

**HOPI TRIBAL COUNCIL
RESOLUTION
H-050-2026**

WHEREAS, the Constitution and By-Laws of the Hopi Tribe, ARTICLE VI - POWERS OF THE TRIBAL COUNCIL, SECTION 1 (a), authorizes the Hopi Tribal Council "To represent and speak for the Hopi Tribe in all matters for the welfare of the Tribe, ... "; and

WHEREAS, the 2011 Hopi Potskwaniat sets forth direction in the area of Governance and Health; and

WHEREAS, the Food Service Ordinance No. 12 passed by Resolution H-190-89 has not been updated in over 30 years; and

WHEREAS, the Food Service Ordinance No. 12 adopts the most current edition of the United States Food and Drug Administration (FDA) Food Code including all appendices and annexes; and

WHEREAS, the Office of Public Health Compliance was delegated by the Hopi Tribe Department of Health and Human Services in Year 2000 to manage food safety compliance through the inspection and regulation of food service operations to prevent food borne illnesses on the Hopi reservation; and

WHEREAS, the food service inspections conducted in collaboration and partnership with Indian Health Service - Office of Environmental Health & Engineering (OEHE) will contribute to the improvement of public health, sanitation, and the wellbeing for residents by addressing high risk practices and conditions involving food storage, preparation and service; and

WHEREAS, the proposed Food Service Ordinance No. 12 revision has been presented to all Hopi villages for public comment and input resulting in overwhelming support for the revision of Food Service Ordinance No. 12; and

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WHEREAS, the Hopi Tribe Department of Health and Human Services, in coordination with the Office of Public Health Compliance, will generate revenue to support the management and long-term sustainability of program services. This includes but is not limited to the recruitment and hiring of qualified staff, which is essential to the effective delivery and administration of services; and

WHEREAS, a special revolving account will be established within the tribal accounting system for fees and fines collected through enforcement of Food Service Ordinance No. 12.

NOW THEREFORE BE IT RESOLVED the Hopi Tribal Council adopts the revised Food Service Ordinance No. 12.

BE IT FURTHER RESOLVED that the Hopi Tribe Department of Health and Human Services, and the Office of Public Health Compliance, shall ensure adherence to public health standards outlined in Food Service Ordinance No. 12.

BE IT FINALLY RESOLVED that this resolution shall supersede and replace all prior resolutions of the Hopi Tribal Council that are inconsistent, or in conflict with the intent, purpose and provision of this Resolution.

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CERTIFICATION

The Hopi Tribal Council duly adopted the foregoing Resolution on **June 25, 2026**, at a meeting at which a quorum was present with a vote of **08** in favor, **01** opposed, **05** abstaining, (Vice-Chairman presiding and not voting), pursuant to the authority vested in the Hopi Tribal Council by ARTICLE VI-POWERS OF THE TRIBAL COUNCIL, SECTION 1(a) of the Hopi Tribal Constitution and By-Laws of the Hopi Tribe of Arizona, as ratified by the Tribe on October 24, 1936, and approved by the Secretary of Interior December 19, 1936, pursuant to Section 16 of the Act of June 18, 1934. Said Resolution is effective as of the date of adoption and does not require Secretarial approval.



Mikah H. Kewanimptewa Sr.

Vice-Chairman

Hopi Tribal Council

ATTEST:



Dwayne Secakuku, Tribal Secretary
Hopi Tribal Council

Food Service Ordinance No. 12

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CHAPTER 1 – GENERAL PROVISIONS

Section 12.1.1 Purpose

The purpose of this Ordinance is to safeguard public health and ensure that *food* is provided in a safe, unadulterated, and reliably presented manner on the Hopi Reservation. It is to establish reasonable rules and regulations for the sanitary and safe maintenance and operation of *food establishments* on the Hopi Reservation.

Section 12.1.2 Special Revolving Account

(A) The Hopi Department of Health & Human Services – Office of Public Health

Compliance is charged with the issuance of food sanitation permits, *food handler cards*, collecting fees/fines, and enforcing the provisions of this Ordinance.

An *Ordinance 12 Account* shall be established as a special revolving account, within the tribal accounting system. The Tribal Treasurer shall set up an account for the fund and administer the fund in accordance with the Hopi Tribe's Fiscal Management Policies and Procedures; the revolving account shall be established within six months of council approval of the ordinance.

(B) Expenditures may be made from the *Ordinance 12 Account* in furtherance of this Ordinance including, but not limited to purchasing equipment, implementing activities/training, and hiring of personnel under this Ordinance.

(C) The Hopi Department of Health & Human Services/Office of Public Health Compliance shall have the authority to establish fees for food service establishment inspections and permits, and any other fees provided for in the Ordinance. Such fee schedule shall be made available to the residents of the Reservation and said fees shall be reviewed annually by the Hopi Department of Health & Human Services/Office of Public Health Compliance.

Section 12.1.3 Sovereign Immunity

Nothing in this Ordinance shall be deemed or construed to be a waiver of the sovereign immunity of the Hopi Tribe, its officials, its entities, or its employees acting within their official or individual capacities.

