

## CHAPTER 258. UNATTENDED FOOD ESTABLISHMENTS

[Authority:63 O.S., § 1-104]

[Source:Codified 9-11-20]

### SUBCHAPTER 1. PURPOSE AND DEFINITIONS

#### 310:258-1-1. Purpose

The rules in this Chapter implement 63 O.S. Section 1-1118.1. The purpose is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented. This Chapter establishes definitions; sets standards for food, operations, equipment, and facilities; and provides for unattended food establishment plan review, license issuance, inspection, and license suspension.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

#### 310:258-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise.

"**Additive**" means as used in this Chapter for the following terms:

(A) "**Color additive**" means as stated in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 321(t) and 21 CFR, Part 70.

(B) "**Food additive**" means as stated in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 321(s) and 21 CFR, Part 170.

"**Adulterated**" means the definition in 63 O.S. Section 1-1109.

"**Approved**" means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

"**Beverage**" means a liquid for drinking, including water.

"**Bottled drinking water**" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

"**Certified applicator**" means any individual who is certified under the Federal Herbicide, Fungicide, and Rodenticide Act, U.S.C., Section 136(e)(1) and/or by the Oklahoma State Department of Agriculture Food and Forestry as authorized to use or supervise the use of any pesticide that is classified for restricted use. Any applicator who holds or applies registered pesticides or uses dilutions of registered pesticides consistent with the product labeling only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides.

"**CFR**" means Code of Federal Regulations. Citations in this Chapter to the CFR refer sequentially to the Title, Part, and Section numbers, such as 21 CFR, 178.1010 refers to Title 21, Part 178, Section 1010.

"**Code of Federal Regulations**" means the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government which is published annually by the U.S. Government Printing Office; and contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

"**Community water system**" means any public water supply system, which serves at least 15 service connections, used year round or regularly serves 25 customers per day.

**"Consumer"** means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of an unattended food establishment or food processing plant, and does not offer the food for resale.

**"Controlled entry"** means selective restriction or limitation of access to a place or location.

**"Customer self-service"** means customer selection of a prepackaged food product from a product module.

**"Cut leafy greens"** means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leafy lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula, and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.

**"Department"** means the Oklahoma State Department of Health and a health department designated in writing by the State Commissioner of Health to perform official duties or other acts authorized under 63 O.S. § 101 et seq. and this Chapter, or an authorized agent thereof.

**"Dispensed beverage"** means a beverage or ice that is dispensed in its unpackaged form from a machine.

**"Easily movable"** means portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and has no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

**"EPA"** means the U.S. Environmental Protection Agency.

**"Equipment"** means an article that is used in the operation of an unattended food establishment such as a freezer, reach-in refrigerator, or temperature measuring device for ambient air. It does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

**"FDA"** means the U.S. Food and Drug Administration.

**"Fish"** means fresh or saltwater finfish, crustaceans, and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. Fish includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

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

**"Food processing plant"** means 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, food establishment, or unattended food establishments.

**"Grade A standards"** means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" with which certain fluid and dry milk and milk products comply.

**"Hazard"** means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

**"Hermetically sealed container"** means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

**"Imminent health hazard"** means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

**"Impermeable"** means incapable of allowing liquids to pass through the covering.

**"Juice"** means, when used in the context of food safety, the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée. Juice does not include, for purposes of HACCP, liquids, purees, or concentrates that are not used as beverages or ingredients of beverages.

**"License"** means the document issued by the Department that authorizes a person to operate an unattended food establishment.

**"License holder"** means the entity that is legally responsible for the operation of the unattended food establishment such as the owner, the owner's agent, or other person; and possesses a valid license to operate an unattended food establishment.

**"Major food allergen"** means milk, egg, fish (such as bass, flounder, cod, and including crustacean such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or a food ingredient that contains protein derived from a food specified above.

(A) Major food allergen does not include: Any highly refined oil derived from a food specified in Major Food Allergen definition and any ingredient derived from such highly refined oil; or  
(B) Any ingredient that is exempt under the petition or notification process specified in the Federal Food, Drugs, and Cosmetics Act, 21 U.S.C. Section 343.

**"Non-community water system"** means any public water supply system, which serves an average of at least 25 individuals at least 60 days per year and is not a community water system.

