

TITLE 13. FOOD SAFETY

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History

<u>Revision</u>	<u>Authorizing Actions</u>	<u>Description</u>
12-Feb-25	LU-25-503	Codified programmatic procedures to implemented and enforce the MPTN Tribal Food Law (26 M.P.T.L.).

TITLE 13. FOOD SAFETY**CHAPTER 1. GENERAL PROVISIONS****§ 1. Purpose and Scope**

a. The purpose of this title is to define the programmatic procedures to ensure compliance with Mashantucket Pequot Tribal Food Law (26 M.P.T.L.).

- (1) 26 M.P.T.L., §1, states that the United States Food and Drug Administration (FDA) Model Food Code, including any subsequent amendments, is the Tribal Food Code incorporated as regulations of the Mashantucket Pequot Tribal Nation (MPTN).
- (2) This title is intended to specify procedural processes MPTN utilizes to ensure compliance with that code.
 - (a) In general, the procedural provisions of this title, and those stipulated within 26 M.P.T.L., replace those similar provisions of the FDA Food Code.
 - (b) However, provisions within the FDA Food Code that may have been modified by this title, shall still be utilized as guidance and shall be enforceable to the extent that requirements within this title do not specifically countermand provisions found within the FDA Food Code.

b. It is not the intent of this title to amend or change any technical provision of the FDA Food Code; however, this title does amend the definition of Food Establishment to exclude certain activities and facilities, when conducted and operated in compliance with the requirements specified, from formal licensing and inspection procedures. To the extent there are any other contradictions between this title and the FDA Food Code, the FDA Food Code will govern.

c. This title further supplements the FDA Food Code by including enforceable provisions required of Food Establishments either not addressed, or not addressed in sufficient detail, within the FDA Food Code; Specifically,

- (1) inspection and enforcement provisions to ensure proper operations of interceptor devices, required under MPTN's Building Code (2 L.U.R.), to minimize grease discharges;
- (2) requirements for the operation and maintenance of Frozen Dessert Machines;
- (3) provisions to clarify access for Service Animals as provided for under the federal Americans with Disabilities Act; and,
- (4) conditions for donated Food consistent with the federal Bill Emerson Good Samaritan Food Donation Act.

§ 2. Applicability

a. General

- (1) This title, to be known as the MPTN Food Code, has been adopted to establish programmatic procedures necessary to enforce compliance of 26 M.P.T.L., Tribal Food Law.
- (2) The provisions of this code shall not be deemed to nullify any provisions of tribal or federal law.
- (3) Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (4) Where, in any specific case, different sections of this title, or other titles of MPTN Land Use Regulation, specify different materials, methods of construction or other requirements, the most restrictive shall govern.

- (5) In the event that any part or provision of this title is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.
 - (6) The provisions of this code shall not be deemed in any way to waive the sovereign immunity of the Mashantucket Pequot Tribal Nation.
- b. This MPTN Food Code shall apply to all persons, operations, and facilities associated with preparing, storing, serving, vending, or otherwise offering Food, directly or indirectly, to the general public; including:
- (1) management and personnel, operations, and condition of facilities; and,
 - (2) construction, alteration, and installation of Equipment.
- c. No person may begin construction of, make alteration to, or convert an existing space into, a Food Establishment without a permit issued by the MPTN Land Use Commission (LUC);
- d. The LUC shall not issue a permit for the construction or alteration of a Food Establishment unless such activity meets the minimum requirements specified within this title.
- e. No Food Establishment may operate without a valid license issued by the Food Safety Manager (FSM).
- f. The provision of this title shall also be applicable to any Facility Owner providing resources, shared or unique, required of a Food Establishment to comply with this title.

§ 3. Authority

- a. Tribal Council Resolution TCR042503-01 of 02 adopted the United States Food and Drug Administration's (FDA) Model Food Code, including any subsequent amendments, as the Tribal Food Code.
- b. Title 26 of the Mashantucket Pequot Tribal Laws (26 M.P.T.L.) established implementation and enforcement provisions to ensure compliance with the Tribal Food Code.
 - (1) 26 M.P.T.L. ch. 1, §3 provides for free and open access to facilities and records to enable Inspectors to carry out the provisions of the law.
 - (2) 26 M.P.T.L. ch. 1, §4 established enforcement authority, including issuance of:
 - (a) verbal or written warnings or orders;
 - (b) other written actions including the imposition of fines not to exceed \$500 for each offense not abated; and,
 - (c) cease and desist orders or, in the event no other measure shall be reasonably effective, an order to cease the Food operation as necessary to prevent continued violations of the Tribal Food Code.
- c. Title 14 of the Mashantucket Pequot Tribal Laws (14 M.P.T.L.) established the LUC as an omnibus permitting body for regulation and oversight of Land Use Activities within Mashantucket.
 - (1) 14 M.P.T.L. ch. 3, §4a(9) identifies the Food Safety and Sanitation program as a voting member on the LUC.
 - (2) 14 M.P.T.L. ch. 2(b)(18) defines Land Use Activity to include any construction or other activity which materially changes the use, appearance, or occupancy of land or a Facility, or the intensity of use of land or a Facility; and any activity which is specifically designated as a Land Use Activity within a Land Use Regulation.
 - (3) 14 M.P.T.L. ch. 4(a) gives the LUC the authority to promulgate and adopt Land Use Regulations (L.U.R.).

