

**114045. Exclusion of Live Animals**

(a) Except as otherwise provided in subdivision (b), no live animal, bird, or fowl shall be kept or allowed in any food facility.

(b) Subdivision (a) does not prohibit the presence, in any room where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(c) Subdivision (a) does not apply to dogs under the control of uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while these employees are acting within the course and scope of their employment as private patrol persons.

(d) The persons and operators described in subdivisions (b) and (c) are liable for any damage done to the premises or facilities by the dog.

(e) The dogs described in subdivisions (b) and (c) shall be excluded from food preparation and utensil wash areas. Aquariums and aviaries shall be allowed if enclosed so as not to create a public health problem.

**114050. Maintenance**

All food facilities and all equipment, utensils, and facilities shall be kept clean, fully operative, and in good repair.

**114055. Requirements for HACCP Plans**

(a) Food facilities may operate pursuant to a HACCP plan.

(b) The person operating a food facility pursuant to a HACCP plan shall designate at least one person to be responsible for developing HACCP plans, verifying that HACCP plans are effective, and training employees.

(1) The designated person shall have knowledge in the causes of foodborne illness.

(2) The designated person shall have knowledge of HACCP principles and their application.

(c) A minimum of one person per shift shall be designated who is knowledgeable in the HACCP plan or plans adopted by the operator to be responsible for adherence to any HACCP plan used, take corrective actions when necessary, and assure monitoring records are properly completed.

(d) Food receiving, storage, display, and dispensing procedures may be addressed under a general HACCP plan if the foods have common hazards and critical control points.

(e) Food facilities may engage in the following only pursuant to a HACCP plan adopted pursuant to this section or Section 114056:

air barbecue facility are made of nontoxic materials, are constructed and maintained in a manner so they can be easily cleaned, and are kept clean and in good repair.

(e) Food and beverages served out of doors are dispensed from units approved by the enforcement officer. No other food may be prepared or stored in the out of doors, except for food cooked on the open-air barbecue unit.

(f) (1) Except as otherwise provided in paragraph (2), no live animals, birds, or fowl shall be kept or allowed in an area within 20 feet of any area where food or beverage is prepared, stored, kept, or served.

(2) Paragraph (1) does not prohibit the presence, in any area where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(3) Paragraph (1) does not apply to dogs under the control of uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrol persons.

(4) Those persons and operators described in paragraphs (2) and (3) are liable for any damage done to the premises or facilities by the dog.

(g) If the barbecue facility is a permanent structure, it is equipped with an impervious and easily cleaned floor surface that extends a minimum of five feet from the open-air barbecue facility on all open sides.

(h) The barbecue facility is located in an area reasonably protected from dust, as determined by the enforcement officer.

(i) The barbecue facility is not operated in, or out of, any motor vehicle or in any area or location that may constitute a fire hazard, as determined by the enforcement officer. For the purposes of this section, a motor vehicle does not include a stationary mobile food preparation unit, as defined in Section 113890.

(j) Sanitary facilities, including, but not limited to, toilet facilities and handwashing facilities shall be available for use within 200 feet of the barbecue facility and shall comply with all provisions of this chapter. Sanitary facilities that do not meet the requirements of this chapter shall not be located closer to the barbecue facility than the sanitary facilities required to be provided by this section.

#### **114195. Preemption of Air Pollution Control Requirements**

No air pollution control district or air quality management district shall require the enclosure of an open-air barbecue facility if the appropriate enforcement officer determines that the barbecue facility meets all requirements prescribed by Section 114190.

facility.

(c) Adequate cold food and hot food holding equipment shall be provided to insure proper temperature control during transportation and operation of the temporary food facility.

#### **114316. Live Animal Prohibition**

In addition to complying with Section 114045, live animals, birds, and fowl may not be kept or allowed within 6 meters (20 feet) of any area where food is stored or held for sale. All reasonable efforts shall be taken to exclude wild animals, birds, and fowl from the temporary food facility. This subdivision shall not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

#### **114317. Equipment Standards**

Food-related and utensil-related equipment used in conjunction with a temporary food facility shall be approved by the local enforcement agency.

#### **114318. Ice restrictions**

Ice used for refrigeration purposes may not be used for consumption in food or beverages.

#### **114319. Operating Requirements**

(a) Adequate and suitable facilities shall be provided for the storage of food, utensils, and related items. During periods of operation, supplies and nonpotentially hazardous foods in unopened containers may be stored adjacent to the temporary food facility, or in unopened containers in an approved nearby temporary storage unit. An "unopened container" means a factory-sealed container that has not been previously opened, and that is suitably constructed to be resistant to contamination from moisture, dust, insects, and rodents.

(b) All food-related and utensil-related items shall be stored at least 15 centimeters (6 inches) above the floor and in a manner that will protect these items from sources of contamination.

(c) During periods of inoperation, food shall be stored in one of the following methods:

(1) Within a fully enclosed temporary food facility that is in compliance with Sections 114030 and 114145.

(2) In lockable food storage compartments or containers meeting both of the following conditions:

(A) The food is adequately protected at all times from contamination, exposure to the elements, ingress of rodents and other vermin, and temperature abuse.

