

**CHAPTER 61C-1
GENERAL**

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61C-1.001 Definitions.

Except when otherwise defined in this rule, the definitions provided in paragraph 1-201.10(B), Food Code, 2009 *Recommendations of the United States Public Health Service/Food and Drug Administration*; shall apply to Chapters 61C-1, 61C-3 and 61C-4, F.A.C. In addition, the following definitions apply to Chapters 61C-1, 61C-3 and 61C-4, F.A.C.

- (1) Adulterated – As provided in Section 500.10, F.S.
- (2) Air curtain – A mechanical device which produces a controlled plane of moving air at a minimum velocity of 500 feet per minute across the opening protected and directed so as to prevent the entrance of flying insects and other airborne contaminants.
- (3) Air gap – The unobstructed vertical distance, through the free atmosphere, between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood-level rim of the receptacle, or the lowest opening from any waste outlet pipe and the flood-level rim of the receptacle. For a drainage system, the term also means an air break, which is the unobstructed horizontal distance through the free atmosphere, between the outer surfaces of any waste outlet pipe and the inner surfaces of the plumbing device into which it is discharging.
- (4) Approved – Acceptable to the division following a determination as to conformance with appropriate sanitation and safety standards and good public health practice.
- (5) Basic Item – An item defined in the Food Code as a Core Item.
- (6) Bedding accommodations – This term includes a mattress, box spring, bed frame, pillows and bed linens. This term includes various sizes and types of conventional beds, sleeper type couches, rollaway or folding type beds, and baby cribs.
- (7) Closed – Free of openings larger than 1/32 of an inch.
- (8) Commissary – A public food service establishment licensed by the division or a food establishment permitted by the Department of Agriculture and Consumer Services, which is utilized by a mobile food dispensing vehicle for the purpose of providing all required support services, including potable water and wastewater disposal that are not available on the mobile food dispensing vehicle.
- (9) Condiment – Any food such as ketchup, mayonnaise, mustard, relish, or any other seasoning that is used to enhance the flavor of other food.
- (10) Director – The director of the Division of Hotels and Restaurants appointed pursuant to Section 20.165(3), F.S., or the director's designee, as the context permits.
- (11) Fixed food establishment – A public food service establishment which operates at a specific location and is permanently connected to electrical, water, and sewage disposal systems.
- (12) Food Code – This term as used in Chapters 61C-1, 61C-3 and 61C-4, F.A.C., means paragraph 1-201.10(B), Chapter 2, Chapter 3, Chapter 4, Chapter 5, Chapter 6, Chapter 7, and Sections 8-103.11 and 8-103.12 of the Food Code, 2009 *Recommendations of the United States Public Health Service/Food and Drug Administration* including *Annex 3: Public Health Reasons/Administrative Guidelines; Annex 5: Conducting Risk-based Inspections* (<https://www.flrules.org/Gateway/reference.asp?No=Ref-01536>), herein adopted by reference. A copy of the Food Code, as adopted by the division, is available on the division's Internet website www.MyFloridaLicense.com/dbpr/hr. A copy of the entire Food Code is available on the U.S. Food and Drug Administration Internet website. Printed copies of the entire Food Code are available through the National Technical Information Service, 5301 Shawnee Road, Alexandria, VA 22312.
- (13) Food establishment – As utilized in the Food Code, this term shall apply to public lodging establishments and food service establishments as defined in Chapter 509, F.S., according to the context of the applicable rule language.
- (14) Garbage – Food waste generated on premises that is not disposed of through the sewage disposal system. The term also includes solid waste such as discarded containers or wrappers that are contaminated with food waste.

- (15) High Priority Item – An item defined in the Food Code as a Priority Item.
- (16) Hot water – Hot water means a water temperature of 100 degrees Fahrenheit or above.
- (17) Intermediate Item – An item defined in the Food Code as a Priority Foundation Item.
- (18) Manager – An individual who has direct authority, control or supervision over employees engaged in the storage, preparation, display and serving of food to the public.
- (19) Misbranded – As provided in Section 500.11, F.S.
- (20) Owner – A person, firm or corporation who, or which, owns or controls the premises.
- (21) Potable water – Water satisfactory for drinking, culinary, and domestic purposes meeting quality standards of Chapters 62-550 and 62-555, F.A.C.
- (22) Premises – The public food service or lodging establishment and the contiguous land or property under the control of the operator. The property may include all yards, alleys, driveways, sidewalks, and other exterior portions of the licensed premises.
- (23) Railway – Either a railing or a guardrail system of building components located near the open sides of elevated walking surfaces.
- (24) Remodel – To make any change to an existing public food service establishment which affects the sanitation or safety of the establishment.
- (25) Self-sufficient mobile food dispensing vehicle – A public food service establishment classified as a mobile food dispensing vehicle that contains, as part of the vehicle, a three compartment sink for washing, rinsing, and sanitizing equipment and utensils; a separate handwash sink; adequate refrigeration and storage capacity; full provision of power utilities including electrical, LP gas, or a portable power generation unit; a potable water holding tank; and a liquid waste disposal system in accordance with Subparts 5-3 and 5-4 of the Food Code.
- (26) Sewage – Any liquid waste containing chemicals or animal, mineral, or vegetable matter, or liquid waste from sinks, bathroom facilities, grinders, garbage containers, dishwashing machines, floor drains, floor washing, or handwashing facilities.
- (27) Stairway – One or more flights of stairs or steps, either interior or exterior, and the landings, platforms, or other supporting structures necessary to connect separate levels in order to form a continuous passage from one level to another in a building structure.
- (28) Temporary food service event – Any event of 30 or fewer consecutive days in duration, advertised and recognized in the community, where food is prepared, served, or sold to the general public.
- (29) Wholesome – Food which is in sound condition, clean, free from adulteration and otherwise suitable for human consumption.