- (4) Title 2 of MPTN's Land Use Regulations (2 L.U.R. - Building Code) mandates the installation and operation of measures to intercept grease in order to protect the integrity of building drainage systems.
- (5) The activities regulated herein are considered Land Use Activities under 14 M.P.T.L. ch. 2 § 1(b)(18)(a)(vi).

§ 4. Administration

a. Food Safety Manager (FSM)

The FSM shall be the person primarily responsible for administering and enforcing compliance with this title. As used within the FDA Food Code, the term 'regulatory authority' shall mean the FSM.

b. Inspectors

The FSM, from time to time, may employ or contract Inspectors, plan examiners, or other technical consulting contractors to assist in the performance of the duties established in this title. Such individuals shall have powers as delegated by the FSM and/or the MPTN Regulatory Affairs Officer.

c. Land Use Commission (LUC)

- (1) Pursuant to 14 M.P.T.L., ch. 3, §2, any Commissioner may inspect, monitor, meter, sample and examine records necessary to determine compliance with Land Use Regulations (L.U.R.).
 - (a) Provisions within this title, particularly those related to grease management, coincide with similar objectives of other Commissioners – Utilities, Fire Safety, Building Code Enforcement and Natural Resources Protection.
 - (b) Commissioners investigating concerns related to requirements of this title, within a Food Establishment, are to coordinate their actions with the FSM.
- (2) The LUC Administrator, pursuant to 14 M.P.T.L., Ch 9, shall coordinate Commissioner's efforts to confirm or compel compliance with this title when:
 - (a) compliance by a Food Establishment is dependent upon shared or unique resources provided by a building owner other than the owner of the Food Establishment; or
 - (b) the FSM declines to take action or the FSM has failed to compel compliance after exhausting all reasonable enforcement authorities granted to the program.

§ 5. Definitions

- a. For the purposes of this title all terms, unless otherwise indicated or required by context, shall have the meaning defined within most current version of the FDA Food Code (currently at ¶1-201.10(B)).
 - (1) Terms referenced as, "currently defined within the FDA Food Code," unless specifically noted as being amended within the definition provided herein, match the meaning defined within 2022 FDA Food Code and are provided for convenience.
 - (a) Terms modified with the phrase, "and generally means," have been condensed but maintain the intended meaning of the language within the FDA Food Code.
 - (b) The meaning of such terms, excluding provisions that have been amended, is intended to maintain consistency with subsequently adopted revisions to the FDA Food Code.
 - (c) The LUC Administrator may revise such terms within this regulation to maintain consistency with subsequently adopted versions of the FDA Food Code (see administrative changes provisions at 14 M.P.T.L. ch. 4, ¶ j).

- (2) Definitions provided that are not defined within 2022 FDA Food Code are unique to this regulation and thus subsequent revisions of adopted FDA Food Code will not affect their meaning.
- (3) Use of the singular shall also include the plural.

b. Definitions

- (1) “Accredited Program” means as currently defined within the FDA Food Code, and generally means a food protection manager certification program that has been evaluated and listed by a Conference for Food Protection recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs.
- (2) “Commissioner” means any person serving on the Land Use Commission (LUC) who represents a department or program discipline identified within 14 M.P.T.L., Ch. 3, § 4.
- (3) “Community Kitchen” means a shared-use facility equipped with stoves, ovens, sinks, refrigerators, tables and/or other Food preparation Equipment, made available for sporadic use by communal non-profit organizations located at a faith-based, charity-based, organization, community center, or other similar site.
 - (a) A Community Kitchen is an unlicensed facility at which only Exempt Activities may be conducted when in compliance with Chapter 8 of this title.
 - (b) Community Kitchens must have basic facilities such as adequate handwashing, Warewashing, refrigeration, and cooking Equipment.
 - (c) Community Kitchens must have a safe water supply, be protected from weather and animals, and be cleaned and sanitized each time prior to commencement of Food preparation.
 - (d) The floors, walls, ceilings, tables, shelves, and countertops shall be maintained in a clean and sanitary condition. Floors, tables, drainboards, and countertops shall be maintained with cleanable materials impervious to moisture.
 - (e) Provision shall be made for safe storage of Food during an event. Refrigerated storage shall be provided which shall be capable of maintaining a temperature of 41° F (5° Celsius) or below.
 - (f) Storage of Food items, other than non-perishable condiments and spices, is not allowed within a Community Kitchen.
 - (g) Community Kitchens must display a “Cooking for Groups,” or similar food safety poster, approved by the FSM, mounted at a prominent location within the kitchen.
- (4) “Cottage Food” means non-Time/Temperature Control for Safety (non-TCS) Food that is prepared in a home or Community Kitchen environment and offered for sale person-to-person, from the producer, or a designee with extensive knowledge about Food and its preparation, to the actual consumer.
 - (a) Food items that qualify as Cottage Food are Foods that are NOT Time/Temperature Control for Safety Food (non-TCS Food) such as:
 - (i) Baked goods without custard, cream filling or buttercream frosting;
 - a. breads (except stuffed breads and sandwiches);
 - b. cookies, brownies and bars;
 - c. cakes, muffins and donuts; and,
 - d. fruit pies (not requiring refrigeration).
 - (ii) Confections and Candies
 - a. hard candy, and gummies
 - b. chocolates, fudge, caramels, peanut brittle, and praline; and,
 - c. chocolate-covered pretzels, marshmallows, graham crackers, Rice Krispies treats,