Section 12.1.4 Definitions

BUSINESS LICENSE: *A document required by the Hopi Office of Revenue for establishments operating businesses on the Hopi Reservation.*

CERTIFIED FOOD MANAGER: *Manager that meets the qualifications in Section(s) 2-102 of the FDA Food Code.*

COMMISSARY: *A food establishment used for preparing, fabricating, packaging, and storage of food or food products for distribution and sale through the food establishment's own facility.*

CONSUMER: A person who is a member of the public takes possession of *food*, does not function in the capacity of an operator of the *food establishment* or *food processing plant*, and does not offer the *food* for resale.

DHHS: The Hopi Tribe Department of Health & Human Services.

FOOD: A raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use in the sale in whole or in part for human consumption.

FOOD CODE or FDA FOOD CODE: The most current edition of the Food and Drug Administration Model *Food Code*, any current appendices, and annexes.

FDA: *The United States Food & Drug Administration.*

FOOD DISTRIBUTION PROGRAMS: Program or foundation that provides *food* or *food* boxes to members of the Hopi Community that can be delivered to a home or picked up by an individual household from an established meeting site.

FOOD ESTABLISHMENT: Any operation that stores, prepares, packages, serves, vends, or otherwise provides *food* for human consumption. Types of *food service establishments* include but are not limited to restaurants, daycares, schools, jails, hospitals, senior center kitchens, gas stations, grocery stores, *food processing facilities*, *mobile food units*, *temporary food vendors*, *warehouses*, and commissaries.

FOOD HANDLER: Any person who handles, stores, transports, prepares, manufactures, serves, or sells *food*, or who comes in contact with cooking or eating utensils or other equipment used in the handling, preparation, manufacture, service, or sale of *food*.

FOOD HANDLER CARD: A card issued by a recognized health official or department to indicate that an individual has successfully completed a *food handler* training course and passed an approved examination on *food* safety practices.

FOOD PROCESSING PLANT: A commercial operation that manufactures, packages, labels, or stores *food* for human consumption, and provides *food* for sale or distribution to other business entities such as *food processing plants* or *food establishments*.

FOOD SERVICE APPLICATION: *A form obtained from the Hopi Tribe Department of Health & Human Services for the purpose of applying for a food sanitation permit.*

HOLD ORDER: A document that prevents the removal or discard of *food*, deemed to be unfit for sale or use, which cannot be removed or discarded from the facility until it has been authorized by the Regulatory Authority.

IMMINENT HEALTH HAZARD: A significant threat or danger to health that is considered to exist when there is sufficient evidence to show that a product, practice, circumstance, or event

creates a situation that requires immediate correction or cessation of operation of a *food establishment* to prevent injury based on:

1. The number of potential injuries, and
2. The nature, severity, and duration of the anticipated injury.

INSPECTION OFFICIAL: The Indian Health Service Environmental Health Specialist or his/her designee, or the Hopi Department of Health & Human Services Public Health Compliance Officer or his/her designee.

MOBILE FOOD UNIT (MFU): A *food establishment* that is self-contained, except grills and smokers, and is readily movable, which either operates at one location (but can be moved) or returns to a home base of operation at the end of each day.

OFFICE OF THE REVENUE COMMISSION: A department of the Hopi Tribal government whose main function is to ensure proper licensing of businesses operating on the Hopi reservation and the collection of revenues and fees from such businesses. The department requirements are enforced by the Hopi Tribe's Chief Revenue Officer or his/her designee.

ORDINANCE 12 ACCOUNT: A special revolving account in the Tribal Treasury into which all fees, proceeds, and fines collected pursuant to this ordinance shall be deposited and used for the benefit and purposes of this Ordinance.

PEDDLER: A person who offers goods for sale within the boundaries of the Hopi Reservation but does not do business from a fixed location or site on the reservation.

PEDDLER'S PERMIT: A card issued by the Office of the Revenue Commission which allows an individual to sell tangible goods.

PERMIT HOLDER: Any person or entity who is legally responsible for the operation of the *food establishment* by contract, agreement, or ownership.

PERSON: An association, a corporation, an individual, a partnership, or other legal entity, government or governmental subdivision or agency.

PERSON IN CHARGE (PIC): The individual present at a food establishment who is responsible for the operation of the establishment at the time of the inspection.

PRIORITY ITEM: Observations made during inspections that are categorized as "Priority" and "Priority Foundation" as defined in the *FDA Food Code*. Failure to address these items may contribute to increasing the risk of foodborne illness or injury (See *FDA Food Code* for additional information).

POTENTIALLY HAZARDOUS FOOD: Any *food* that is natural or synthetic which consists in whole or in part of milk or milk products, eggs, meat, poultry, rice, fish, shellfish, edible crustacean,

raw-seed sprouts, heat-treated vegetables and vegetable products and other ingredients in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

QUESTIONNAIRE: A form obtained from the Hopi Tribe Department of Health & Human Services which describes logistical information related to a *special event*.

REGULATORY AUTHORITY: The Hopi Tribe Department of Health & Human Services Public Health Compliance Officer, or his/her designee.

SELF-CONTAINED MOBILE FOOD UNIT: A *food establishment* that is a vehicle on wheels which meets the same requirements as a permanent facility where all the *food* preparation is done on the unit. At a minimum, the unit must have mechanical hot and cold holding units, gas or electric cooking equipment, water tanks, hand sinks, three compartment sinks, storage for all *food*, single service items, and cleaning supplies.