Rulemaking Authority 509.032 FS. Law Implemented 509.032 FS. History—Amended 9-20-63, 3-21-64, 1-7-70, Revised 2-4-71, Amended 10-18-71, 11-17-73, 12-18-74, 12-5-82, Formerly 7C-1.01, Amended 9-10-89, 12-31-90, 2-27-92, 11-4-92, Formerly 7C-1.001, Amended 3-31-94, 10-9-95, 9-25-96, 1-1-98, 12-6-00, 2-27-05, 8-12-08, 6-26-12, 1-1-13, 3-6-16.

61C-1.002 Licensing and Inspection Requirements.

(1) The current license from the division shall be conspicuously displayed in the office or lobby of the licensed establishment. If no office or lobby is present on the premises of the licensed establishment, the license must be readily available for inspection upon request.

(2) To apply for licensure, an applicant must submit the appropriate application and the required fee, pursuant to Section 509.251, F.S. and Rule 61C-1.008, F.A.C., to the division. Any license fee received by the division is non-refundable once the establishment commences operation.

(a) License Applications.

1. Public lodging establishments, except vacation rentals and timeshare projects, required to be licensed by the division, under Chapter 509, F.S., must submit DBPR HR-7027, Application for Public Lodging Establishment License (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06282>), incorporated herein by reference and effective 2015 December 1.

2. Vacation rentals and timeshare projects required to be licensed by the division under Chapter 509, F.S., must submit DBPR HR-7028, Application for Vacation Rental or Timeshare Project License (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06283>), incorporated herein by reference and effective 2015 December 1.

3. Public food service establishments required to be licensed by the division under Chapter 509, F.S., must submit one of the following applications, as appropriate to the establishment.

a. DBPR HR-7007, Application for Public Food Service Establishment License (<http://www.flrules.org/Gateway/reference.asp?No=Ref-07064>), incorporated herein by reference and effective 2016 July.

b. DBPR HR-7030, Application for Public Food Service Establishment License with Plan Review (<http://www.flrules.org/Gateway/reference.asp?No=Ref-07065>), incorporated herein by reference and effective 2016 July.

c. DBPR HR-7031, Application for Mobile Food Dispensing Vehicle License with Plan Review (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06288>), incorporated herein by reference and effective 2015 December 1.

4.a. Temporary public food service establishments required to be licensed by the division under Chapter 509, F.S., must complete DBPR Form HR 5021-029, Temporary Event Vendor Receipt, Application and Inspection (<https://www.flrules.org/Gateway/reference.asp?No=Ref-04024>), incorporated herein by reference and effective 2014 March 24. The division will provide a copy of this application at the time of inspection.

b. Pursuant to Section 559.79(1), F.S., the application shall require the name, address and social security number of each person who owns 10 percent or more of the outstanding stock or equity interest in the licensed activity. The division shall keep the social security number of each person reported on the application confidential, except in accordance with Section 559.79(3), F.S., and as provided in law with other governmental agencies.

c. Pursuant to Section 213.0535, F.S., the application shall require the federal employer identification number and sales tax identification number of the applicant. The division shall keep such numbers confidential except as provided in conjunction with the Registration Information Sharing and Exchange Program and as provided in law with other governmental agencies.

(3) Upon the division determining that each new application for license or application for change of ownership is complete, the establishment shall pass an opening inspection by the division prior to issuance of the license. An opening inspection shall not be required for vacation rentals, timeshare projects or vending machines. An opening inspection shall not be required for a change of ownership for public food service establishments that do not require a plan review if within 120 days prior to the postmark date on the application the establishment had a satisfactory inspection that did not result in administrative action or require a call-back inspection.

(4) Public lodging establishments as defined in Section 509.013(4), F.S., are licensed in accordance with the classifications in Section 509.242, F.S., and:

(a) Transient establishments – are licensed as hotels, motels, transient apartments, bed and breakfast inns, vacation rentals and timeshare projects. Vacation rentals are further classified as condominiums or dwellings. A vacation rental condominium license will be issued for a unit or group of units in a condominium or cooperative. A vacation rental dwelling license will be issued for a single-family house, a townhouse, or a unit or group of units in a duplex, triplex, quadruplex, or other dwelling unit that has four or less units collectively.

1. Vacation rental and timeshare project licenses will be issued as a single, group, or collective license pursuant to Section 509.251, F.S., to either an individual person or to a licensed agent. For the purpose of this rule, “licensed agent” means the operator of a management company that has been licensed by the dwelling or unit owner, through a rental agreement or contract between the two parties, to hold out the dwelling or unit for rent on a transient basis. A licensed agent is not required to hold a license from the Division of Real Estate.

a. A single license is a license issued by the division to an individual person or entity, but not a licensed agent. A single license may include one single-family house or townhouse, or a unit or group of units within a single building that are owned and operated by the same individual person or entity.

b. A group license is a license issued by the division to a licensed agent to cover all units within a building or group of buildings in a single complex. A group license shall only cover those units which are held out to the public as a place regularly rented to guests as defined in Chapter 509, F.S.

c. A collective license is a license issued by the division to a licensed agent who represents a collective group of houses or units found on separate locations. A collective license may not be issued for more than 75 houses or units per license and is restricted to counties within one district.

2. Responsibilities of Vacation Rental and Timeshare Project Licensees.

a. For inspection purposes, the licensee or operator shall, upon request, meet the inspector at the site of a specified establishment with keys to the licensed house or unit being inspected.

b. The licensee or operator shall notify the division of any and all houses or units represented for inclusion in the license application. Anytime a change occurs in the street or unit address or number of houses or units included under the license, the

licensee or operator shall notify the division of any and all houses or units included in the license at least 60 days prior to the expiration date of the license. In addition, a list of the included houses or units shall be maintained in a written form for inspection by request.

c. Failure to fulfill any of the responsibilities of the licensee set forth in sub-subparagraphs a. and b. above-constitutes failure to make the premises available for inspection.

d. In the case of a single license, the licensee shall be responsible for all violations pursuant to Chapter 509, F.S. and Chapters 61C-1 and 61C-3, F.A.C.

e. In the case of a collective license or group license, the authorized agent shall be responsible for all violations pursuant to Chapter 509, F.S. and Chapters 61C-1 and 61C-3, F.A.C., if violations occurred while the dwelling or unit was listed under the licensed agent or as reflected in records filed with the division.