**"OAC"** means Oklahoma Administrative Code.

**"O.S."** means Oklahoma Statute.

**"Packaged"** means bottled, canned, cartoned, bagged, or wrapped, whether packaged in a food processing plant.

**"Person"** means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

**"Physical facilities"** means the structure and interior surfaces of an unattended food establishment including accessories such as light fixtures and heating or air conditioning system vents.

**"Plumbing fixture"** means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

**"Plumbing system"** means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including

their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

**"Poisonous or toxic materials"** means substances that are not intended for ingestion and are included in 4 categories:

(A) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(B) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;

(C) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(D) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

**"Premises"** means the physical facility, its contents, and the contiguous land or property under the control of the license holder or the contracted establishment.

**"Refuse"** means solid waste not carried by water through the sewage system.

**"Regulatory authority"** means a representative, such as an onsite inspector, of the Department.

**"Restricted use pesticide"** means a pesticide product that contains the active ingredients specified in 40 CFR, Section 152.175. Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.

**"Sealed"** means free of cracks or other openings that allow the entry or passage of moisture.

**"Service animal"** means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

**"Sewage"** means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

**"Single-use articles"** means utensils and food containers designed and constructed to be used once and discarded.

**"Temperature measuring device"** means a thermometer, thermocouple, thermistor, or other device that indicates the ambient air temperature within a cold holding unit.

**"Time/Temperature Control for Safety Food"** means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation. Time/Temperature Control for Safety Food includes: An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth or toxin formation.

**"Unattended food establishment"** means an operation that provides packaged foods or whole fruit using an automated payment system and has controlled entry not accessible by the general public.

**"USDA"** means the U.S. Department of Agriculture.

**"Vending machine"** means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

**"Vending machine location"** means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-1-3. Incorporated by reference**

The following Code of Federal Regulation (CFR) provisions are incorporated by reference as published on July 1, 2019:

- (1) Title 9 CFR, Part 424, Subpart (C) PREPARATION AND PROCESSING OPERATIONS;
- (2) Title 21 CFR, Part 129 PROCESSING AND BOTTLING OF BOTTLED DRINKING WATER;
- (3) Title 21 CFR, Part 170 FOOD ADDITIVES;
- (4) Title 21 CFR, Part 172 FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION;
- (5) Title 21 CFR, Part 173 SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION;
- (6) Title 21 CFR, Part 174 INDIRECT FOOD ADDITIVES: GENERAL;
- (7) Title 21 CFR, Part 175 INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS;
- (8) Title 21 CFR, Part 176 INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS;
- (9) Title 21 CFR, Part 177 INDIRECT FOOD ADDITIVES: POLYMERS;
- (10) Title 21 CFR, Part 178 INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS;
- (11) Title 21 CFR, Part 179 IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD;
- (12) Title 21 CFR, Part 180 FOOD ADDITIVES PERMITTED IN FOOD OR IN CONTACT WITH FOOD ON AN INTERIM BASIS PENDING ADDITIONAL STUDY;
- (13) Title 21 CFR, Part 181 PRIOR-SANCTIONED FOOD INGREDIENTS;
- (14) Title 21 CFR, Part 182 SUBSTANCES GENERALLY RECOGNIZED AS SAFE;
- (15) Title 21 CFR, Part 184 DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE;
- (16) Title 21 CFR, Part 186 INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE;
- (17) Title 21 CFR, Section 1240.60 Subpart (d) SPECIFIC ADMINISTRATIVE DECISIONS REGARDING INTERSTATE SHIPMENTS.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

## **SUBCHAPTER 3. OPERATIONS**

### **310:258-3-1. Living quarters, separation**

Living or sleeping quarters located on the premises of an establishment shall be separated from rooms and areas used for establishment operations by complete partitioning and solid self-closing doors.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-3-2. Cleaning frequency**

The physical facilities shall be cleaned as often as necessary to keep them clean.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-3-3. Premises, repairing**

The physical facilities shall be maintained in good repair.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-3-4. Storing maintenance tools**

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be stored so they do not contaminate food, equipment, utensils, and single-service articles.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-3-5. Maintaining premises, unnecessary items and litter**

The premises shall be free of:

- (1) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
- (2) Litter.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-3-6. Controlling pests**

The presence of insects, rodents, and other pests shall be controlled to minimize their presence within the facility by:

- (1) Routinely inspecting incoming shipments of food and supplies;
- (2) Routinely inspecting the premises for evidence of pests;
- (3) Using methods, if pests are found, such as trapping devices or other means of pest control/elimination; and
- (4) Eliminating harborage conditions.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-3-7. Removing dead or trapped pests**

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-3-8. Prohibiting animals**

(a) Except as specified in (b) of this Section, live animals may not be allowed on the premises of an establishment.