- strawberries, or other non-TCS Foods.
- (iii) Preserved Fruits;
 - a. dehydrated fruits; and,
 - b. jams, jellies and preserves (as defined in 21 CFR 150) in glass jars that can be stored at room temperature.
 - (iv) Dry Bulk Items;
 - a. dried pasta, nuts, granola;
 - b. dry herbs and dry herb mixtures; and,
 - c. roasted coffee beans, tea leaves, or herbs for teas.
 - (v) Other;
 - a. popcorn, cotton candy, and
 - b. other non-TCS Food that is determined by the FSM to qualify under this definition.
- (b) Food items that do not qualify as Cottage Food and cannot be sold without a license from the FSM:
- (i) any item containing meat, poultry or fish, regardless of being dried or smoked;
 - (ii) stuffed breads and sandwiches;
 - (iii) pumpkin, squash or sweet potato pies;
 - (iv) pizza;
 - (v) cheesecake;
 - (vi) items containing:
 - a. custard or cream filling;
 - b. frosting or fillings made with cream cheese; or
 - (vii) any other TCS Food.
- (c) The FSM shall have the final authority in determining whether an item is a TCS Food not eligible as a Cottage Food and may prevent individuals from selling, sampling or serving those Foods without a License.
- (5) “Critical Control Point” means, as currently defined within the FDA Food Code, a point or procedure in a specific Food system where loss of control may result in an unacceptable risk.
- (6) “Exempt Activity” means a Food service activity at locations specifically identified within Chapter 8 of this title that, when operated in full compliance with the applicable requirements stipulated within that chapter, is excluded from the definition of Food Establishment and thus does not require licensing by the FSM.
- (a) Exempt Activities remain subject to the inspection and enforcement provisions specified within this title and the Tribal Food Law (26 M.P.T.L.).
 - (b) Exempt Activities that are not fully compliant with the applicable requirements within Chapter 8 are Food Establishments subject to the full licensing and enforcement provisions within this title.
- (7) “Facility Owner” means the landlord who provides facilities or equipment for which a tenant Food Establishment relies on for the purposes of compliance with this title.
- (8) “Fats, Oils and Grease” or “FOG” means any fats, oils and grease generated from the Food preparation process. FOG is further categorized as either:
- (a) renderable material that can be recovered and sent to renderers for recycling; or,

- (b) non-renderable grease that, due to the difficulty in cleaning and/or the potential introduction of contaminants, is unacceptable for rendering. Typically drained through sinks, washbasins, and floor drains to the sewer system it causes a variety of operation and maintenance problems. Non-renderable grease may have uses as a supplemental fuel when properly collected and thickened.
- (9) "FOG Best Management Practices" or "BMPs" means kitchen practices, including schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of pollutants, including Fats, Oils and Grease (FOG) to the sewer facilities. Routine employee training on those kitchen practices are essential in minimizing FOG discharge.
- (10) "FOG Control Unit" or "FCU" means a wastewater pretreatment unit designed, installed and maintained to mitigate discharge from sources of Fats, Oils, and Grease.
- (a) Gravity Grease Interceptor (GGI) – a multi-compartmental plumbing apparatus or appliance, constructed in differing sizes, installed underground and outside the Food Establishment, connected to a sanitary drainage system to intercept FOG from a wastewater discharge and is identified by liquid volume, at minimum thirty-minute retention time, baffle(s), a minimum of two compartments, and gravity separation.
- (b) Hydromechanical Grease Interceptor (HGI) – a.k.a. passive or manual grease traps) – a plumbing apparatus typically installed within the Food Establishment to intercept FOG from the wastewater discharge, and is identified by flow rate, separation and retention efficiency.
- (c) Automatic Grease Recovery Unit (AGRU) are HGIs that remove grease from the unit by active, mechanical, or electrical means to facilitate removal for disposal.
- (d) Alternative Grease Treatment Technology are alternate units specifically approved by the LUC based on certification, by a 3rd party, of performance testing completed in accordance with an industry accepted standard (e.g. ASME A112.14.6); and, proven 'real-world effectiveness' demonstrated by a history of effectiveness at other establishments. At this writing the LUC has not approved and is unaware of any alternative units proven to be more efficient than the types identified above.
- (11) "Food" means, as currently defined within the FDA Food Code, 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.
- (12) "Food-Contact Surface" means, as currently defined within the FDA Food Code, any surface, Equipment, implement or container used in the storage, preparation, transportation, dispensing, sale, or service of Food; or from which Food may drain, drip, or splash into a Food or onto a surface normally in contact with Food.
- (13) "Food Employee" means, as currently defined within the FDA Food Code, an individual working with unPackaged Food, Food Equipment or Utensils, or Food-Contact Surfaces.
- (14) "Food Establishment" means, as currently defined within the FDA Food Code, and as amended by ¶(b)(viii) below.
- (a) Food Establishment means facilities and operations that:
- (i) store, prepare, package, serve, or vend Food directly to the consumer, or otherwise provide Food for human consumption such as a restaurant; satellite or catered feeding location; catering operation if the operation provides Food directly to a Consumer or to a conveyance used to transport people; market; vending location; institution; or Food bank; and