(b) Nontransient establishments – are licensed as nontransient apartments.

(c) For all public lodging establishments except vacation rentals and timeshare projects, the operator is required to notify the division immediately of any changes in the number of rental units.

(5) Public food service establishments, as defined in Section 509.013(5), F.S., are licensed in accordance with the following classifications and requirements:

(a) Nonseating:

1. Permanent – Permanent nonseating establishments are classified as those fixed public food service establishments for which the sole service provided is intended as take-out or delivery, or which do not otherwise provide accommodations for consumption of food by guests on the premises, or premises under the control of the operator. For the purposes of this section, establishments located at food courts and malls are classified in this manner as long as seating is not provided within the premises of the establishment itself.

2. Mobile food dispensing vehicle – Mobile food dispensing vehicles are classified as any vehicle mounted public food service establishments which are self-propelled or otherwise movable from place to place and include self-contained utilities, such as gas, water, electricity and liquid waste disposal. The owner is responsible for acquainting all operators with the requirements of all applicable laws and rules. All mobile food dispensing vehicles required to have vehicle identification numbers shall submit this number to the division on the application for license. All mobile food dispensing vehicles required to have a commissary under Rule 61C-4.0161, F.A.C., must submit DBPR HR-7022, Commissary Notification, to the division upon application for plan review or application for a license, if plan review is not required.

3. Caterer – Caterers are classified as any public food service establishments where food or drink is prepared for service elsewhere in response to an agreed upon contract for a function or event. The term includes catering kitchens. For the purpose of this rule, the term “caterer” does not include those establishments licensed pursuant to Chapter 500 or 381, F.S., or any other location where food is provided or displayed for sale by the individual meal. A licensed public food service establishment that also provides catering services is not required to hold a separate catering license from the division. Caterers must meet all applicable standards of a public food service establishment as provided in Rules 61C-1.004, 61C-4.010 and 61C-4.023, F.A.C. Separate independent caterers utilizing the equipment or premises of a licensed public food service establishment are deemed operators as defined by Section 509.013(2), F.S., of such public food service establishment and subject to all applicable requirements of law and rule.

4. Temporary public food service establishments and vendors.

a. Temporary public food service establishments are classified as those establishments operated at temporary food service events as defined in Section 509.013(8), F.S. If upon inspection the temporary public food service establishment does not meet minimum sanitation standards as provided in Chapters 61C-1 and 61C-4, F.A.C., food service operations shall be discontinued until corrections are complete and verified by the division.

b. Public food service establishments that have a current license may operate one facility at a temporary event as part of the existing license. Each additional facility operated by the same licensee must acquire a separate temporary food service event license.

5. Vending machines – Vending machines are classified as any self-service devices licensed pursuant to Chapter 509, F.S., which, upon insertion of coin or token, or by other means, dispense unit servings of time/temperature control for safety (potentially hazardous) food, either in bulk or packaged, without the necessity of replenishing the device between each operation. All vending machine owners shall submit the serial number of each vending machine to the division on DBPR HR-7007,

Application for Public Food Service Establishment License. The vending machine owner shall maintain an accurate and current list of vending machine locations with the corresponding serial number. This list shall be made available to the division upon request. The division shall coordinate with the vending machine owner to schedule inspections with the assistance of the owner or the owner's agent with the capability to open and demonstrate the machine.

6. Theme park food carts – Theme park food carts are classified as mobile or stationary units which operate within the confines of a theme park or entertainment complex as an extension of or in association with a fixed public food service establishment. Such carts shall be licensed collectively by the entity which maintains and operates them. The entity which maintains and operates any food cart or group of food carts within a theme park or entertainment complex shall acquaint all operators with the requirements of all applicable laws and rules. The operator is required to notify the division immediately of any changes in the number of carts.

7. Culinary education programs – Nonseating culinary education programs are culinary education programs as defined in Section 381.0072(2), F.S., which offer, prepare, serve, or sell food to the general public and that do not otherwise provide accommodations for consumption of food by guests on the premises, or premises under the control of the establishment.

(b) Seating:

1. Permanent – Permanent seating establishments are classified as those public food service establishments that provide and maintain accommodations for consumption of food on the premises of the establishment or under the control of the establishment. The operator of the establishment is responsible for providing the number of seats available to the public to the division prior to licensing. Prior to making any changes in the number of seats provided which may affect the license fee, fire safety, or the wastewater disposal system, the operator must report the change to the division by submitting DBPR Form HR 5021-103, Seating Change Evaluation (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00895>), incorporated herein by reference and effective October 22, 2008, or any document obtained from the local authorities having jurisdiction that provides proof the operator obtained approval for the change. A change in the number of seats is not valid until approved by the division. License fees related to a seating change are not due until the license is renewed, unless the seating change is part of a license application.

2. Culinary education programs – Seating culinary education programs are culinary education programs as defined in Section 381.0072(2), F.S., which offer, prepare, serve, or sell food to the general public and that provide and maintain accommodations for consumption of food on the premises of the establishment or under the control of the establishment. The operator of the establishment is responsible for providing the number of seats available to the public to the division prior to licensing. Prior to making any changes in the number of seats provided which may affect the license fee, fire safety, or the wastewater disposal system, the operator must report the change to the division by submitting DBPR Form HR 5021-103, Seating Change Evaluation or any document obtained from the local authorities having jurisdiction that provides proof the operator obtained approval for the change. A change in the number of seats is not valid until approved by the division. License fees related to a seating change are not due until the license is renewed, unless the seating change is part of a license application.

(c) Plan Reviews.

1. The operator of each public food service establishment to be newly constructed, remodeled, converted, or reopened after being out of business for more than 12 months shall submit properly prepared facility plans and specifications to the division for review and approval in accordance with the provisions of Chapter 509, F.S. and Rule Chapters 61C-1 and 61C-4, F.A.C. Such plans must be approved by the division as meeting the sanitation and safety requirements provided in law prior to scheduling of an opening inspection and licensing. For remodeling, plan review submittal is not required if the division can otherwise determine that the intended remodeling will not have an impact on any sanitation and safety requirements provided in law or rule. Plan review is not required for applications for change of ownership when no interruption in operation or no change to the establishment occurs. Plan reviews for additional theme park food carts are not required if such units have been previously reviewed and approved and have no modifications from the originally approved model.