(b) Live animals may be allowed in the following situations unless the contamination of food, clean equipment, and unwrapped single-service and single-use articles may result:

- (1) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;
- (2) Service animals that are controlled by the disabled employee or person, as long as a health or safety hazard will not result from the presence or activities of the service animal.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-3-9. Distressed merchandise, segregation and location**

Products that are held by the license holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, and single-service and single-use articles.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

## **SUBCHAPTER 5. POISONOUS OR TOXIC MATERIALS**

### **310:258-5-1. Identifying information**

- (a) Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.
- (b) Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-5-2. Storage and separation**

Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, and single-service and single-use articles by:

- (1) Separating the poisonous or toxic materials by spacing or partitioning; and
- (2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, and single-service articles.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-5-3. Presence and use, restriction**

Only those poisonous or toxic materials that are required for the operation and maintenance of an unattended food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in an unattended food establishment.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-5-4. Conditions of use**

Poisonous or toxic materials shall be:

- (1) Used according to:
  - (A) Law and this Chapter,
  - (B) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in an unattended food establishment,
  - (C) The conditions of certification, if certification is required, for use of the pest control materials, and
  - (D) Additional conditions that may be established by the Department; and
- (2) Applied so that:
  - (A) A hazard to employees or other persons is not constituted, and
  - (B) Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted use pesticide, this is achieved by:
    - (i) Removing the items,
    - (ii) Covering the items with impermeable covers, or

- (iii) Taking other appropriate preventive actions, and
- (iv) Cleaning and sanitizing equipment and utensils after the application.
- (3) A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC Section 136(e) Certified Applicator, of the Federal Insecticide, Fungicide and Rodenticide Act, or a person under the direct supervision of a certified applicator. Restricted use pesticides specified under OAC 310:285-13-5 (3) shall meet the requirements specified in 40 CFR, Part 152 Subpart I - Classification of Pesticides.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-5-5. Sanitizers, criteria**

Chemical sanitizers, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to surfaces shall:

- (1) Meet the requirements specified in 40 CFR, Section 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions), or
- (2) Meet the requirements as specified in 40 CFR, Section 180.2020 Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-food determinations.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-5-6. Rodent bait stations**

Rodent bait shall be contained in a covered, tamper-resistant bait station.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-5-7. Tracking powders, pest control and monitoring**

- (a) Except as specified in (b) of this Section, a tracking powder pesticide may not be used in an unattended establishment.
- (b) If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, and single-service articles.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-5-8. Medication, restriction**

Only medicines that are stored or displayed for retail sale shall be allowed in an unattended food service establishment.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

## **SUBCHAPTER 7. FOOD**

### **310:258-7-1. Prohibited food sales**

The following foods shall not be offered for sale in an unattended food establishment:

- (1) Unpackaged foods with the exception of whole uncut fruits or vegetables,
- (2) Dispensed beverage,
- (3) Salvaged food as regulated under OAC 310:260 Subchapter seven (7),
- (4) Raw molluscan shellfish,
- (5) Mushrooms harvested in the wild.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-7-2. Safe, unadulterated, and honestly presented**

Food shall be safe, unadulterated, and honestly presented.

- (1) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.
- (2) Food color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.
- (3) Manufacturers' dating information on foods may not be concealed or altered.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-7-3. Additives**

Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR Sections 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR, Sections 181-186, substances that exceed amounts specified in 9 CFR, Subpart C Section 424.21(b), food ingredients and sources of radiation, or pesticide residues that exceed provisions specified in 40 CFR, Part 180 Tolerances and Exemptions for Pesticides Chemicals Residues in Food.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-7-4. Standards of identity**

Packaged food shall comply with standard of identity requirements in 21 CFR, Sections 131-169 and 9 CFR, Section 319, Definitions and Standards of Identity or Composition, and the General requirements in 21 CFR, Part 130 - Food Standards: General, and 9 CFR, Section 319 Subpart A - General.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-7-5. Food labels**