(B) The storage compartments or containers have been approved by the local enforcement agency.

(3) Within a permitted food facility or other facility approved by the local enforcement agency.

**114332.1. Frequency and Duration of Operations**

Nonprofit charitable temporary food facilities may operate up to four times annually. These four time periods shall not exceed 72 hours each.

**114332.2. Hand washing, Utensil Washing, Liquid Waste, Toilet, Food Contact Surface Requirements**

(a) Except where all food and beverage is prepackaged, hand washing, and utensil washing facilities approved by the enforcement officer shall be provided within nonprofit charitable temporary food facilities.

(b) Facilities for the sanitary disposal of all liquid waste shall be subject to the approval of the enforcement officer.

(c) At least one toilet facility for each 15 employees shall be provided within 60 meters (200 feet) of each nonprofit charitable temporary food facility.

(d) Food contact surfaces shall be smooth, easily cleanable, and nonabsorbent.

**114332.3. Operational Requirements**

(a) No potentially hazardous food or beverage stored or prepared in a private home may be offered for sale, sold, or given away from a nonprofit charitable temporary food facility. Potentially hazardous food shall be prepared in a food establishment or on the premises of a nonprofit charitable temporary food facility.

(b) All food and beverage shall be protected at all times from unnecessary handling and shall be stored, displayed, and served so as to be protected from contamination.

(c) Potentially hazardous food and beverage shall be maintained at or below 7 degrees Celsius (45 degrees Fahrenheit) or at or above 57.2 degrees Celsius (135 degrees Fahrenheit) at all times.

(d) Ice used in beverages shall be protected from contamination and shall be maintained separate from ice used for refrigeration purposes.

(e) All food and food containers shall be stored off the floor on shelving or pallets located within the facility.

(f) Smoking is prohibited in nonprofit charitable temporary food facilities.

(g) (1) Except as provided in paragraph (2), live animals, birds, or fowl shall not be kept or allowed in nonprofit charitable temporary food facilities.

(2) Paragraph (1) does not prohibit the presence, in any room where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(3) Paragraph (1) does not apply to dogs under the control of uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5

(commencing with Section 7580) of Division 3 of the Business and Professions Code, while these employees are acting within the course and scope of their employment as private patrol persons.

(4) The persons and operators described in paragraphs (2) and (3) are liable for any damage done to the premises or facilities by the dog.

(5) The dogs described in paragraphs (2) and (3) shall be excluded from food preparation and utensil wash areas. Aquariums and aviaries shall be allowed if enclosed so as not to create a public health problem.

(h) All garbage shall be disposed of in a sanitary manner.

(i) Employees preparing or handling food shall wear clean clothing and shall keep their hands clean at all times.

#### **114332.4. Additional Requirements**

The enforcement officer may establish additional structural or operational requirements as necessary to ensure that food is of a safe and sanitary quality.

#### **114332.5. Open-air barbecues**

Open-air barbecue facilities may be operated adjacent to nonprofit charitable temporary food facilities, and shall be subject to the requirements of Article 9 (commencing with Section 114185).

#### **114332.7. Authority to inspect and require permits**

Nothing in this article shall prevent a local enforcement agency from performing inspections of, or requiring permits for, any nonprofit charitable temporary food facility to ensure compliance with food safety provisions contained in this chapter.

### **Article 14. Produce Stands**

#### **114335. Scope**

This article governs sanitation requirements for produce stands as defined in this chapter.

#### **114340. Requirements**

(a) Produce stands operated by a producer selling or offering for sale produce or shell eggs, or both, are exempt from this chapter, provided the produce stand is operated on premises controlled by the producer.

(b) For purposes of this section, "producer" means a person or entity who produces shell eggs, fruits, nuts, or vegetables by practice of the agricultural arts upon land that the person or entity controls.

(c) Except as otherwise provided in this chapter, all other produce stands shall meet the requirements of Article 6 (commencing with Section 113975), Article 7 (commencing with Section 113990), and Article 8 (commencing with Section 114075).

(d) Notwithstanding subdivision (c), all other produce stands shall also meet all of the following requirements:

(1) All food shall be stored at least 46 centimeters (18 inches) off the floor, except that food stored in a walk-in refrigeration unit shall be stored at least 13 centimeters (5 inches) off the floor.

(2) Food preparation is prohibited.

(3) Foods, other than trimmed produce and shell eggs, shall not be kept at these food establishments. This shall not apply to retail dairy processing rooms.

(e) A produce stand shall have no more than one side open to the outside air during business hours.

## **Article 15. Certified Farmers' Markets**

### **114345. Scope**

This article governs general sanitation requirements for certified farmers' markets, as defined in this chapter.

### **114350. Requirements**

Certified farmers' markets shall meet the provisions of Article 6 (commencing with Section 113975) and, in addition, shall meet all of the following requirements:

(a) All food shall be stored at least 15 centimeters (6 inches) off the floor or ground or under any other conditions that are approved.

(b) Food preparation is prohibited at certified farmers' markets with the exception of the food samples. Distribution of food samples is allowed provided that the following sanitary conditions exist:

(1) Samples shall be kept in approved, clean, covered containers.