2. The plans and specifications shall indicate the general operation of the establishment; the intended menu items; location of employee and public bathrooms; proposed layout, including all work, guest, and employee areas and storage facilities; construction finishes of work areas; and equipment location, design and installation, including the type of proposed fixed equipment and facilities. Plans and specifications must be submitted by the owner, prospective operator or their designated representative along with DBPR HR-7005, Application for Plan Review (<http://www.flrules.org/Gateway/reference.asp?No=Ref-07066>), incorporated by reference herein and effective 2016 July, or DBPR HR-7030, Application for Public Food Service Establishment License with Plan Review. Plans and specifications, for mobile food dispensing vehicles must be submitted by the

owner, prospective operator or their designated representative along with DBPR HR-7006, Mobile Food Dispensing Vehicle Plan Review Application (<http://www.flrules.org/Gateway/reference.asp?No=Ref-06291>), incorporated herein by reference and effective 2015 December 1, or DBPR HR-7031, Application for Mobile Food Dispensing Vehicle License with Plan Review. The division shall grant or deny approval of the plans in writing pursuant to the provisions of Chapter 120, F.S.

3. When the establishment's water source is a well or the sewer source is an onsite sewage treatment and disposal system, applicants for plan review must also submit proof of approval from the Department of Health.

(d) A public food service establishment operating in conjunction with a public lodging establishment must obtain a separate public food service establishment license from the division, unless the only food served at the public lodging establishment is packaged or prepackaged as defined in the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C. In such cases, the establishment which prepares the food is subject to the licensing provisions of this chapter, unless otherwise exempt.

(6) Renewal – The licensee is responsible for renewing the license prior to the expiration date. Any public lodging establishment or public food service establishment operating on an expired license is deemed to be operating without a license, and subject to the penalties provided for this offense in law and rule. Annual renewal dates for all establishments are determined by district and county as follows:

(a) DISTRICT 01 – October 1 – Dade, Monroe;

(b) DISTRICT 02 – December 1 – Broward, Martin, Palm Beach;

(c) DISTRICT 03 – February 1 – Citrus, Hernando, Hillsborough, Pasco, Pinellas, Polk, Sumter;

(d) DISTRICT 04 – April 1 – Brevard, Indian River, Lake, Orange, Osceola, St. Lucie, Seminole, Volusia;

(e) DISTRICT 05 – June 1 – Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Marion, Nassau, Putnam, St. Johns, Suwannee, Union;

(f) DISTRICT 06 – June 1 – Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, Washington; and

(g) DISTRICT 07 – December 1 – Charlotte, Collier, Desoto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota.

(7) The division shall issue a license to each public lodging establishment and public and food service establishment which has satisfied the requirements of Chapter 509, F.S., and this chapter upon initial licensing and annual renewal. In addition to the license, the division shall issue a license decal to each mobile food dispensing vehicle, theme park food cart and vending machine, which must be prominently displayed and affixed to the vehicle, cart or machine.

(8) General Inspection Requirements.

(a) Division personnel shall inspect all public lodging establishments as often as necessary for enforcement of the provisions of law and rule and protection of the public's health, safety and welfare. The result of each inspection shall be recorded on DBPR Form HR-5022-014, LODGING INSPECTION REPORT (<https://www.flrules.org/Gateway/reference.asp?No=Ref-07062>), incorporated herein by reference and effective 2016 July, a legible copy of which shall be provided to the operator.

(b) Division personnel shall inspect all public food service establishments and other places where food is served to or prepared for service to the public as often as necessary for enforcement of the provisions of law and rule and protection of the public's health, safety and welfare. The result of each inspection, except inspections of temporary public food service establishments, shall be recorded on DBPR Form HR-5022-015, FOOD SERVICE INSPECTION REPORT (<http://www.flrules.org/Gateway/reference.asp?No=Ref-07063>), incorporated herein by reference and effective 2016 July, a legible copy of which shall be provided to the operator. The result of each inspection of a temporary public food service establishment shall be recorded on DBPR Form HR 5021-029, TEMPORARY EVENT VENDOR RECEIPT, APPLICATION AND INSPECTION, a legible copy of which shall be provided to the operator. Persons operating a public food service establishment shall permit division personnel right of entry during operating hours to observe food preparation and service, and if necessary examine records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received or used.

(c) The operator of each public food service establishment shall maintain the latest inspection report on premises and shall make it available to any consumer who asks to see it.

(d) Inspection Frequency. The division shall annually inspect each licensed public lodging and food service establishment as described herein and at such times as the division determines necessary to ensure the public's health, safety and welfare. The annual inspection cycle shall begin July 1 and end June 30 the following year.

1. Public lodging establishments shall be inspected as prescribed by Section 509.032(2)(a), F.S.

2. Public food service establishments.

a. The minimum number of annual inspections required for each public food service establishment shall be based upon the risk presented by the establishment's type of food and food preparation processes, type of service, and compliance history. An establishment's initial classification shall be assigned upon annual inspection or upon application for a license and verified at the licensing inspection, as applicable. Public food service establishments shall be classified and inspected according to the following risk-based inspection frequency schedule.