- (ii) relinquish possession of Food to a Consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.
- (b) Food Establishment does not include:
- (i) an establishment that offers only pre-Packaged Foods that are not TCS Foods;
 - (ii) a produce stand that only offers whole, uncut fresh fruits and vegetables;
 - (iii) a Food Processing Plant as defined within the FDA Food Code;
 - (iv) a kitchen in a private home if only Food that is not TCS Food is prepared for sale or service at a function such as a religious or charitable organization's bake sale if the consumer is informed by a clearly visible placard at the sales or service location that Food offered was prepared in a kitchen that is not subject to regulation and inspection by the FSM;
 - (v) an area where Food that is prepared as specified within subparagraph (b)(iv) of this definition is sold or offered for human consumption;
 - (vi) a kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers Food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed six (6), breakfast is the only meal offered, the number of guests served does not exceed eighteen (18), and the Consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the Food is prepared in a kitchen that is not regulated and inspected by the FSM;
 - (vii) a private home that receives catered or home-delivered Food; or,
 - (viii) activities at the facilities identified within Chapter 7 and Chapter 8 of this title when operated in full compliance with the applicable requirements specified within those chapters.
- (15) "Food Safety Manager" or "FSM" shall mean the person identified within Title 1 of these Land Use Regulations (1 L.U.R., ch. 1, §3) as the Commissioner representing Environmental Health who is, or shall designate a person who is, qualified and trained to properly identify violations of this title through plan review and inspection of a Food Establishment.
- (a) As used in this title, FSM shall also mean Inspectors, plan examiners, or other technical consulting contractors delegated by the FSM, and/or the MPIN Regulatory Affairs Officer, to assist in the performance of the duties established in this title.
 - (b) The FSM is the same as the Food Safety and Sanitation Manager identified within MPIN's Tribal Food Law (26 M.P.T.L.).
- (16) "HACCP plan" means, as currently defined within the FDA Food Code, a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.
- (17) "Heat Treatment Dispensing Freezer" or "HTDF" -means a self-contained dispensing freezer with a product reservoir that freezes the products, dispenses frozen dairy products, and maintains microbiological quality by elevating the temperature of the product using heating methods that are an integral part of the dispensing freezer.
- (18) "Imminent Health Hazard" means, as currently defined within the FDA Food Code, 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:

- (a) The number of potential injuries, and
 - (b) The nature, severity, and duration of the anticipated injury.
- (19) “In-business” means, when determining whether Cottage Food vending is an Exempt Activity or requires registration by the FSM, a vendor, including all members of the same household, who offers Cottage Food for sale:
- (a) at more than six (6) regularly occurring annual events;
 - (b) at more than ten (10) total events within any calendar year;
 - (c) under a business name; or
 - (d) who also offers Food within any jurisdiction in a manner that requires licensing or registration.
- (20) “Inspector” means the FSM or other staff who are, qualified and trained to properly identify violations of this title through plan review and inspection of a Food Establishment.
- (21) “MPTN Food Code” means the United States Food & Drug Administration (FDA) Model Food Code, and any subsequent amendments, as amended or otherwise clarified by this title of MPTN Land Use Regulation.
- (22) “Packaged” means, as currently defined within the FDA Food Code, bottled, canned, cartoned, bagged, or wrapped, whether Packaged in a Food Establishment or a Food Processing Plant. “Packaged” does not include wrapped or placed in a carry-out container to protect the Food during service or delivery to the consumer, by a Food Employee, upon consumer request.
- (23) “Person in Charge” or “PIC,” means as currently defined within the FDA Food Code, the individual present at a Food Establishment who is responsible during operations, and as amended for clarity below:
- (a) Unless otherwise determined by the FSM, the Person in Charge shall be a Certified Food Protection Manager who has shown proficiency of required information through passing a test that is part of an Accredited Program.
 - (b) The FSM may determine, based on the nature of the operation and the extent of Food preparation, that the PIC need not be a Certified Food Protection Manager when:
 - (i) the establishment poses minimal risk of causing or contributing to foodborne illness (e.g. typically Risk Category 1 facilities) or,
 - (ii) during specific time periods when the establishment routinely does not prepare, package or serve Food posing a more than minimal risk of causing or contributing to foodborne illness (e.g. limited late night menu consisting of only Risk Category 1 Food).
- (24) “Private Event” means a social gathering, such as a party, picnic, meeting or potluck held by a family, neighborhood, community, employee group, religious congregation, social organization or club where:
- (a) the event is not open or advertised to the general public;
 - (b) the gathering is limited to members and guests of a family, organization, or club; and
 - (c) Food is prepared by and served to members of the group and that group’s invited guests without compensation.
- (25) “Proof of Water Potability” means:
- (a) when the source is a public water utility, a copy of a water bill that shows the address of the source, or, if a tenant and the landlord will not provide a bill, a letter sent by the landlord that includes the full address of the source location and the name of the water company that provides the service; or,

- (b) when the source is a private well, a recent, within 1-year, laboratory test report for a water sample collected and analyzed by a certified drinking water laboratory showing that the water supply well is free of contaminants and safe to drink.
- (26) “Time/Temperature Control for Safety Food” or “TCS Food” means, as currently defined within the FDA Food Code, and generally means: a Food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

CHAPTER 2. CONSTRUCTION OR MODIFICATION

§ 1. Land Use Permit

Any person seeking to construct a new, or make alterations to an existing, Food Establishment shall obtain a permit from the LUC in accordance with the process and procedures specified within MPTN’s Land Use Law (14 M.P.T.L.).