(2) All food samples shall be distributed by the producer in a sanitary manner.

(3) Clean, disposable plastic gloves shall be used when cutting food samples.

(4) Food intended for sampling shall be washed, or cleaned in another manner, of any soil or other material by potable water in order that it is wholesome and safe for consumption.

(5) Potable water shall be available for hand washing and sanitizing as approved by the local enforcement agency.

(6) Potentially hazardous food samples shall be maintained at or below 45 degrees Fahrenheit. All other food samples shall be disposed of within two hours after cutting.

(7) Utensil and hand washing water shall be disposed of in a facility connected to the public sewer system or in a manner approved by the local enforcement agency.

(8) Utensils and cutting surfaces shall be smooth, nonabsorbent, and easily cleaned or disposed of as approved by the local environmental health agency.

(c) Approved toilet and hand washing facilities shall be available within 60 meters (200 feet) of the premises of the certified farmers' market or as approved by the enforcement officer.

(d) No live animals, birds, or fowl shall be kept or allowed within 6 meters (20 feet) of any area where food is stored or held for sale. This subdivision does not apply

to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

(e) All garbage and rubbish shall be stored, and disposed of, in a manner approved by the enforcement officer.

(f) Notwithstanding Article 11 (commencing with Section 114250), vendors selling food adjacent to, and under the jurisdiction and management of, a certified farmers' market may store, display, and sell from a table or display fixture apart from the vehicle, in a manner approved by the local enforcement agency.

(g) Notwithstanding Section 113895, temporary food facilities may be operated as a separate event adjacent to, and in conjunction with, certified farmers' markets that are operated as a community event by a nonprofit organization or a local government agency. The organization in control of the event at which one or more temporary food facilities operate shall comply with Section 114314.

### **114351. Raw Shell Eggs**

Raw shell eggs may be stored and displayed without refrigeration if all of the following conditions are met:

(a) The eggs were produced by poultry owned by the seller and collected on the seller's property.

(b) The eggs are not placed in direct sunlight during storage or display.

(c) Retail egg containers are prominently labeled "REFRIGERATE AFTER PURCHASE" or the seller posts a conspicuous sign advising consumers that the eggs are to be refrigerated as soon as practical after purchase.

(d) Retail egg containers are conspicuously identified as to the date of the pack.

(e) The eggs have been cleaned and sanitized.

(f) The eggs are not checked, cracked, or broken.

(g) Any eggs that are stored and displayed at temperatures of 90 degrees Fahrenheit or below and that are unsold after four days from the date of pack shall be stored and displayed at an ambient temperature of 7 degrees Celsius (45 degrees Fahrenheit) or below, diverted to pasteurization, or destroyed in a manner approved by the enforcement agency.

(h) Any eggs that are stored and displayed at temperatures above 90 degrees Fahrenheit that are unsold after four days from the date of pack shall be diverted to pasteurization or destroyed in a manner approved by the enforcement agency.

(i) This section shall become operative on January 1, 1998.

## **Article 16. Swap Meet Prepackaged Food Stands**

### **114355. Requirements**

(a) Swap meet prepackaged food stands operated by a swap meet operator offering prepackaged food for sale at a swap meet shall meet the requirements of Article 6 (commencing with Section 113975), Article 7 (commencing with Section 113990), and Article 8 (commencing with Section 114075).

## **Article 18. Restricted Food Service Transient Occupancy Establishments, Agricultural Homestay**

### **114368. Scope**

This article governs general sanitation requirements for restricted food service transient occupancy establishments, as defined in Section 113870.

### **114370. Requirements**

Except as otherwise set forth in this article, restricted food service transient occupancy establishments shall meet the applicable requirements in Article 6 (commencing with Section 113975), Article 7 (commencing with Section 113990), and Article 8 (commencing with Section 114075).

### **114375. Not a Private Home**

For purposes of Section 114015, a restricted food service transient occupancy establishment shall not be deemed to be a “private home” solely because the owner or operator thereof resides on the premises or prepares on the premises food for his or her consumption and that of his or her family.

### **114380. Exemption from Required Signs in Guestrooms**

Notwithstanding Section 114021, restricted food service transient occupancy establishments shall not be required to post signs in toilet rooms in guestrooms.

### **114385. Exemption from Prohibition of Live Animals**

Restricted food service transient occupancy establishments shall be exempt from the provisions of Section 114045; provided, however, that no live animal, bird, or fowl shall be kept or allowed in any portion of the premises where food for the registered guests of the establishment is used, stored, served, offered for sale, or given away. Aquariums and aviaries shall be allowed if enclosed so as not to create a public health problem.

### **114390. Exemption from Equipment Standards**

Restricted food service transient occupancy establishments shall be exempt from Section 114065; provided, however, that the enforcement officer shall have the right to disapprove any new or replacement equipment that would create a public health problem.

### **114395. Exemption from Requirement for Employee Changing Room**

Restricted food service transient occupancy establishments shall be exempt from the provisions of Section 114135; provided, however, that no person shall store clothing or personal effects in any area used for the storage or preparation of food.