Classification	Public Food Service Establishment Classification Guidelines	Minimum Annual Inspections
Level 1	Establishments licensed as annual temporary public food service establishments or vending machines; or Establishments that: <ul style="list-style-type: none">• Do not cook raw animal food; or• Cook raw animal food, but do not cool any cooked or heated foods.	1
Level 2	Establishments that: <ul style="list-style-type: none">• Cook raw animal food and cool any cooked or heated foods; or• Conduct a special process as described in 3-502.11 or 3-502.12, Food Code, as adopted by reference in Rule 61C-1.001, F.A.C.; or• Serve a raw or undercooked animal food that requires a consumer advisory under 3-603.11, Food Code, as adopted by reference in Rule 61C-1.001, F.A.C. or Rule 61C-4.010, F.A.C.	2
Level 3	Establishments with a history of non-compliance resulting in three or more disciplinary Final Orders filed with the Agency Clerk within the previous two annual inspection cycles; or Establishments that serve a highly susceptible population as defined in the Food Code, as adopted by reference in Rule 61C-1.001, F.A.C.	3
Level 4	Establishments with a confirmed foodborne illness within the previous calendar year as reported by the Florida Department of Health.	4

b. The division shall reassess each establishment's inspection frequency classification and reclassify each establishment as necessary.

3. Establishments initially licensed between January 1 and June 30 will receive a prorated number of annual inspections, including the opening inspection, during the first annual inspection cycle.

(9) Obtaining forms. All forms incorporated in this section are available from the Division of Hotels and Restaurants internet website www.MyFloridaLicense.com/dbpr/hr; by e-mail request submitted at www.MyFloridaLicense.com/contactus; by phone request to the department at (850) 487-1395; or upon written request to the Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

Rulemaking Authority 509.032, 509.241, 509.2112 FS. Law Implemented 213.0535, 509.032, 509.221, 509.241, 509.242, 509.251, 559.79, 509.2112 FS. History—Amended 1-20-63, 9-19-63, 5-20-64, 2-23-66, 8-9-68, Revised 2-4-71, Amended 10-18-71, Repromulgated 12-18-74, Amended 9-1-83, 10-1-83, Formerly 7C-1.02, Amended 1-30-90, 12-31-90, 2-27-92, 6-15-92, Formerly 7C-1.002, Amended 3-31-94, 3-15-95, 10-9-95, 9-25-96, 5-11-98, 9-9-03, 1-1-13, 7-4-13, 7-1-14, 11-20-14, 12-28-15, 2-24-16, 7-11-16.

61C-1.0021 Administrative Actions and Enforcement.

Rulemaking Authority 509.032, 509.032(2)(d) FS. Law Implemented 509.091, 509.261 FS. History—New 3-31-94, Amended 10-9-95, 9-25-96, Repealed 12-8-11.

61C-1.004 General Sanitation and Safety Requirements.

The following general requirements and standards shall be met by all public lodging and public food service establishments.

(1) Water, plumbing and waste.

(a) Except as specifically provided in these rules, standards for water, plumbing and waste shall be governed by Chapter 5, Food Code, as adopted by reference in Rule 61C-1.001, F.A.C. For the purposes of this section, the term “food establishment” as referenced in the Food Code shall apply to all public lodging and public food service establishments as defined in Chapter 509, F.S.

(b) Steam used in contact with food or food-contact surfaces shall be governed by Chapter 3, Food Code, as adopted by reference in Rule 61C-1.001, F.A.C., and free from any materials or additives except as allowed by Chapter 7, Food Code, as adopted by reference in Rule 61C-1.001, F.A.C.

(2) Bathrooms.

(a) Each public lodging establishment and public food service establishment shall provide at least one conveniently located bathroom facility for its employees and guests in accordance with provisions of these rules and as approved by the local building authority having jurisdiction. Public access to bathroom facilities shall not be permitted through food preparation, storage, or warewashing areas. Bathroom fixtures shall be of readily cleanable sanitary design. Bathroom facilities shall be kept clean, in good repair and free from objectionable odors. Bathrooms shall provide at least 20 foot candles of light. The walls, ceilings and floors of all bathroom facilities shall be kept in good condition.

(b) Bathrooms shall be completely enclosed and shall have tight-fitting, self-closing doors, except bathrooms located in public lodging establishments or located outside a public food service establishment, may have entrances and exits constructed in such a manner as to ensure privacy of occupants. Bathroom doors shall not be left open except during cleaning or maintenance.

(c) Handwashing signs shall be posted in each bathroom used by employees.

(d) For the purposes of this section, the term toilet shall mean a flush toilet properly plumbed, connected and discharging to an approved sewage disposal system. In a bathroom where more than one toilet is provided, each toilet shall be separated by a partition from adjoining fixtures and a door shall be provided which will partially conceal the occupant from outside view.

(e) Nontransient establishments, vacation rentals, and timeshare projects are exempt from the provisions of this subsection.

(3) Vermin control – Effective control measures shall be taken to protect against the entrance into the establishment, and the breeding or presence on the premises of rodents, flies, roaches and other vermin. All buildings shall be effectively rodent-proofed, free of rodents and maintained in a rodent-proof and rodent-free condition. All windows used for ventilation must be screened, except when effective means of vermin control are used. Screening material shall not be less than 16 mesh to the inch or equivalent, tight-fitting and free of breaks. Pesticides, when used, shall be used in compliance with Chapter 7, Food Code, as adopted by reference in Rule 61C-1.001, F.A.C.

(4) The storage and use of poisonous and toxic materials shall be governed by the provisions of Chapter 7, Food Code, as adopted by reference in Rule 61C-1.001, F.A.C. For the purposes of this section, the term “food establishment” as referenced in the Food Code shall apply to all public lodging and public food service establishments as defined in Chapter 509, F.S.

(5) All building structural components, attachments and fixtures shall be kept in good repair, clean and free of obstructions.

(6) Attics, basements, boiler rooms, meter rooms, laundry rooms, and storage rooms shall be kept clean and free of debris and flammables.

(7) Carbon dioxide and helium tanks shall be adequately secured so as to preclude any danger to safety.

(8) Specialized Smoke Detectors – Specialized smoke detectors for the deaf and hearing-impaired shall be made available upon request by guests in transient public lodging establishments without charge. Failure of the operator to inform any employee charged with registering guests of the location of such detector constitutes failure to make such detectors available.

(9) Halls, entrances and stairways shall be clean, ventilated and well-lighted day and night. Hall and stair runners shall be kept in good condition. Railways shall be installed on all stairways and around all porches and steps.