SPECIAL EVENT: An “event or celebration” of significant occurrence or happening sponsored by a church, civic, business, educational, government, community, or veterans’ organization and may include athletic contests. Exempt from this definition are the traditional Hopi gatherings held in the villages.

SANITATION PERMIT: A certificate issued by the Hopi Tribe Department of Health & Human Services Public Health Compliance Officer, which allows for the sale and service of *food* to the public.

SANITATION REGISTRATION: A letter issued by the Hopi Tribe Department of Health & Human Services Public Health Compliance Officer which allows the Tribe to track who is selling food without a sanitation permit.

TEMPORARY FOOD VENDOR: A *food establishment* that operates for no more than 14 consecutive days in conjunction with a single *special event*.

WAREHOUSE: A commercial operation that stores *food* for human consumption and provides *food* for sale or distribution to other business entities such as *food processing plants* or *food establishments*. Potentially hazardous as well as non-potentially hazardous *food* may be stored.

CHAPTER 2 - AUTHORITY & INTERPRETATION

Section 12.2.1 Authority

The authority for this Ordinance is Article VI, Powers of the Tribal Council Section 1(a), 1(g), and 1(l) of the Constitution and By-Laws of the Hopi Tribe. The Hopi Tribe Department of Health & Human Services Director is hereby authorized to prepare and promulgate regulations consistent with this Ordinance that are designed to carry out the purpose and provisions and to assist in the administration and enforcement of this Ordinance.

In promulgating regulations, the Director shall consider accepted standards of health, hygiene, sanitation, safety, and physical facilities management. Any regulations prepared by the Director shall not become effective until they have been presented to and approved by the Tribal Council. The Director may assess fees as appropriate to cover the administrative cost for implementation of programs.

Section 12.2.2 Adoption of the FDA Food Code

The Hopi Tribe adopts the most current edition of the United States Food & Drug Administration (FDA) *Food Code* (hereinafter referred to as "*Food Code*") and all appendices and annexes including such chapters, appendices, and annexes, as may hereafter be amended from time to time. In the event of conflict or inconsistency between this Ordinance and the *Food Code*, the provisions of this Ordinance shall control.

CHAPTER 3 - FOOD SELLER REQUIREMENTS

Section 12.3.1 Requirements of Private Home Food Sales

(A) Private Homes

Food may be prepared for sale in a private home provided that the person complies with the following:

1. A copy of current *food handler card(s)* shall be posted in a conspicuous place which can easily be read by the customer.
2. An easily visible placard with one inch lettering is placed at the point of sale which reads "This *food* was prepared in a kitchen that is not subject to inspection nor sanitary permit by the *Regulatory Authority*" and can be read by the customer.
3. *Food* is sold on the same property it was prepared.
4. A copy of the current *peddler's permit or business license and sanitation registration letter* shall be posted in a conspicuous place which can easily be read by the customer.
5. A private home may be subject to inspection upon receipt of a complaint.

(B) Bed and Breakfast

A Bed and Breakfast that has less than six (6) guest bedrooms, offers breakfast as the only meal, and serves less than 18 guests, is exempt from a permit and annual inspection provided that owner complies with all the requirements of Section 12.3.1(A) - Private Homes. A Bed and Breakfast may be subject to inspection upon receipt of a complaint.

Section 12.3.2 Requirements of Food Establishments

Unless otherwise specified in this Ordinance, all *food establishments* must:

1. Possess a valid *sanitation permit* to operate.

2. Comply with the requirements of the *Office of Revenue Commission* (i.e., *business license* or *peddlers permit* as required).
3. Have a *Person-in-Charge* (PIC) as identified in the *Food Code*.
4. Employ a *Certified Food Manager* as indicated in the *Food Code*.
5. Comply with the requirements identified in the *Food Code*.

(A) Mobile Food Units

Mobile Food Units shall be classified into four types. These units require a permit from both the *Office of Revenue* and the *DHHS* and are subject to inspection at any time. Classification is based on the potential *food* risk of the menu. A *mobile food unit* can serve menu items within its classification number or below. For example, a Class 3 unit may sell items allowed in Class 2 or Class 1 but shall not sell items allowed in Class 4.

1. *Class 1 – Non - Refrigerated Vending Units*. These units can serve only intact, non-potentially hazardous, commercially prepackaged *food* and drinks. No preparation or assembly of *food* or drinks may take place in the unit. No *food handler card* or *sanitation permit* is required; however, a sanitation registration is required.
2. *Class 2 – Refrigerated or Hot Vending Units*. These units serve potentially and non-potentially hazardous commercially prepackaged *foods*. No preparation, assembly, cooking or open packages of *food* or beverages on this unit are allowed. All hot or cold holding units must have an accurate thermometer, and *food* must be labeled with the date and time of preparation.
 - a. If the unit only sells *food* items prepared commercially. No *sanitation permit* is required; however, a sanitation registration is required.
 - b. If the unit only sells *food* prepared in a permitted kitchen/restaurant, then the *PIC* shall have a letter from the permitted kitchen verifying the date, the *food* items, and the time the *food* was prepared. No *sanitation permit* is required; however, a sanitation registration is required.
 - c. If the unit sells prepared and packaged *food* made in a private home, then all *food handler cards* must be posted next to an easily visible placard with one inch lettering place on the unit which reads “This *food* was prepared in a kitchen that is not subject to inspection nor *sanitation permit* by the *Regulatory Authority*” and can be read by the customer. No *sanitation permit* is required; however, a sanitation registration is required.