§ 2. Plan Review

- a. Applicants proposing to construct or alter a Food Establishment
- b. shall, in addition to the standard Land Use application requirements specified within 1 L.U.R., ch. 3, submit:
 - (1) food service plans that include:
 - (a) a floor plan accurately drawn to a minimum scale of 1/4 inch = 1 foot indicating the proposed layout including sinks, counters, preparation and storage areas, Equipment and fixtures, serving and seating areas, and toilet facilities; and,
 - (b) Equipment specifications noting proposed manufacturer, model number, location, dimension, performance capacity, and installation requirements (note: Food Equipment must be certified or classified for sanitation in conformance with a recognized American National Standard by an American National Standards Institute (ANSI) accredited certification program);
 - (2) a fully completed Food Establishment Plan Review Form;
 - (3) the proposed menu (including seasonal, off-site and banquet menus) and anticipated volume of Food to be stored, prepared, and sold or served; and,
 - (4) a FOG Management Plan detailing storage, handling and management of waste cooking oils, and control measures to minimized the discharge of Fats, Oils, and Grease (FOG) to the sanitary system (see Chapter 9).
- c. The FSM will complete their evaluation, utilizing the Food Establishment Plan Review Guide¹, as part of the LUC permitting review process;
- d. Evaluation of the FOG Management Plan shall be coordinated with other applicable Commissioners (e.g. Utilities, Fire Safety, Building Code Enforcement, Natural Resources Protection and applicable facility management representatives).
- e. The LUC will not act on a permit application involving a Food Establishment until the FSM is satisfied that the facilities and layout depicted within project plans will be suitable for licensing as a Food Establishment.

¹ Food Establishment Plan Review Guides are developed by The Conference for Food Protection (CFP) for use by the FDA, other regulatory agencies. The current versions may be downloaded from MPTN’s Environmental Health webpage at: <https://landuse.mptn-nsn.gov/environmental-health-program/>

- (1) All non-residential Land Use Applications involving food service Equipment will be reviewed as a proposed Food Establishment unless the Application clearly states that the proposed facility will not operate in a manner that would require licensure under this title (e.g. proposes to operate solely as a Community Kitchen). Any Applicant who does not originally apply to LUC for a Land Use Permit as a Food Establishment, but decides later to operate as a Food Establishment, must apply for either a new permit or permit modification before it may operate as a Food Establishment.
- (2) Even if licensure is not required, Applicants are urged to consider “future proofing” their kitchen by applying as a proposed Food Establishment; otherwise, issuance of a Land Use Permit will not ensure that the facility can ever be operated as a Food Service Establishment.

CHAPTER 3. LICENSING

§ 1. Required

No person may operate a Food Establishment without a valid license to operate issued by the FSM.

- (1) The issuance of the license does not provide exemption from other Mashantucket Tribal laws, ordinances or regulations.
- (2) A license granted by the FSM is not transferable or assignable.
- (3) Licenses erroneously issued by the FSM are deemed to have been issued in error and are void and must be returned.

§ 2. Application

a. Completed applications must be submitted at least thirty (30) days prior to the planned opening date of the Food Establishment, beginning date of the Temporary Event, or otherwise commencement of catering or vending within Mashantucket.

- (1) At the discretion of the FSM, applications maybe accepted after the 30-day deadline; however,
- (2) if accepted late, there is no guarantee that the application can be processed before the applicants desired commencement of operation date.

b. Applications must be submitted utilizing the applicable forms provided by the FSM.

- (1) Submissions must be complete containing all information requested within the form.
- (2) Submissions must include, and highlight, any changes/updates that were made subsequent to Land Use approval.
- (3) An Application will not be deemed complete until all information requested within the form and any additional information requested by the FSM, upon review, is provided.
- (4) Failure to provide all requested information in a timely manner will result in rejection of the application.

§ 3. Types

a. Permanent Food Establishments

- (1) Food Establishments will be assigned categories according to the degree of risk. The risk shall be one (1) through four (4), with four (4) being the highest risk category.

- (a) In general, an establishments risk category will be set utilizing the Risk Categorization of Food Establishments table within Annex 5 of the FDA Food Code (summarized below):

Risk Category	Description
1	Examples include most convenience store operations, hot dog carts, coffee shops, and bars. Establishments that serve or sell only pre-Packaged, non-TCS foods (non-Time/Temperature Control for Safety Foods). Establishments that prepare only non-TCS Foods. Establishments that heat only commercially processed, TCS Foods for hot holding. No cooling of TCS Foods.
2	Limited menu. Most products are prepared/cooked and served immediately. May involve hot and cold holding of TCS Foods after preparation or cooking. Complex preparation of TCS Foods requiring cooking, cooling, and reheating for hot holding is limited to only a few TCS Foods.
3	Extensive menu and handling of raw ingredients. Complex preparation including cooking, cooling, and reheating for hot holding involves many TCS Foods. Variety of processes requiring hot and cold holding of TCS Food.
4	Includes establishments serving a highly susceptible population or that conduct specialized processes (e.g., smoking and curing; reduced oxygen packaging for extended shelf-life).