(10) Heating and ventilation – The heating and ventilation system shall be kept in good repair or be installed to maintain a minimum of 68 degrees Fahrenheit throughout the building. The insurance inspector’s boiler report is required annually for power boilers and high pressure/high temperature boilers and biannually for low pressure steam or vapor heating boilers and shall be posted in the boiler room. The provisions of this section do not apply to the common areas of timeshare projects or of vacation rentals classified as condominiums.

73, Repromulgated 12-18-74, Amended 9-19-84, Formerly 7C-1.04, Amended 12-31-90, 2-11-92, 2-27-92, 6-15-92, Formerly 7C-1.004, Amended 3-31-94, 10-9-95, 9-25-96, 5-11-98, 7-2-98, 2-24-08, 8-12-08, 4-18-12, 11-20-14.

61C-1.005 Disciplinary Guidelines.

(1) This rule sets out the disciplinary guidelines for imposing penalties upon public lodging establishments and public food service establishments under the jurisdiction of the Division of Hotels and Restaurants (division) in administrative actions. The purpose of this rule is to notify licensees of the standard range of penalties routinely imposed unless the division finds it necessary to deviate from the standard penalties for the reasons stated within this rule.

(2) These disciplinary guidelines are descriptive in nature and do not use the language used to formally allege a violation in a specific case. This rule is not intended to specifically describe all possible violations of law that may be committed by a public lodging establishment or public food service establishment and that may be subject to penalty imposed by the division.

(3) The division may impose penalties against a public lodging establishment or public food service establishment for a specific violation not included in the language of this rule. If a specific violation is not included in the language of this rule, the division shall impose a penalty corresponding to the most similar violation listed in this rule.

(4) These disciplinary guidelines do not limit the division's authority to order a public lodging establishment or public food service establishment to cease and desist from any unlawful practice, or other action authorized by law.

(5) Definitions.

(a) "High priority violation" means a violation of a high priority item, as defined in Rule 61C-1.001, F.A.C., or a violation of Chapter 509, F.S. or Chapter 61C, F.A.C., determined by the division to pose a direct or significant threat to the public health, safety, or welfare and is not otherwise identified in subsection (6) of this rule.

(b) "Intermediate violation" means a violation of an intermediate item, as defined in Rule 61C-1.001, F.A.C., or a violation of Chapter 509, F.S. or Chapter 61C, F.A.C., which relates to specific actions, equipment or procedures that contribute to the occurrence of a high priority violation, but does not meet the definition of high priority violation or basic violation and is not otherwise identified in subsection (6) of this rule.

(c) "Basic violation" means a violation of a basic item, as defined in Rule 61C-1.001, F.A.C., or a violation of Chapter 509, F.S. or Chapter 61C, F.A.C., which relates to general sanitation, operational controls, standard operating procedures, facilities or structures, equipment design, or general maintenance and not meeting the definition of high priority violation or intermediate violation and is not otherwise identified in subsection (6) of this rule.

(d) "First offense" means a violation of any law subject to penalty under Chapter 509, F.S., when no disciplinary Final Orders involving the same licensee have been filed with the Agency Clerk within the 24 months preceding the date the current administrative complaint is issued.

(e) "Second offense," and "second and any subsequent offense" mean a violation of any law subject to penalty under Chapter 509, F.S., after one disciplinary Final Order involving the same licensee has been filed with the Agency Clerk within the 24 months preceding the date the current administrative complaint is issued, even if the current violation is not the same as the previous violation.

(f) "Third and any subsequent offense" means a violation of any law subject to penalty under Chapter 509, F.S., after two or more disciplinary Final Orders involving the same licensee have been filed with the Agency Clerk within the 24 months preceding the date the current administrative complaint is issued, even if the current violation is not the same as the previous violation.

(6) Standard penalties. This section specifies the penalties routinely imposed against licensees and applies to all violations of law subject to a penalty under Chapter 509, F.S.

(a) Basic violation.

1. 1st offense – Administrative fine of \$150 to \$300.
2. 2nd offense – Administrative fine of \$250 to \$500.
3. 3rd and any subsequent offense – Administrative fine of \$350 to \$1000, license suspension, or both.

(b) Intermediate violation.

1. 1st offense – Administrative fine of \$200 to \$400.
2. 2nd offense – Administrative fine of \$375 to \$750.
3. 3rd offense – Administrative fine of \$550 to \$1,000, license suspension, or both.

(c) High priority violation.

1. 1st offense – Administrative fine of \$250 to \$500.
 2. 2nd offense – Administrative fine of \$500 to \$1,000, license suspension, or both.
 3. 3rd and any subsequent offense – Administrative fine of \$750 to \$1,000, license suspension, or both.
- (d) Misrepresenting food or food product.
1. 1st offense – Administrative fine of \$500 or license suspension.
 2. 2nd offense – Administrative fine of \$1,000, license suspension, or both.
 3. 3rd and any subsequent offense – Administrative fine of \$1,000, license suspension, or license revocation or any combination thereof.
- (e) Obstruction of division personnel.
1. 1st offense – Administrative fine of \$500 or license suspension.
 2. 2nd offense – Administrative fine of \$1,000, license suspension, or both.
 3. 3rd and any subsequent offense – Administrative fine of \$1,000, license revocation, or both.
- (f) Operating a public lodging establishment or public food service establishment without a license or with a license expired for more than 60 days.
1. 1st offense – Administrative fine of \$250 to \$500.
 2. 2nd offense – Administrative fine of \$500 to \$1,000.
 3. 3rd and any subsequent offense – Administrative fine of \$750 to \$1,000.
- (g) Operating a public lodging establishment or public food service establishment without a license resulting in an Administration Determination and Order of Closure.
1. 1st offense – Administrative fine of \$500.
 2. 2nd and any subsequent offense – Administrative fine of \$1,000.
- (h) Operating a public lodging establishment or public food service establishment in violation of an Order of Emergency Suspension of License and Closure, Emergency Order of Closure, or other emergency administrative action that prohibits operation of the establishment.
1. 1st offense – Administrative fine of \$500 to \$1,000.
 2. 2nd and any subsequent offense – Administrative fine of \$1,000.
- (i) Failure to comply with the requirements of a disciplinary Final Order.
1. 1st offense – Administrative fine of \$500 and license suspension.
 2. 2nd offense – Administrative fine of \$1,000 and license suspension.
 3. 3rd offense – License revocation.
- (j) Finding by the Florida Commission on Human Relations resulting in a violation of Section 509.092, F.S.
1. 1st offense – Administrative fine of \$200 to \$400.
 2. 2nd offense – Administrative fine of \$375 to \$750 and license suspension.
 3. 3rd offense – License revocation.
- (k) Finding by the State Fire Marshal resulting in a violation of Section 509.215(5), F.S.
1. 1st offense – Administrative fine of \$1,000, license suspension, or license revocation or any combination thereof.
 2. 2nd offense and any subsequent offense – Administrative fine of \$1,000, license suspension, or license revocation or any combination thereof.
- (l) Finding of an agency having jurisdiction resulting in a violation of Section 509.261(5)(b), F.S.
1. 1st offense – Administrative fine of \$200 to \$400.
 2. 2nd offense – Administrative fine of \$375 to \$750 and license suspension.
 3. 3rd offense – License revocation.
- (m) Being adjudicated guilty of or having forfeited a bond when charged with any of the items listed in Section 509.261(6)(a), F.S.
1. 1st offense – Administrative fine of \$200 to \$400.
 2. 2nd offense – Administrative fine of \$375 to \$750 and license suspension.
 3. 3rd offense – License revocation.