- (a) Packaged food shall be labeled as specified in law, including 21 CFR, Part 101 - Food Labeling, and 9 CFR, Part 317 Labeling, Marking Devices, and Containers.
- (b) Label information shall include:
  - (1) The common name of the food, or absent a common name, an adequately descriptive identity statement;
  - (2) If made from two or more ingredients, a list of ingredients and sub-ingredients in descending order of predominance by weight, including a declaration of artificial colors, artificial flavors, and chemical preservatives, if contained in the food;
  - (3) An accurate declaration of the quantity of contents;
  - (4) The name and place of business of the manufacturer, packer, or distributor; and
  - (5) The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient.
  - (6) Except as exempted in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C., Section 343, nutrition labeling as specified in 21 CFR, Part 101 - Food Labeling and 9 CFR, Part 317 Subpart B, Nutrition Labeling.
  - (7) For any salmonid fish containing canthaxanthin or astaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin or astaxanthin.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-7-6. Compliance with food law**

- (a) Food shall be obtained from sources that comply with this Chapter and applicable laws.
- (b) An establishment may sell packaged foods prepared by a facility that is in compliance with OAC 310:260 (relating to good manufacturing practices), United States Department of Agriculture, or the Oklahoma Department of Agriculture Food and Forestry.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-7-7. Approved water system**

A license holder shall obtain potable water from:

- (1) A community water system; or
- (2) A non-community water system; or
- (3) A non-transient, non-community water system that is constructed, maintained and operated in accordance with the Oklahoma Water Supply Systems Act, codified at 27A O.S. Section 2-6-301 et seq., and the rules promulgated thereunder.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-7-8. Bottled drinking water**

Bottled drinking water used or sold in an unattended food establishment shall be obtained from approved sources in accordance with 21 CFR, Part 129 - Processing and Bottling of Bottled Drinking Water and OAC 310:225.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-7-9. Milk products**

- (a) Food products listed below shall meet standards as specified in 2 O.S. Section 7-401 et seq.
  - (1) Frozen milk products, such as ice cream; and
  - (2) Cheese.
- (b) Milk products shall be obtained pasteurized and in compliance with Grade A Standards.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-7-10. Fish**

- (a) Fish that are received for sale or service shall be:
  - (1) Commercially and legally caught or harvested; or
  - (2) Approved for sale or service.
- (b) Raw molluscan shellfish may not be received for sale.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-7-11. Juice**

Pre-packaged juice shall:

- (1) Be obtained from a processor with a HACCP system as specified in 21 CFR, Part 120 Hazard Analysis and Critical Control (HACCP) Systems; and
- (2) Be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR, Part 120.24 Process Controls.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-7-12. Food in a hermetically sealed container**

Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-13. Package integrity**

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-14. Vended time/temperature control for safety food, original container**

Time/Temperature Control for Safety Food dispensed through a vending machine, vending unit, or customer self-service unit shall be in the package in which it was placed at the unattended food establishment or food processing plant at which it was prepared.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-15. Temperature**

- (a) Except as specified in (b) of this Section, refrigerated, Time/Temperature Control for Safety Food shall be at a temperature of 5°C (41°F) or below when received.
- (b) If a temperature other than 5°C (41°F) for a Time/Temperature Control for Safety Food is specified in law governing its distribution, the food may be received at the specified temperature.
- (c) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.
- (d) Upon receipt, Time/Temperature Control for Safety Food shall be free of evidence of previous temperature abuse.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-16. Frozen food**

Stored frozen foods shall be maintained frozen.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-17. Thawing**

Time/Temperature Control for Safety Food shall be thawed under refrigeration that maintains the food temperature at 5°C (41°F) or less.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-18. Time/temperature control for safety food cold holding**

Time/Temperature Control for Safety Food for cold holding shall be maintained at a temperature of 5°C (41°F) or less.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-19. Discarding unsafe, adulterated, or contaminated food**

- (a) A food that is unsafe, adulterated, or not honestly presented shall be discarded.
- (b) Food that is not from an approved source shall be discarded.
- (c) Time/Temperature Control for Safety Food shall be discarded if it:
  - (1) Exceeds the use by date on the package,
  - (2) Exceeds 41°F for 4 hours.
- (d) Food may be examined or sampled by the Department as often as necessary for enforcement of these rules and regulations. The Department may place an embargo on food in accordance with the provisions of Title 63 O.S. Section 1-1105.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-20. Storage or display of food in contact with water or ice**

Packaged food shall not be stored in direct contact with ice or water.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-21. Food and single service article storage**

(a) Except as specified in (b) and (c) of this Section, food and single service articles shall be protected from contamination by storing the food:

- (1) In a clean, dry location;
- (2) Where it is not exposed to splash, dust, or other contamination; and
- (3) At least 15 cm (6 inches) above the floor.