3. *Class 3 - Limited Assembly*. These units may serve potentially and non-potentially hazardous packaged *foods* and unpackaged *foods* with limited assembly. Example: pushcart operation such as a hotdog cart or taco stand.
 - a. All *food handler cards* must be posted in a conspicuous location that can be read by the customer.
 - b. Pre-operational inspection is required to review the menu items and processes. The facility is subject to the design requirements of a Class 3 unit, and the *PIC* may be required to have a *Certified Food Managers* certificate.
4. *Class 4 – Onsite Assembly*. These units can serve potentially and non-potentially hazardous *foods* that are prepared, cooked, cooled, reheated, or assembled on the unit using pre-cooked and/or raw products. Example: Self-Contained *Mobile Food Units* usually with multiple menu items.
 - a. All *food handler cards* must be posted in a conspicuous location that can be read by the customer.
 - b. Pre-operational inspection is required to review the menu items and processes. Facility is subject to all the same requirements as a *food establishment* under the *Food Code*.

(B) Temporary Food Vendors

Temporary Food Vendors can only operate for no more than fourteen (14) consecutive days and must be in conjunction with a *special event*. All *food handler cards* must be posted. This facility is subject to inspection and must comply with the applicable sections of the *Food Code*.

(C) Special Events

1. All *special events* shall be subject to inspection at the discretion of the *Regulatory Authority*.
2. The coordinator of a *special event*, where there are more than seven *temporary food vendors* and/or *mobile food units*, shall notify the *Regulatory Authority* 30 days before the event.
3. All *special event* coordinators shall complete the required event *questionnaire* and shall supply all *temporary food vendors* and *mobile food units* with a *temporary food service application*, which shall be completed and returned to the *Regulatory Authority* ten (10) days prior to the event.

4. Events lasting longer than one calendar day shall have an identified source of potable water and have a system in place to properly dispose of sewage, grease, and solid waste. This shall include provisions for a sufficient number of handwashing stations and portable toilets; such facilities shall be properly maintained throughout the event.

(D) Food Processing Plants [RESERVED]

(E) Food Distribution Programs

While *food distribution programs* may not be inspected during delivery, any stored items may be subject to inspection. Generally, food boxes are received at an individual's own risk. All programs shall have a sanitation registration letter posted during distribution. This section may be amended in the future.

CHAPTER 4 - FOOD HANDLER & CERTIFIED FOOD MANAGER

Section 12.4.1 Food Handler Cards

(A) Age Required

All persons aged twelve and above operating, employed by, or involved anyway in a private home that sells *food* or in a *food establishment (except Class 1 mobile food units)* on the Hopi Reservation are required to possess a valid *food handler card*, or *Certified Food Managers* certificate.

(B) Unlawful employment

It shall be unlawful for any person to employ or allow to remain employed in any type of *food establishment*; a *food handler* who does not possess a valid Hopi *food handler card* or *Certified Food Managers* certificate.

(C) How to Obtain

A Hopi *food handler card* can be obtained after successfully completing a *Food Handler's* training class and passing the test; the card shall be valid for two years.

(D) Outside Cards

A *food handler card* or certificate of training issued by another Tribe, Arizona County, other governmental entity, through an accredited program, or the online Indian Health Service *Food Handler Training*, may be accepted through reciprocity if the *Regulatory Authority* determines that it reflects the requirements of the *Food Code* and this Ordinance. The certificate or *food handler card* obtained through another Tribe, Arizona County, other governmental entity, or online will need to be submitted to the *Regulatory Authority* to obtain a Hopi *food handler card*. A Hopi *food handler card* will be issued and shall be valid for two years from the date of issuance of the original card.

(E) Fee

A fee will be charged for new and re-issued Hopi *food handler cards* by the *Regulatory Authority* and will be deposited in the *Ordinance 12 Account* to support food safety.

(F) Suspension

Each Hopi *food handler card* issued shall remain valid until the date of expiration or until suspended or revoked by the *Regulatory Authority* for public health causes. A *food handler card* accepted by reciprocity in the section above may also be suspended or revoked by the *Regulatory Authority* for public health causes.

(G) Non-transferable

A Hopi *food handler card* issued under this section shall not be transferred to or used by any person other than the person to whom it was issued.

(H) Visibility & Availability

A Hopi *food handler card* shall be produced by the *food handler* for inspection upon the request of the *Inspection Official* and/or *Regulatory Authority* or posted in a visible conspicuous location.

Section 12.4.2 Certified Food Managers Certificate

(A) Certification required

It shall be unlawful for any person to operate a *food establishment* unless such person currently employs a *certified food manager* to supervise the establishment's food service employees as identified in the *Food Code*.

(B) Posting required

The *permit holder* shall post in a conspicuous place in the food establishment, in letters not less than one inch in size, the name of each *certified food manager* currently employed.

