permit holder or person in charge may request reconsideration of the closure order by filing a written request with the health officer within ten days after delivery of the closure notice as provided in WAC 246-215-08600(3) and WAC 246-215-08610. (R&R 13-01 § 24, 3-21-2013; R&R 05-06 § 33, 6-17-2005).

5.60.060 Examination, hold orders, condemnation, and destruction of food. WAC 246-215-03705(3) is not adopted and the following is substituted:

Examination, hold orders, condemnation, and destruction of food (WAC 246-215-03705(3)).

The health officer may examine or collect samples of food as necessary for enforcement of this title. The cost of any laboratory testing shall be paid by the permit holder or person in charge of the food establishment. (R&R 13-01 § 25, 3-21-2013; R&R 05-06 § 34, 6-17-2005).

5.64 FOOD ESTABLISHMENT RISK

Sections:

5.64.010 Food establishment risk categories.

5.64.020 Appeal of food establishment risk designation.

5.64.010 Food establishment risk categories. Except for temporary food establishments, every new and renewal application for a food establishment permit shall be subject to a risk assessment by the health officer. The health officer shall designate each food establishment as low risk, medium risk, or high risk (risk category 1, 2 or 3) based on the types of food dispensed, food preparation steps and types of food processing or packaging performed at the establishment. In determining the most-appropriate risk category for each establishment, the health officer shall apply the following standards:

A. Low Risk – Risk Category 1. Any food establishment performing only cold holding or limited food preparation, with no further preparation, shall be designated a low risk or risk category 1 establishment. The following shall also be designated as a low risk or risk category 1 establishment:

1. Any establishment serving ready to eat, pre-packaged potentially hazardous food or prepackaged frozen foods;

2. Any establishment serving espresso or blended drinks, with no other food preparation;

3. Any establishment heating and serving individually, commercially-prepared and prepackaged ready to eat foods for immediate service;

4. Any mobile food establishment serving only espresso or hot dogs or both, with no other food preparation; and

5. Any bed and breakfast operation.

B. Medium Risk – Risk Category 2. Any food establishment performing only cold holding or food preparation, and which does not otherwise qualify as a high risk or risk category 3 establishment, shall be designated as a medium risk or risk category 2 establishment. The following shall also be designated as a

medium risk or risk category 2 establishment:

1. Any establishment baking bread or pastries, frying donuts, or grilling sandwiches or toast for immediate service, with no hot-holding of food;
2. Any school or institution satellite operation performing food service limited to reheating or hot holding of prepared foods, with no on-site cooking; and
3. Any grocery store or market selling pre-packaged raw meat or fish products.

C. High Risk – Risk Category 3. The following shall be designated as a high risk or risk category 3 establishment:

1. Any establishment cooking and either cooling, reheating, hot holding, or holding other than cold holding of food;
2. Any meat or fish market selling meat or fish other than pre-packaged raw product;
3. Any establishment where food preparation includes cutting or processing of raw meat or fish products;
4. Any establishment with an approved HACCP plan; and
5. Any establishment using time as a public health control.

D. Temporary food establishments shall be designated as engaged in either minimal food handling, moderate food handling or complex food handling as follows:

1. Minimal food handling: a temporary food establishment serving only packaged potentially hazardous food made in a permitted facility, and performing no handling of unpackaged food;
2. Moderate food handling: a temporary food establishment:
 - a. serving samples of potentially hazardous foods;
 - b. serving foods made in a facility permitted by the Washington state Department of Agriculture or United States Department of Agriculture;
 - c. hot holding and serving of foods; or
 - d. preparing and serving any foods not qualifying as complex food handling under this section;

and

3. Complex food handling: a temporary food establishment:
 - a. serving raw animal products;
 - b. serving food cooked from raw animal products; or
 - c. serving potentially hazardous food that has been cooked and cooled before serving. (R&R 17-02 § 6, 2017: R&R 15-04 § 7, 2015: R&R 13-01 § 26, 3-21-2013: R&R 05-06 § 35, 6-17-2005).

5.64.020 Appeal of food establishment risk designation.

Any food establishment owner or operator aggrieved by a risk designation for his or her establishment may appeal the designation by submitting, within ten days of the date of issuance of the notice of the designation, a written request for an administrative conference with the health officer. (R&R 05-06 § 36, 6-17-2005).