(b) Food in packages and working containers may be stored less than 15 cm (6 inches) above the floor on case lot handling equipment.

(c) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-22. Food and single service article storage, prohibited areas**

Food and single-service articles may not be stored:

- (1) In locker rooms;
- (2) In toilet rooms;
- (3) In dressing rooms;
- (4) In garbage rooms;
- (5) In mechanical rooms;
- (6) Under sewer lines that are not shielded to intercept potential drips;
- (7) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
- (8) Under open stairwells; or
- (9) Under other sources of contamination.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-23. Food display**

Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-24. Condiments, protection**

Condiments at a vending machine location shall be in individual packages.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

**310:258-7-25. Returned food and re-use of single service article**

(a) After being sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption.

(b) The permit holder shall take reasonable steps necessary to discourage individuals from returning food or beverages that have not been selected for purchase.

(c) Single-service articles may not be reused.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-7-26. Miscellaneous sources of contamination**

Food shall be protected from contamination not otherwise specified.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

## **SUBCHAPTER 9. EQUIPMENT CONSTRUCTION**

### **310:258-9-1. Single-service article characteristics**

Materials that are used to make single-service articles:

(1) May not:

(A) Allow the migration of deleterious substances, or

(B) Impart colors, odors, or tastes to food; and

(2) Shall be:

(A) Safe, and

(B) Clean.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-2. Nonfood-contact surfaces**

(a) Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

(b) Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

(c) Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

(d) Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-3. Equipment**

Equipment used in an unattended food establishment shall be designated as "commercial" or "commercial grade" by the manufacturer if the equipment is used to meet or maintain temperature for time/temperature control for safety food. Equipment shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-4. Cold holding capacities**

Equipment for holding cold food shall be sufficient in number and capacity to maintain food temperatures at 41°F or below.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-5. Cold holding equipment, design**

Each cold holding unit shall be equipped with:

(1) Self-closing doors that allow food to be viewed without opening the door of the unit,

(2) An automatic self-locking mechanism that prevents the consumer from accessing the food items inside the unit if the ambient temperature rises above 41°F. The locking mechanism shall not prevent the unit from being closed if it has been activated.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-6. Frozen holding equipment, design**

Each frozen holding unit shall be equipped with:

- (1) Self-closing doors that allow food to be viewed without opening the door of the unit,
- (2) An automatic self-locking mechanism that prevents the consumer from accessing the food items inside the unit if the ambient temperature rises above 32°F. The locking mechanism shall not prevent the unit from being closed if it has been activated.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-7. Temperature measuring devices for ambient air**

- (a) Ambient air temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to 1.5°C in the intended range of use.
- (b) Ambient air temperature measuring devices that are scaled only in Fahrenheit shall be accurate to 3°F in the intended range of use.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-8. Temperature measuring devices**

- (a) In a mechanically refrigerated storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature in the warmest part of a mechanically refrigerated unit.
- (b) Cold holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.
- (c) Temperature measuring devices shall be designed to be easily readable.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-9. Condenser unit, separation**

If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-10. Case lot handling equipment**

Equipment, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-11. Fixed equipment, spacing or sealing**

- (a) Equipment that is fixed because it is not easily movable shall be installed so that it is:
  - (1) Spaced to allow access for cleaning along the sides, behind, and above the equipment;

- (2) Spaced from adjoining equipment, walls, and ceilings a distance of not more than 1 millimeter or one thirty-second inch; or
- (3) Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.
- (b) Counter-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:
  - (1) Sealed to the counter; or
  - (2) Elevated on legs.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-12. Fixed equipment, elevation or sealing**

- (a) Floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a 15 centimeter (6 inch) clearance between the floor and the equipment.
- (b) This Section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.
- (c) Counter-mounted equipment that is not easily movable shall be elevated on legs that provide at least a 10 centimeter (4 inch) clearance between the table and the equipment.
- (d) The clearance space between the counter and counter-mounted equipment may be:
  - (1) 7.5 centimeters (3 inches) if the horizontal distance of the counter top under the equipment is no more than 50 centimeters (20 inches) from the point of access for cleaning; or
  - (2) 5 centimeters (2 inches) if the horizontal distance of the counter top under the equipment is no more than 7.5 centimeters (3 inches) from the point of access for cleaning.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-13. Good repair and proper adjustment**