(C) Exemptions

The following *food establishments* are exempt from the provision of this section:

1. *Food establishments* that exclusively serve, sell, or distribute non-potentially hazardous prepackaged foods which are contained in securely sealed or wrapped bottles, cans, cartons, or other similar containers.
2. *Temporary food vendors* at the discretion of the *Regulatory Authority* following a risk assessment thereof.
3. Such other *food establishments* designated by the *Regulatory Authority* at his or her discretion following a risk assessment thereof.

CHAPTER 5 – SANITATION PERMITS & CONSTRUCTION PLANS

Section 12.5.1 Required Permits & Responsibilities

Unless otherwise identified, a person may not operate a *food establishment* without a valid *sanitation permit* issued by the *Regulatory Authority* verifying conformance with the current *Food Code* and this Ordinance. *Sanitation permits* shall have an expiration date one year from the date of issuance.

(A) Responsibilities of *Sanitation Permit Holders*

Upon acceptance of the *Sanitation Permit* issued, the *Permit Holder* shall:

1. Post the permit in a conspicuous location in the *food establishment* that is visible to *consumer(s)*.
2. Comply with the provisions of this Ordinance including the conditions of any granted waiver.
3. Immediately contact the *Inspection Official* and/or *Regulatory Authority* to report an illness of the *Permit Holder* or employee as specified under Chapter 2 of the *FDA Food Code* (i.e., *Salmonella sp.*, *Shigella*, *E. Coli*, *Hepatitis A*, *Norovirus*).
4. Immediately discontinue operations and notify the *Inspection Official* and/or *Regulatory Authority* if an *Imminent Health Hazard* exists. See Section 12.6.5(B) - *Ceasing Operations*.
5. Notify the *Regulatory Authority* and/or *Inspection Official* upon receiving reports of *consumer(s)* stating they developed illness from *food* sold by the *food establishment*.
6. Allow the *Inspection Official* and/or the *Regulatory Authority* access to the *food establishment*.
7. Replace or upgrade existing facilities and equipment as directed by the *Inspection Official* and/or *Regulatory Authority*.
8. Comply with directives of the *Inspection Official* and/or *Regulatory Authority* to correct deficiencies within the specified timeframes.
9. Accept notices issued and served by the *Regulatory Authority*; and
10. Show proof of valid *food handler cards* for all employees.

(B) Exemptions

The following *food establishments* are exempt from the *sanitation permit* requirement:

1. Private Home where *food* is sold at the house,
2. Bed & Breakfast with less than 18 guests,
3. Class 1 and Class 2 *mobile food units*.

(C) Fee

A permit fee schedule shall be developed and updated by the Hopi Department of Health & Human Services/Office of Public Health Compliance. All fees will be deposited into the *Ordinance 12 Account*.

Section 12.5.2 Permitting Process

(A) Pre-Requisite for Operation

A person may not operate a *food establishment* without a valid *sanitation permit* issued under this Ordinance.

(B) Qualifications & Responsibilities

To qualify for a *sanitation permit*, an applicant shall:

1. Be an owner of the *food establishment* or a responsible party of the legal ownership; and,
2. Comply with the requirements of the current *Food Code* and this Ordinance

(C) Application

Any person desiring to operate a *food establishment* shall submit an at-cost *sanitation permit* application provided by the *Regulatory Authority*. Such application shall include the name and address of each applicant, the location of the *food establishment*, a copy of the proposed menu, and signature of each applicant.

(D) Issuance of Sanitation Permits

1. Prior to approval of an application for a *Sanitation permit*, the *Inspection Official* shall inspect the proposed *food establishment* to determine compliance with the requirements of this Ordinance and the current *Food Code*. Applicants should contact the *Regulatory Authority* to coordinate pre-opening inspections.
2. Based on the recommendation of the *Inspection Official*, the *Regulatory Authority* shall issue a *sanitation permit* to the applicant if the inspection reveals the proposed *food establishment* complies with the requirements of this Ordinance and the *Food Code*.

(E) Existing Establishment and Permit Renewal

1. The *Inspection Official* and/or the *Regulatory Authority* may renew a *sanitation permit* for an existing *food establishment* or may issue a *sanitation permit* to a new owner of an existing *food establishment*.
2. *Sanitation permits* may not be issued in instances where *Priority Items* remain out of compliance following an inspection, and cessation of food service operations may be necessary in some cases if appropriate safeguards are not implemented to eliminate risk from the observed deficiency. A deadline within 14 days after the inspection to address *Priority items* shall be agreed upon and documented by the *Inspection*

Official, the *food establishment* representative, and the *Regulatory Authority*. Upon a follow-up inspection or submission of a completed corrective action plan confirming the *Priority Item* deficiencies have been resolved, the *Inspection Official* shall notify the *Regulatory Authority*, and a *sanitation permit* may be issued. Non-compliance of *permit holders* may result in a monetary penalty.

- a. Within fourteen days, a follow-up survey will be conducted to assess for outstanding *Priority Item(s)* observed during the routine food sanitation survey. If the responsible party fails to address the *Priority Item* within the specified timeframe of 14 days, a fee of \$30.00 shall be imposed. All subsequent follow-up surveys shall incur a follow-up survey fee. A *Priority Item* fee shall be imposed after each follow-up survey if the *Priority Item* is not addressed.