- (b) New establishments that would otherwise be grouped in a category as described in paragraph (a) will be assigned to a risk category one level higher until history of active managerial control of foodborne illness risk factors is achieved and documented.
- (c) Establishments that would otherwise be grouped as Category 4 but have shown through historical documentation to have achieved active managerial control of foodborne illness risk factors may, at the discretion of the FSM, be placed within Category 3.
- (d) Establishments with repeated history of violations will, at the discretion of the FSM, be placed within a higher risk category until an improved history of active managerial control of foodborne illness risk factors is documented.

b. Mobile Food Establishments

- (1) This category includes all food services operating from a pulled, pedaled, pushed or motorized movable vehicle or watercraft or a portable structure, including, but not limited to:
- (a) food trucks, food carts, ice-cream trucks/carts, and lemonade trucks/carts; and,
 - (b) caterers selling and serving Food directly out of their vehicles.
- (2) Mobile Food Establishments do not include:
- (a) operations selling only raw agriculture (fresh, uncut produce); or
 - (b) Packaged Food and canned or bottled non-alcoholic drinks that do not require temperature control; and,
 - (c) vehicles used by caterers for transport of Food from their commissary or service base.
- (3) Unless all Food is prepared and cooked in the vehicle/cart, applications shall include a copy of:
- (a) the food service license issued by the jurisdiction where the food prep-kitchen is located; and,
 - (b) a copy of the kitchen’s most recent food safety inspection report;
- (4) Additional information that must be submitted with the application includes:
- (a) a copy of the proposed menu;
 - (b) proof of training as specified within Chapter 4, §4 of this title; and,

- (c) depending on the source, Proof of Water Potability.
- c. Temporary Events
 - (1) This category includes any food services that operate for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.
 - (2) Food Service Trade Shows are a sub-category involving the food service industry where the event sponsor pre-screens vendor eligibility. One license will be issued to the sponsor for such events. The sponsor shall be responsible for compliance with the MPIN Food Code by its vendors.
 - (3) Unless all Food is prepared and cooked on location, applications shall include a copy of:
 - (a) the food service license issued by the jurisdiction where the food prep kitchen is located; and,
 - (b) a copy of the kitchen's most recent food safety inspection report;
 - (4) Additional information that must be submitted with the application includes:
 - (a) a copy of the proposed menu;
 - (b) proof of training as specified within Chapter 4, §4 of this title; and,
 - (c) depending on the source, Proof of Water Potability.
- d. Catering
 - (1) Permanent Food Establishments located within Mashantucket may conduct catering operations when specifically licensed to do so within their permanent Food Establishment license and are not required to submit applications for each event.
 - (2) Caterers with permanent facilities located outside of Mashantucket must receive a license issued by the FSM prior to catering each event within Mashantucket.
 - (3) License applications must be submitted for each event on forms provided by the FSM, and shall include a copy of:
 - (a) the caterer's food service license issued by the jurisdiction where the caterer's kitchen is located;
 - (b) the caterer's most recent food safety inspection report;
 - (c) a copy of a valid Food Protection Manager's certification; and,
 - (d) the proposed menu for the event.
 - (4) Applications must be submitted no less than thirty (30) days prior to the event, or no less than fourteen (14) days prior when the caterer has previously been licensed for an event within Mashantucket.
- e. Vending Machines

Vending machines dispensing TCS Food, including beverages dispensed to an open container or cup, such as coffee, soda, soup or hot chocolate require a license unless operated by a licensed Food Establishment.

§ 4. Initial Issuance

a. General

A license may only be issued when the applicant has identified Persons In Charge that will ensure operation of the establishment will, at all times, be in compliance with the MPIN Food Code; and, the Employee Food Safety & Sanitation training, specified within Chapter 4, has been completed.

b. Permanent Food Establishments

- (1) The FSM shall conduct a pre-operational inspection to determine compliance with the approved plans and specifications and with the requirements of this regulation and other applicable laws and regulations.
 - (2) A license will only be issued when, based upon an inspection, the FSM determines that the establishment has been fully constructed in compliance with the approved plans and meets all the requirements of the MPTN Food Code.
 - (3) Food Service licenses will be issued for a period not to exceed one-year. Generally, licenses will be issued to coincide with the tribal fiscal year, expiring on September 30th.
 - (4) In circumstances where it is found that the construction is substantially complete and temporary measures can be implemented to ensure compliance with the requirements of the MPTN Food Code, the FSM may issue a conditional license for up to 90 days.
 - (a) If the conditional licensee fails to meet the conditions specified, the FSM will void the license, requiring the establishment to cease operation.
 - (b) Under no circumstance shall a conditional license be issued if the FSM suspects conditions that could present a serious danger to the health and safety of the public.
- c. Mobile Food Establishments
- (1) The FSM shall conduct a pre-operational inspection to determine compliance with the requirements of this regulation and other applicable laws and regulations.
 - (2) A license may only be issued when, based upon an inspection, the FSM determines that the mobile Food Establishment meets all the requirements of the MPTN Food Code;
 - (3) Duration of Licenses - Mobile Food Establishments:
 - (a) that are only vending at individual events shall be issued a license for the period not to exceed the length of the event; or
 - (b) when proposing to vend on a routine schedule shall be issued a license for a period not to exceed one-year.
- d. Temporary Events
- (1) The FSM shall conduct a pre-event inspection to determine compliance with the requirements of this regulation and other applicable laws and regulations.
 - (2) A license may only be issued when, based upon an inspection, the FSM determines that the temporary layout meets all the requirements of the MPTN Food Code;
 - (3) Licenses will be issued for a period not to exceed the length of the event.
- e. Catering
- Unless authorized within a permanent Food Establishment's license issued by the FSM, catering service shall be licensed for a period not to exceed the length of the event.

§ 5. License Renewal

- a. Licenses issued for a period of one-year must be renewed annually and will only be issued upon demonstrated compliance with the MPTN Food Code.
 - (1) Applications for renewal shall be made utilizing the same forms required for the initial issuance.
 - (a) Facilities proposing to make changes to their operation or involve significant menu changes must submit applications no later than thirty (30) days prior to expiration of their current license.