- (a) Equipment shall be maintained in a state of good repair.
- (b) Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-9-14. Microwave ovens [REVOKED]**

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Revoked at 39 Ok Reg 1257, eff 9-11-22]

## **SUBCHAPTER 11. FACILITY CONSTRUCTION**

### **310:258-11-1. Location limitation**

An unattended food establishment shall be located in the interior of a building that is not accessible by the general public. Access to the establishment shall be limited to a defined population, including but not limited to employees or occupants of the building where the establishment is located.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-11-2. Video surveillance**

An unattended food establishment shall provide continuous video surveillance of areas where consumers view, select, handle and purchase products that provides sufficient resolution to identify situations that may compromise food safety or food defense.

(1) Video surveillance recordings shall be maintained and made available for inspection upon request by a representative of the State Department of Health or another applicable regulatory agency within twenty-four (24) hours of such request.

(2) Video surveillance recordings shall be held by the establishment for a minimum of fourteen (14) calendar days after the date of the surveillance.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-11-3. Floors, walls, and ceiling, characteristics**

(a) Materials for floor, wall, and ceiling surfaces under conditions of normal use shall be:

(1) Smooth, durable, and easily cleanable for areas where unattended food establishment operations are conducted.

(2) Light Reflectivity Value (LRV) of walls and ceiling surfaces shall be fifty percent (50%) or greater to aid in thorough cleaning of these areas.

(b) Except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.

(c) Mats and duckboards used on the floor shall be designed to be removable and easily cleanable.

(d) Floor and wall junctures shall be coved and closed to no larger than one (1) mm (one thirty-second 1/32 inch).

(e) Studs, joists, and rafters may not be exposed.

(f) Wall and ceiling covering materials shall be attached so that they are easily cleanable.

(g) Concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

(h) Utility service lines and pipes may not be unnecessarily exposed.

(1) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(2) Exposed horizontal utility service lines and pipes may not be installed on the floor.

(i) Attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-11-4. Exterior walls and roofs**

Perimeter walls and roofs of an establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-11-5. Lighting, intensity**

The light intensity shall be at least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-11-6. Approved plumbing system**

A plumbing system shall be designed, constructed, installed and maintained according to law.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-11-7. Receptacles**

- (a) Receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leak-proof, and nonabsorbent.
- (b) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, or single-service articles, and waste water shall be disposed of as specified by law.
- (c) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.
- (e) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-11-8. Storage areas, redeeming machines, receptacles, and waste handling units, location**

- (a) An area designated for refuse, recyclables, returnables, and, except as specified in (b) of this Section, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, and single-service articles to prevent the creation of a public health hazard or nuisance.
- (b) A redeeming machine may be located in the packaged food storage area or consumer area of an establishment, if food, equipment, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.
- (d) Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.
- (e) Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.
- (f) A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items and clean.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

## **SUBCHAPTER 13. ADMINISTRATION**

### **310:258-13-1. Preventing health hazards, provision for conditions not addressed**

- (a) If necessary to protect against public health hazards or nuisances, the Department may impose specific requirements in addition to the requirements contained in this Chapter that are authorized by law.
- (b) The regulatory authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the license applicant or license holder and a copy shall be maintained in the Department file for the unattended food establishment.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-2. When plans are required**

A license applicant or license holder shall submit to the Department properly prepared plans and specifications for review and approval before:

- (1) The construction of an unattended food establishment;
- (2) The conversion of an existing structure for use as an unattended food establishment.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-3. Contents of the plans and specifications**

The plans and specifications for an unattended food establishment shall include the following information to demonstrate conformance with Code provisions:

- (1) Intended menu;
- (2) Anticipated volume of food to be stored and sold;
- (3) Proposed equipment types, manufacturer, and model numbers (if available);
- (4) Proposed floor plan; and
- (5) Other information that may be required by the Department for the proper review of the proposed construction, conversion or modification, and procedures for operating an unattended food establishment.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-4. Trade secrets**

The Department shall treat as confidential in accordance with law, information that meets the criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-5. Preoperational inspections**

The regulatory authority shall conduct one or more preoperational inspections to verify that the unattended food establishment is constructed and equipped in accordance with the approved plans and is in compliance with law and this Chapter.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-6. Prerequisite for operation**

A person may not operate an unattended food establishment without a valid license to operate issued by the Commissioner of Health.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-7. Unattended food establishment license fee**

(a) The following are associated fees for unattended food establishments.