F) Permit Not Transferable

Any *sanitation permit* issued by the *Regulatory Authority* shall not be transferred from one person to another person or from one *food establishment* to another.

SECTION 12.5.3 RENOVATIONS & CONSTRUCTION PLANS

(A) Plan Submission Required

1. No *food establishment* shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications reviewed by the *Inspection Official* and approved by the *Regulatory Authority*.
2. Whenever a *food establishment* is constructed or extensively remodeled and whenever an existing structure is converted to use as a *food establishment*, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the *Inspection Official* for review and approval before construction, remodeling, or conversion begins.
3. The plan and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities.
4. The *Inspection Official* shall review the plans and specifications and determine if they meet the requirements of this Ordinance and the *Food Code*.

(B) Pre-Operational Inspection Required

Whenever plans and specifications are required by Section 12.5.3 (A) of this Ordinance to be submitted to the *Inspection Official*, the *Inspection Official* shall inspect the *food establishment* prior to the start of the operations to determine compliance with the approved plans and specifications, and with the requirements of this Ordinance.

CHAPTER 6 – INSPECTIONS & COMPLIANCE

Section 12.6.1 Authority for Inspections

The Hopi Tribal Council delegates inspection authority of all *food* establishments on the Hopi Reservation to the *Inspection Official* and/or the *Regulatory Authority*. The purpose of the inspection shall be to evaluate *food* handling practices and general sanitation and make recommendations in accordance with the *Food Code* and this Ordinance.

Section 12.6.2 Frequency of Inspections

Inspections shall be conducted of all permitted food establishments at least annually. Additional inspections may be conducted if necessary and as warranted based upon risk. Inspections of non-permitted facilities will be conducted as needed.

Section 12.6.3 Access to facility & records

The *Inspection Official* and *Regulatory Authority* shall be permitted to enter any *food establishment* at any reasonable time for the purpose of inspection to determine conformance with this Ordinance and the *Food Code*. The *Inspection Official* and *Regulatory Authority* shall be permitted to examine the records of the *food establishment* to obtain information pertaining to *food* and supplies purchased, received, or used.

Section 12.6.4 Inspection Process

(A) Type of Inspection

1. **Pre-operational** means the inspection of a new, converted, or remodeled *food establishment* to verify that the *food establishment* is constructed and equipped in accordance with the *Food Code* and this Ordinance. A pre-operational inspection must be conducted prior to the issuance of a *Sanitation permit*.
2. **Routine** means an inspection of a *food establishment* to verify that the establishment is in conformance with the *Food Code* and this Ordinance.
3. **Follow-up** means a re-inspection of a *food establishment* to verify that the establishment has corrected the identified deficiencies noted in the routine inspection or after a pre-operational inspection.
4. **Complaint** means an inspection of a *food establishment* following a written complaint of the *food establishment* operation, products, or the facility.

(B) Inspection Report

1. An inspection report shall be completed following an inspection by the *Inspection Official*. The inspection report will discuss any deficiencies identified.
2. The inspection report summarizes the requirements of the *Food Code*. The inspection report shall be submitted to the *Permit Holder*, *Regulatory Authority*, the *person in charge* of the establishment, the *Office of Revenue Commission* and other

appropriate agencies based on ownership and type of *food establishment*. The inspection report shall state that failure to comply with any timelines for correction may result in cessation of the *food* service operations.

3. The completed inspection report is a public document that shall be made available for public disclosure by the Hopi Tribe's Department of Health and Human Services.

Section 12.6.5 Compliance

(A) Correction of Deficiencies

The *Inspection Official* shall specify in the inspection report a reasonable time frame for the correction of deficiencies, not to exceed ninety days.

(B) Ceasing Operations

A *food establishment* shall cease operations in accordance with the following provisions:

1. A *Permit Holder* shall immediately discontinue operations and notify the *Inspection Official* and/or *Regulatory Authority* if an *Imminent Health Hazard* exists because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross unsanitary occurrence or condition, or other circumstances that may endanger public health. The *Inspection Official* and the *Regulatory Authority* shall have the authority to immediately close a *food establishment* if an *imminent health hazard* exists and the *Permit Holder* has failed to cease operations.
2. A *Permit Holder* shall cease operation for failure to correct deficiencies within a specified time frame. If a *Permit Holder* fails to demonstrate adequate progress in correcting deficiencies at the follow-up inspection, the *Inspection Official* may recommend to the *Regulatory Authority* that the *food establishment* be closed. The *Regulatory Authority* in conjunction with the *Inspection Official* shall have the authority to close the facility until the deficiencies are corrected. The *permit holder* need not discontinue operations in an area of an establishment that is unaffected.

(C) Resumption of Operations

Whenever a *food establishment* is required under the provisions of Section 12.6.5(B) to cease operations, the *permit holder* shall request a follow-up inspection and obtain approval from the *Inspection Official* and/or the *Regulatory Authority* before resuming operations. A follow-up inspection shall be completed within a reasonable time.

(D) Waivers

The *Inspection Official* may grant a waiver of the requirements of the *Food Code* if, in the opinion of the *Inspection Official* in conjunction with the *Regulatory Authority*, a health hazard or nuisance shall not result from the waiver.