- (b) Facilities proposing no changes to menu and operations must submit applications to the FSM no later than fourteen (14) days prior to expiration of their current license.
- b. It is the responsibility of the licensee to renew licenses prior to the expiration date.
- c. The license for a Food Establishment will not be renewed until all enforcement actions have been resolved and outstanding penalties paid.
- d. Provisional License
 - (1) The FSM, based on review of a Food Establishment's compliance status at the time of renewal or compliance history since the current license had been issued, may decide to issue a provisional license for a period of not more than six (6) months.
 - (a) If the provisional licensee fails to meet the conditions specified, the FSM will void the license, requiring the establishment to cease operation.
 - (b) Under no circumstance shall a provisional license be issued if the FSM suspects conditions that could present a serious danger to the health and safety of the public.
 - (2) At any time prior to the provisional license expiring the FSM may issue an unconditional license for the remaining portion of the year, when determined that the Food Establishment is completely compliant with the Food Code and/or when operations leading to previous issues of persistent non-compliance have been corrected.

§ 6. Notice of License Denial

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

- (1) the specific reasons and relevant regulation citations for the license denial;
- (2) the actions, if any, that the applicant must take to qualify for a license; and,
- (3) notice of the applicant's right of appeal and the process and time frames for appeal that are provided in the MPTN Food Law (26 M.P.T.L., §§5 & 6, also see Ch. 10, §1h. of this Title).

CHAPTER 4. OPERATIONS

§ 1. General

- a. Food Establishments, at all times, shall maintain their facility, Equipment and operations in compliance with the MPTN Food Law (26 M.P.T.L.) and this title of MPTN Land Use Regulation.
- b. Food Establishments shall immediately discontinue operations and notify the FSM if an Imminent Health Hazard is suspected.
- c. Mobile Food vendors must follow MPTN's Mobile Food Trucks Guidelines. Failure to comply with the guidelines may result in termination of the operation on the reservation.
- d. Vendors at a temporary event must follow the MPTN's Temporary Food Event Guidelines. Failure to comply with the guidelines may result in termination of the vendor's operation.
- e. Caterers follow the MPTN's Catering Guidelines. Failure to comply with the guidelines may result in termination of the vendor's operation.

§ 2. Changes to Operation

a. A Food Establishment license is issued upon review of facility layout, Equipment, storage, and Food preparation and handling operations necessary for all menu items. A change in food service operation (e.g. adding breakfast, buffets, takeout operations), an Equipment change, or a change involving specialized process methods must be communicated to the FSM.

- (1) No Food Establishment shall change operations to a different Risk Category without prior written approval by the FSM.
- (2) Any change that affects Food preparation may require a complete plan review and approval, as outlined within Chapter 2 of this title,

b. Physical changes may require additional permitting in accordance with MPTN Land Use Law (14 M.P.T.L.).

§ 3. Supervision

a. Person in Charge (PIC)

- (1) A Person in Charge (PIC), either the Licensee or person designated by the Licensee, must be present at the Food Establishment during all hours of operation.
 - (a) PICs must be identified prior to opening of a new Food Establishment.
 - (b) A Licensee with two or more separately licensed Food Establishments located on the same premises that only prepare, package, and serve Risk Category 1 Foods, may designate a single PIC to be present during all hours of operation for the establishments on the premises.
 - (c) Establishments that serve or sell non-TCS Food and retail stores selling pre-Packaged TCS Food are exempt from the PIC requirement.
- (2) The PIC is ultimately responsible for all employees, operations and condition of areas related to Food preparation within the Food Establishment. Specific responsibilities are detailed at Chapter 2 of FDA's Food Code within section titled Duties (currently § 2-103.11: Person in Charge).

b. Certified Food Protection Manager

- (1) Unless otherwise determined, pursuant to paragraph (3) below, the Person in Charge shall be a Certified Food Protection Manager who has shown proficiency of required information through passing a test that is part of an Accredited Program.
- (2) The Certified Food Protection Manager shall be able to demonstrate, to the FSM, knowledge of: foodborne disease prevention; employee health requirements; application of HACCP principles; proper Food handling, preparation and storage; food safety training; and all other requirements of the MPTN Food Code.
- (3) The Food Safety Manager may determine, based on the nature of the operation and the extent of Food preparation, that the PIC need not be a Certified Food Protection Manager when:
 - (a) the establishment poses minimal risk of causing or contributing to foodborne illness (e.g. typically Risk Category 1 facilities) or,
 - (b) during specific times periods when the establishment routinely does not prepare, package or serve Food posing a more than minimal risk of causing or contributing to foodborne illness (e.g. limited late night menu consisting of only Risk Category 1 Food).

§ 4. Training

a. The Person in Charge (PIC) is responsible to ensure Food Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties.

- (1) Food Employees are required to be re-trained every 3 years.
 - (2) Training documentation must be available upon request by the FSM.
- b. The PIC is responsible to ensure that Food Employees are informed of their obligation to report, in accordance with law, information about their health and activities as they relate to diseases transmissible through Food (see Chapter 5, Employee Health Policy, of this title).
- c. The FSM must approve the training program for Food Employees at a Food Establishment not required to have a Certified Food Protection Manager.