- (1) Initial - \$150.00
- (2) Renewal - \$100.00
- (3) Late Renewal - \$125.00

(b) Late renewal fees apply to any renewal application postmarked and received thirty (30) days after the expiration date of the license.

(c) A license not renewed within ninety (90) days of the date shall be ineligible for the renewal fee. Thereafter, the establishment shall be required to pay the initial fee. The establishment that has not had a valid license for one (1) year is considered a new establishment and a new Plan Review and the initial license fee shall be required.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-8. Form of submission**

A person desiring to operate an unattended food establishment shall submit to the regulatory authority a written application for a license on a form provided by the Department.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-9. Qualifications and responsibilities of applicants**

To qualify for a license, an applicant shall:

- (1) Be an owner, or officer of the unattended food establishment;
- (2) Comply with the requirements of this Chapter;
- (3) Allow access to the unattended food establishment;
- (5) Provide any required information;
- (6) Pay the applicable license fees at the time the application is submitted;
- (7) Pay the applicable license renewal fees.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-10. Contents of the application**

The application shall include:

- (1) The name, mailing address, telephone number, signature of the person applying for the license, and the name, mailing address, and location of the unattended food establishment;
- (2) Information specifying whether the unattended food establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- (3) The Department shall issue a license to the applicant after:
  - (A) A properly completed application is received;
  - (B) The required fees are received;
  - (C) The plans, specifications, and information, if applicable, are reviewed; and
  - (D) A pre-licensing inspection shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this Chapter and meets the Department's criteria for a license; or any
  - (E) Other information required by the regulatory authority.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-11. New, converted, or remodeled establishments**

For unattended food establishments that are required to submit plans, the Commissioner of Health shall issue a license to the applicant after:

- (1) A properly completed application is submitted;
- (2) The required fee is submitted;
- (3) The required plans, specifications, and information are reviewed and approved; and
- (4) A preoperational inspection shows that the establishment is built or remodeled in accordance with the approved plans; and
- (5) Specifications that the establishment is in compliance with this Chapter.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-12. Existing establishments, license renewal, and change of ownership**

The Commissioner of Health may renew a license for an existing unattended food establishment or may issue a license to a new owner of an existing unattended food establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with this Chapter.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-13. Denial of application for license, notice**

If an application for a license to operate is denied, the regulatory authority shall provide the applicant with a notice that includes:

- (1) The specific reasons and Chapter citations for the license denial;
- (2) The actions, if any, that the applicant must take to qualify for a license; and
- (3) Advisement of the applicant's right of appeal.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-14. Responsibilities of the license holder**

Upon acceptance of the license issued by the Commissioner of Health, the license holder in order to retain the license shall:

- (1) Post the license in a prominent public location inside the unattended food establishment;
- (2) Comply with the provisions of this Chapter;
- (3) Immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist as specified under OAC 310:285-13-26;
- (4) Allow representatives of the Department access to the unattended food establishment;
- (5) Comply with directives of the regulatory authority including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Department in regard to the license holder's unattended food establishment or in response to community emergencies;
- (6) Accept notices issued and served by the Department according to law;
- (7) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and
- (8) If applicable, submit the annual renewal application and pay all renewal license and late fees.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-15. Public notification**

The unattended food establishment shall have a sign readily visible at the automated payment station stating:

- (1) The name and mailing address of the business entity responsible for the establishment and to whom complaints and comments should be addressed; and
- (2) The telephone, email or web information for the responsible business entity, when applicable.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-16. Licenses not transferable**

A license may not be transferred from one person to another person, from one unattended food establishment to another, from one physical address to another, from one corporation to another, from one limited liability company or corporation to another, from one partnership to another, or from one type of operation to another.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-17. Competency of inspectors**

An authorized representative of the Department who inspects an establishment or conducts plan review for compliance with this Chapter shall have the knowledge, skills, and ability to adequately perform the required duties, and be licensed pursuant to 59 O.S., Section 1150.1 et seq.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-18. Allowed at reasonable times after due notice**