(F) Reporting Complaints

Consumer(s) are encouraged to report complaints relating to food *establishments* first to the *PIC* of the *food establishments*. Afterwards, the *Inspection Official*, the *Regulatory Authority*, and/or the *Office of Revenue Commission* may be contacted regarding *consumer(s)* complaints.

CHAPTER 7 - Enforcement

Section 12.7.1 Regulatory Authority

- (A) The *Regulatory Authority* and *Inspection Official* shall enforce the provisions of this Ordinance and in that enforcement is vested with all powers relating to inspection, sampling, condemnation, and embargoing of hazardous substances granted to it with respect to this Ordinance.
- (B) If any person shall violate directly or indirectly, through its officers or employees, any of the provisions of this Ordinance or regulations promulgated hereunder, the *Regulatory Authority* and *Inspection Official* may order the correction of the violation within a reasonable period. Each violation may be subject to civil penalty, and every day it is in violation may be considered a separate offense.

Section 12.7.2 Contagion

- (A) On the recommendation of the *Inspection Official* that a *food handler* is likely to communicate a contagious or infectious disease to patrons or handlers of a *food establishment*, the *Regulatory Authority* may do any and all of the following:
1. Order suspension of a *food sanitation permit*.
 2. Order the immediate exclusion of the *food handler* from all *food establishments* by notice to those establishments.
 3. Require medical examinations of the *food handler* and others with whom the worker recently worked as a condition for their continued employment or re-employment.
- (B) An order of exclusion of a *food handler* is effective upon notice. An order of exclusion shall be in writing and is effective when personally delivered to the *food handler* or posted conspicuously at a *food establishment* and shall be deemed effective with respect to the *food handler* when posted conspicuously at his/her last place of *food service* employment.
- (C) Within 24 hours, *Regulatory Authority* shall notify the Tribal Court of a *food service* exclusion petition for a medical evaluation.
- (D) Upon notification to all parties, the *food handler* shall obtain a medical evaluation based on the *FDA B-1* form within 24 hours and provide documentation to the *Regulatory Authority* of

the results or cease and desist *food* operations until such time they can prove they are not contagious and fit for *food* service.

(E) After 24 hours of notification to the *food handler*, the *Regulatory Authority* will follow up to review the medical evaluation *FDA B-1* form if completed. Medical evaluation recommendations of *food* service restrictions must be adhered to.

(F) Non-compliance to this Section shall result in civil action.

Section 12.7.3 Condemnation of Food and Hold Orders

(A) On the recommendation of the *Inspection Official*, the *Regulatory Authority* may post a *hold order* and destroy *food* which is contaminated or misbranded.

1. Examination and Condemnation

a. *Food* may be examined, sampled, or tested by the *Regulatory Authority* and/or *Inspection Official* in order to determine its compliance with this Ordinance and the *Food Code*. A *hold order* may be issued by the *Regulatory Authority* and/or *Inspection Official* without prior warning on a *food* that:

i. Originated from an unapproved source.

ii. May be unsafe, adulterated, or not reliably presented.

iii. Does not have a label according to law, or, if raw molluscan shellfish, is not tagged or labeled according to law.

iv. Is not in compliance with this Ordinance and/or the *FDA Food Code*.

b. The *Regulatory Authority* will provide written notice to the *permit holder* or operator specifying the reason(s) for placing a *hold order* on any *food* which he/she believes is in violation of this Ordinance and the *Food Code*. The *Regulatory Authority* and/or *Inspection Official* shall tag, label, or otherwise identify any *food* subject to a *hold order*. No *food* subject to a *hold order* shall be used, served, or moved from its location.

(B) Any attempt by the owner, operator, or handlers of a *food establishment* to remove a *hold order* from contaminated or misbranded *food* without the consent of the *Regulatory Authority* may result in revocation of any existing permits.

(C) All *food* held under a *hold order* may not be destroyed until at least ten (10) business days after placarding, during an appeal under Chapter 8, or otherwise agreed upon by the

Regulatory Authority and the *food establishment*, unless it contains infectious or contagious pathogens or other organisms and poses an immediate danger to public health and safety.

Section 12.7.4 Warnings

- (A) On the recommendation of the *Inspection Official* following an inspection, the *Regulatory Authority* may issue a written warning to the *permit holder* or *food establishment*, identifying corrective actions that must be taken within a specified time to avoid permit suspension or revocation.
- (B) Notice of warning is effective when personally delivered to the *permit holder*, upon receipt by certified mail by the *permit holder*, or when posted conspicuously at the *food establishment*.
- (C) If re-inspection does not satisfy the *Inspection Official* and/or *Regulatory Authority* that all corrective actions identified in a warning have been completed within the time specified, the *sanitation permit* for the establishment will be suspended or revoked and the *food establishment* may pursue the administrative appeal process under Chapter 8 of this Ordinance.