(n) Operating a public lodging establishment or public food service establishment that has been deemed an imminent danger to the public health and safety by the division or local health authority for failure to meet sanitation standards or the premises have been determined by the division or local authority to be unsafe or unfit for human occupancy.

1. 1st offense – Administrative fine of \$200 to \$400.
2. 2nd offense – Administrative fine of \$375 to \$750 and license suspension.
3. 3rd offense – License revocation.

(o) Any violation requiring an Order of Emergency Suspension of License and Closure, as authorized by Chapter 509, F.S.

1. 1st offense – Administrative fine of \$500.
2. 2nd offense – Administrative fine of \$1,000, license suspension, or both.
3. 3rd offense – Administrative fine of \$1,000, license suspension, or license revocation or any combination thereof.

(p) Failure to satisfy a tax warrant that has existed for more than three consecutive months (Section 213.50(3)(a), F.S.).

1. 1st offense – License suspension.
2. 2nd and any subsequent offense – License suspension.

(q) Violation of the Florida Clean Indoor Air Act, Chapter 386, Part II, F.S., shall be assessed a civil penalty in accordance with Section 386.207(3), F.S.

(r) Conviction of an owner or employee of a public lodging establishment or public food service establishment by another authority having jurisdiction for a violation of Section 500.451, F.S.

1. 1st offense – License suspension.
2. 2nd and any subsequent offense – License suspension.

(7) Aggravating or mitigating factors. The division may deviate from the standard penalties in paragraphs (a) through (n) of subsection (6) above, based upon the consideration of aggravating or mitigating factors present in a specific case. The division may deviate from the standard penalties in paragraph (o) of subsection (6) above, based upon the consideration of aggravating factors present in a specific case. The division shall consider the following aggravating and mitigating factors in determining the appropriate disciplinary action to be imposed and in deviating from the standard penalties:

(a) Aggravating factors.

1. Possible danger to the public.
2. The current administrative complaint alleges six or more violations.
3. The current administrative complaint alleges three or more violations of any high priority item.
4. Number of Emergency Orders of Suspension or Closure against the same licensee filed with the Agency Clerk by the division within the 12 months preceding the date the current administrative complaint was issued.
5. Actual physical damage or bodily harm caused to persons or property by the violation.
6. The current administrative complaint alleges a violation for which the licensee was previously disciplined in a Final Order filed with the Agency Clerk by the division within the 24 months preceding the date the current administrative complaint was issued.
7. Any other aggravating factors, as relevant under the circumstances.

(b) Mitigating factors.

1. Violation resulted from a natural or manmade disaster, civil disturbance or other emergency out of the operators' control and no corrective action was possible.
2. Effect of the penalty upon the licensee's livelihood.
3. Attempts by the licensee to correct the violation.
4. Any other mitigating factors, as relevant under the circumstances.

(8) Absent any mitigating factors, a license may be suspended for no less than two days. Absent any aggravating factors, a license may be suspended for no more than ten days. Terms of license suspensions resulting from multiple violations or Final Orders shall be applied consecutively, not concurrently.

(9) Fines resulting from multiple violations or Final Orders shall be assessed cumulatively.

(10) Notwithstanding subsection (6), license revocation may be recommended in any case or for any violation when the aggravating circumstances, licensee's compliance history, and conditions of the public lodging establishment or public food service establishment present a significant threat to the public health, safety, and welfare.

61C-1.008 License Fees.

(1) Application Fees. Upon making initial application or an application for change of ownership, each public lodging and food service establishment applicant shall pay to the division a fee of \$50 in addition to any other fees required by law or rule. Temporary food service events and vending machines are exempt from this subsection.

(2) Fractional License Fees. The licensing fee schedule shall require an establishment which applies for an initial license to pay the full license fee, if application is made during the annual renewal period or more than 6 months before the next such renewal period, and one-half of the fee if application is made 6 months or less before such period.

(3) Amount of License Fee – Public Lodging Establishment. The license fee to conduct a public lodging establishment shall be in accordance with the following schedule exclusive of the categories of fee adjustments set forth in subsections 61C-1.008(1), (2) and (5), F.A.C.:

(a) Transient lodging/excluding transient apartments, vacation rentals and timeshare projects.

NUMBER OF UNITS	BASIC FEE	INCREMENTAL UNIT FEE	HEP FEE	TOTAL FEE
SINGLE UNIT	\$170	\$10	\$10	\$190
2-25	\$170	\$20	\$10	\$200
26-50	\$170	\$35	\$10	\$215
51-100	\$170	\$50	\$10	\$230
101-200	\$170	\$75	\$10	\$255
201-300	\$170	\$105	\$10	\$285
301-400	\$170	\$135	\$10	\$315
401-500	\$170	\$160	\$10	\$340
OVER 500	\$170	\$190	\$10	\$370

(b) Transient apartments.