After the regulatory authority presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the regulatory authority to determine if the unattended food establishment is in compliance with this Chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this Chapter and to which the regulatory authority is entitled according to law.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-19. Refusal, notification of right to access, and final request for access**

If a person denies access to the regulatory authority, the regulatory authority shall:

(1) Inform the person that:

(A) The license holder is required to allow access to the regulatory authority as specified under OAC 310:285-13-18 of this Chapter,

(B) The regulatory authority's access is a condition of the acceptance and retention of an unattended food establishment license to operate as specified under OAC 310:285-11-14(4), and

(C) If access is denied, an order issued allowing access, hereinafter referred to as an inspection order, may be obtained according to law; and

(2) Make a final request for access.

[Source: Amended at 39 Ok Reg 1257, eff 9-11-22; Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-20. Refusal, reporting**

If after the regulatory authority presents credentials and provides notice as specified under OAC 310:285-13-18, explains the authority upon which access is requested, and makes a final request for access as specified in OAC 310:285-13-19, the person in charge continues to refuse access, the regulatory authority shall provide details of the denial of access on an inspection report form.

[Source: Amended at 39 Ok Reg 1257, eff 9-11-22; Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-21. Inspection order to gain access**

If denied access to an unattended food establishment for an authorized purpose and after complying with OAC 310:285-13-19, the Department may issue, or apply for the issuance of, an inspection order to gain access as provided in law.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-22. Documenting information and observations**

The regulatory authority shall document on an inspection report form:

(1) Administrative information about the unattended food establishment's legal identity, street and mailing addresses, type of establishment and operation as specified, inspection date, and other information that may be required; and

(2) Specific factual observations of violative conditions or other deviations from this Chapter that require correction by the license holder.

[Source: Amended at 39 Ok Reg 1257, eff 9-11-22; Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-23. Issuing report and obtaining acknowledgment of receipt**

At the conclusion of the inspection, the regulatory authority shall provide a copy of the completed inspection report and the notice to correct violations to the license holder or to the person in charge, and request a signed acknowledgment of receipt.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-24. Refusal to sign acknowledgment**

The regulatory authority shall:

(1) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified under OAC 310:285-13-23:

(A) An acknowledgment of receipt is not an agreement with findings,

(B) Refusal to sign an acknowledgment of receipt will not affect the license holder's obligation to correct the violations noted in the inspection report within the timeframes specified, and

(C) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the Department's historical record for the unattended food establishment; and

(2) Make a final request that the person in charge sign an acknowledgment receipt of inspectional findings.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-25. Public information**

Except as specified in OAC 310:285-13-4, the Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in law.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20]

### **310:258-13-26. Ceasing operations and reporting**

A license holder shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard exists because of an emergency such as a fire, flood, sewage backup, insufficient refrigerated food storage facilities available, substantial evidence or presence of a large number of insects or evidence of rodents contaminating food, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, interruption of electrical service for more than 4 hours, severe structural damage in the facility, gross unsanitary occurrence or condition, or other circumstance as determined by the Commissioner of Health, or his designee, that shall endanger public health.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-27. Resumption of operations**

If operations are discontinued as specified under OAC 310:285-13-26 or otherwise according to law, the license holder shall notify the regulatory authority before resuming operations.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]

### **310:258-13-28. Timely correction**

- (a) The license holder shall at the time of inspection correct any violation of this Chapter.
- (b) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may agree to or specify a longer time frame, not to exceed 10 calendar days after the inspection, for the license holder to correct a violation.
- (c) If corrections are not made according to (a) or (b) of this section, then the facility is subject to enforcement action.

[Source: Added at 39 Ok Reg 1257, eff 9-11-22]

**310:258-13-29. Documentation of correction**

- (a) After observing at the time of inspection a correction of a violation, the regulatory authority shall enter the violation and information about the corrective action on the inspection report.
- (b) After receiving notification that the license holder has corrected a violation, or at the end of the specified period of time, the Department shall document the information and enter the report in the Department's records.
- (c) In determining if a re-inspection is required, the Department shall count a violation number only once regardless of how many separate violations under the violation number are listed on the inspection sheet.

[Source: Added at 37 Ok Reg 1373, eff 9-11-20; Amended at 39 Ok Reg 1257, eff 9-11-22]