Section 12.7.5 Suspension of Operations and/or Sanitation Permit

- (A) The *Regulatory Authority* has the authority to suspend the sale of food in *food establishments* that do not require a *sanitation permit* to operate in instances of immediate and unavoidable danger to public health and safety or if a substantial hazard to public health exists.
- (B) The *Regulatory Authority* has the authority to suspend the *sanitation permit* of *food establishments* in instances of immediate and unavoidable danger to public health and safety or if a substantial hazard to public health exists.
- (C) The *Regulatory Authority* may, on the recommendation of the *Inspection Official* following an inspection or investigation, order the suspension of a *sanitation permit* or the sale of *food* at once. An order of suspension is effective upon notice.
 - 1. The *Regulatory Authority* has the authority to suspend a *sanitation permit* or the sale of *food* without prior warning or to hold a hearing under the following conditions:
 - a) The *permit holder* fails to comply with the requirements of this Ordinance and/or the *FDA Food Code*; or
 - b) The operation of the *food establishment* constitutes a substantial hazard to public health.
- (D) An order of suspension shall be in writing and is effective when personally delivered to the

permit holder, upon receipt by certified mail by the *permit holder*, or when posted conspicuously at the *food establishment*.

1. An order of suspension may be given by letter from the *Regulatory Authority* and will include a written description of reasons for suspension, with a copy to the *Office of Revenue Commission*. When a permit suspension is effective, operations affected by the violation must cease. The *Regulatory Authority* and/or *Inspection Official* may end the suspension at any time if the reasons for suspension no longer exist.
- (E) A suspension remains in effect until the *permit holder* or establishment satisfies the *Inspection Official* and/or the *Regulatory Authority* that adequate measures have been taken to correct the conditions which resulted in the order.
- (F) Examples of items that would cause a suspension would include but are not limited to the following: fire, disease outbreak, water outage, sick employees, recall/contaminated *food*, no handwashing, no dishwashing, sewer back up, significant pest infestation, structural issues, other situations deemed as significant health hazards.

Section 12.7.6 Revocation of a Sanitation Permit

- (A) The *Regulatory Authority* may revoke a *sanitation permit* for serious or repeated violations of this Ordinance, which have not been corrected within five (5) business days of the order of suspension. Prior to revocation, the *Regulatory Authority* shall notify, in writing, the *permit holder* of the specific reason(s) for which the permit is to be revoked and that the permit shall be revoked at the end of the five (5) business days following service of the notice. The revocation of the permit becomes final.
- (B) Notice
Notice provided for in this Ordinance shall be considered to be properly served if it is served personally by the *Regulatory Authority*, *Inspection Official*, *Office of Revenue Commission* or a *person* authorized to serve a civil citation to the *permit holder* of a *food establishment* or the *PIC* of the facility at that time.
- (C) Application after Revocation
Whenever a permit is revoked, the holder of the revoked permit may make a written application for a new permit after all violations have been corrected.

CHAPTER 8 - ADMINISTRATIVE APPEAL PROCESS

Section 12.8.1 Appeal Procedures

This Administrative Appeal Process is only applicable to action taken by the *Regulatory Authority* under Chapter 3, 4, 5, 6, and 7 of this Ordinance.

- (A) *Food establishments*, managers, and handlers who are denied a *sanitation permit* or *food handler card* can request a one-time reconsideration by the *Regulatory Authority* of their

application upon a showing of good cause. A request for reconsideration shall be deemed to have shown good cause if it:

1. Presents significant relevant information not previously considered by the *Regulatory Authority*.
2. Demonstrates that significant changes have occurred in the factors or circumstances considered by the *Regulatory Authority* in reaching its decision; or
3. Demonstrates that the *Regulatory Authority* failed to follow its adopted procedures in reaching its decision.

(B) The decision of the *Regulatory Authority* to deny a *sanitation permit* or *food handler card*, to revoke or suspend a permit, to issue a warning, to exclude a *food service worker* from employment, or to seize contaminated or misbranded *food* may be appealed by filing a written petition with the *Regulatory Authority* within ten (10) business days of notice of the decision, or, in case of seizures, within ten (10) business days of the seizure.

(C) Appeals of decisions to suspend a permit, exclude a *food service worker* from employment, or from a seizure of contaminated or misbranded *food* will be heard and determined within seventy-two (72) hours. All other appeals will be heard and determined within ten (10) business days. These times may be extended at the petitioner's request.

(D) Administrative appeal hearings under this Chapter are closed to the public. Legal counsel may not be present at this hearing.

Section 12.8.2 Tribal Court

Food establishments, managers, and *food handlers* may appeal the decision of the Administrative Appeal Process in the Tribal Court to redress the decision(s) made by the *Regulatory Authority* limited only to the issues raised at the Administrative Appeal Process in this Chapter. *Food establishments*, managers, operators and *food handlers* may not pursue monetary damages and attorney, court, and litigation costs for suits arising from the administrative appeal process. All evidence submitted during the Administrative Appeal Hearing shall be disclosed to the Court by all parties involved in the lawsuit.

CHAPTER 9 - CIVIL ACTIONS, VIOLATIONS, AND PENALTIES

Section 12.9.1 Citation and Civil Actions

(A) The *Regulatory Authority* may issue civil citation to the *person* and/or establishment that is in violation of any provisions under this Ordinance.

(B) The *Regulatory Authority* is authorized to commence a civil action for any appropriate relief for a violation of this Ordinance, including, but not limited to, restitution, attorney's fees, litigation related costs, punitive damages, permanent or temporary injunction, and other equitable relief.