NUMBER OF UNITS	BASIC FEE	INCREMENTAL UNIT FEE	HEP FEE	TOTAL FEE
SINGLE UNIT	\$125	\$10	\$10	\$145
2-25	\$125	\$20	\$10	\$155
26-50	\$125	\$35	\$10	\$170
51-100	\$125	\$50	\$10	\$185
101-200	\$125	\$75	\$10	\$210
201-300	\$125	\$105	\$10	\$240
301-400	\$125	\$135	\$10	\$270
401-500	\$125	\$160	\$10	\$295
OVER 500	\$125	\$190	\$10	\$325

(c) Vacation rentals and timeshare projects.

1. Vacation rentals may be classified as a condominium or dwelling. Vacation rental and timeshare project licenses may be issued as either single, or collective or group, as defined in Rule 61C-1.002, F.A.C.

2. Fees for renewal shall be based on the number of existing units under license at the time of the renewal period. Unless timely notification of additions or deletions of units in a group or collective license is given to the division, as set forth in subparagraph 61C-1.002(4)(a)2.b., F.A.C., the fee for renewal shall be based upon the number of units under license when the license was either issued or last renewed, whichever is most recent.

3.a. Vacation rentals and timeshare projects/collective license.

	PER		
BASIC FEE	UNIT FEE	HEP FEE	TOTAL FEE
\$150	\$10	\$10	VARIES

b. Vacation rentals and timeshare projects/group and single license.

NUMBER OF UNITS	BASIC FEE	INCREMENTAL UNIT FEE	HEP FEE	TOTAL FEE
SINGLE UNIT	\$150	\$10	\$10	\$170
2-25	\$150	\$20	\$10	\$180
26-50	\$150	\$35	\$10	\$195
51-100	\$150	\$50	\$10	\$210
101-200	\$150	\$75	\$10	\$235
201-300	\$150	\$105	\$10	\$265
301-400	\$150	\$135	\$10	\$295
401-500	\$150	\$160	\$10	\$320
OVER 500	\$150	\$190	\$10	\$350

(d) Non-transient apartments.

NUMBER OF UNITS	BASIC FEE	INCREMENTAL UNIT FEE	HEP FEE	TOTAL FEE
4 OR LESS	0	0	0	0
5-25	\$95	\$20	\$10	\$125
26-50	\$95	\$35	\$10	\$140
51-100	\$95	\$50	\$10	\$155
101-200	\$95	\$75	\$10	\$180
201-300	\$95	\$105	\$10	\$210
301-400	\$95	\$135	\$10	\$240
401-500	\$95	\$160	\$10	\$265
OVER 500	\$95	\$190	\$10	\$295

(4) Amount of License Fee – Public Food Service Establishment. The license fee for a public food service establishment shall be in accordance with the following schedule exclusive of the categories of fee adjustments set forth in subsections 61C-1.008(1), (2) and (5), F.A.C.:

(a) Nonseating:

1.

	BASIC FEE	SERVICE TYPE FEE	EPIDEMIOLOGICAL FEE	HEP FEE	TOTAL FEE
Permanent	\$220	\$0	\$12	\$10	\$242
Mobile Food Dispensing Vehicle	\$185	\$135	\$17	\$10	\$347
Catering	\$185	\$55	\$13	\$10	\$263
Culinary Education Program	\$220	\$0	\$12	\$10	\$242

2.

	BASIC FEE	EPIDEMIOLOGICAL FEE	HEP FEE	TOTAL FEE
Temporary Public Food Service Establishments and Vendors				
1-3 day events	\$77	\$4	\$10	\$91
4 through 30-day events	\$90	\$5	\$10	\$105
Annual vendor	\$425	\$21	\$10	\$456
Vending Machines	\$10	\$1	\$10	\$21

3. Theme Park Food Carts.

NO. OF CARTS	BASIC FEE	CAPACITY FEE	EPIDEMIOLOGICAL FEE	HEP FEE	TOTAL FEE
1-5	\$185	\$55	\$12	\$10	\$262
6-10	\$185	\$65	\$13	\$10	\$273
11-15	\$185	\$85	\$14	\$10	\$294
16-20	\$185	\$105	\$15	\$10	\$315
21-25	\$185	\$125	\$16	\$10	\$336
26 or more	\$185	\$145	\$17	\$10	\$357

(b) Seating:

NO. OF SEATS	BASIC FEE	CAPACITY FEE	EPIDEMIOLOGICAL FEE	HEP FEE	TOTAL FEE
1-49	\$185	\$55	\$12	\$10	\$262
50-149	\$185	\$65	\$13	\$10	\$273
150-249	\$185	\$85	\$14	\$10	\$294
250-349	\$185	\$105	\$15	\$10	\$315
350-499	\$185	\$125	\$16	\$10	\$336
500 or more	\$185	\$145	\$17	\$10	\$357

(c) Plan review fees shall be \$150; variance review process fees shall be \$0.

(5) Delinquency Fees. A license renewal filed with the division after the expiration date shall be accompanied by a delinquency fee of \$50 in addition to the renewal fee and any other fees required by law or rule.

Rulemaking Authority 509.032, 509.251 FS. Law Implemented 509.013, 509.032, 509.251, 509.302 FS. History—New 7-31-79, Revised 9-1-80, Formerly 7C-1.08, Amended 5-10-89, 9-10-89, 10-31-89, 4-3-90, 12-31-90, 9-11-91, 2-27-92, 7-6-92, 8-23-92, 11-4-92, 4-4-93, Formerly 7C-1.008, Amended 9-20-93, 12-22-93, 6-29-95, 10-9-95, 9-25-96, 5-11-98, 9-21-00, 9-9-03, 1-18-12, 11-1-12, 2-1-14, 11-20-14, 12-28-15, 7-11-16.