§ 5. Imminent Health Hazard

- a. Ceasing Operations and Reporting:
- (1) A PIC shall immediately discontinue operations and notify the FSM if an Imminent Health Hazard may exist because of an emergency, such as fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross unsanitary occurrence or condition, or other circumstance that may endanger public health.
 - (2) A Licensee need not discontinue operations in an area of an establishment that is unaffected by the Imminent Health Hazard.
- b. Resumption of Operations
- (1) If operation is discontinued, the Licensee must obtain approval from the FSM before resuming operations.
 - (2) If operation is discontinued and the Licensee is unable to mitigate the health hazard(s) within the time period established by the FSM, the FSM will suspend the license, in accordance with the requirements of the MPTN Food Law.

§ 6. HACCP Plans

- a. HACCP plans are required to be approved by the FSM when:
- (1) a Food Establishments seeks to utilize specialized processing methods identified at § 3-502 of the FDA Food Code (e.g. smoking and other methods of preservation, curing, reduced oxygen packaging, rendering a non-TCS Food by acidification or other means, and sprouting);
 - (2) a Food Establishment seeks to store or display Molluscan shellfish that are offered for human consumption per § 4-204.110; or,
 - (3) the FSM determines, based on plan review, inspection findings, or a variance request, that preparation processes are being undertaken that pose an increased health risk.
- b. HACCP Plans shall be submitted for approval by the FSM and contain all information specified within the applicable section of the FDA Food Code (currently § 8-201.14: Contents of a HACCP Plan).
- c. Verification and Validation – The purpose of a HACCP plan is to prevent food safety hazards and the purpose of verification is to provide a level of confidence that the plan is based on scientific principles and is adequate to control the hazards associated with products and processes.
- (1) Verification activities can include things such as a systematic verification that prerequisite programs are functioning properly and effectively, verification that any Critical Limits are adequate to control a stated hazard, and audits of any HACCP records.
 - (2) All HACCP plans must include verification for the individual Critical Control Points as well as the overall plan.

- (3) On-site verification of the HACCP plan will be the daily responsibility of the PIC. The FSM shall confirm verification at each inspection. Validation is to include confirming that products, ingredients and processes remain consistent with the original plan and that the plan is still adequate to ensure product safety.

§ 7. Frozen Dessert Dispensers

- a. Ice cream or other frozen dairy products must be obtained pasteurized according to the FDA Frozen Desserts requirements (21 CFR135: Frozen Desserts).
- b. Rerun shall not be used in any retail frozen dessert dispenser. "Rerun" means reuse of frozen dessert mix that was previously in the machine and which has been drawn through the retail frozen dessert dispenser.
- c. Dispensing freezers shall be equipped with a visual device that clearly indicates temperature, accurate to plus or minus 2° F (1° C), of the product in the hopper;
- d. Cleaning the frozen dessert dispensers
 - (1) Equipment and Utensils used in manufacturing and handling of dairy frozen desserts and/or frozen dessert mix, shall be completely disassembled, cleaned, and sanitized per manufacturer specifications every 24 hours; except that,
 - (2) a Heat Treatment Dispensing Freezer (HTDF) shall be disassembled, cleaned and sanitized per manufacturer specifications at a frequency specified by the manufacturer, but a least every fourteen days.
- e. The Person in Charge of a Food Establishment shall ensure that:
 - (1) the product in the hopper is maintained at forty-one degrees Fahrenheit (five degrees Celsius) or below at all times, except during a heat treatment cycle for a HTDF;
 - (2) dispensers are fully disassembled, cleaned, and sanitized as specified within paragraph c.;
 - (3) all product remaining in the freezer is discarded whenever the dispenser is disassembled for cleaning;
 - (4) daily cleaning logs are maintained, and retained for ninety days and made available for inspection at the request of the FSM. Logs for HTDFs shall document all heat treatment cycles by recording each of the items set forth in paragraph e(3)(b) of this section.
- f. Heat Treatment Dispensing Freezers (HTDF)
 - (1) A HTDF is to complete a heat treatment cycle at least once every twenty-four hours. "Heat treatment cycle" means a cycle in which the HTDF elevates the product temperature during the heating phase to at least 150°F (65.5° C) within no more than ninety (90) minutes, maintains the product at that temperature during the holding phase for at least thirty (30) minutes, then cools it during the cooling phase to a temperature of 41° F (5° C) or below within no more than two (2) hours;
 - (2) A HTDF shall be equipped with:
 - (a) a monitoring device which indicates all of the following:
 - (i) the time interval since its last heat treatment cycle;
 - (ii) the period of time that its product was maintained at a temperature above 150°F during the most recent heat treatment cycle
 - (iii) the length of time of the heating phase, the holding phase, and the cooling phase; and,
 - (iv) the number of heat treatment cycles completed since its most recent disassembly.

- (b) a safety lock-out device which cannot be reset without complete disassembly of the machine, and prevent frozen product from being dispensed due to any one of the following conditions:
 - (i) the heat treatment cycle is not properly completed;
 - (ii) the heat treatment cycle has not been completed once in 24 hours; or
 - (iii) the unit has not been disassembled for cleaning and sanitizing within the preceding fourteen (14) days or less when specified by the manufacturer's operating instructions and specifications.
- g. Bacteriological Standards
 - (1) Ice cream and other frozen dairy products shall not have a bacterial plate count more than 50,000 bacteria per gram, or more than ten (10) Coliform organisms per gram. If the results is above the set limit, operator must discontinue using the dispensing unit until satisfactory test result is achieved.
 - (2) Frozen yogurt mix products are not subject to the Standard Plate count.

§ 8. Testing

- a. It is the responsibility of the licensee to provide proof, when it is not obvious, of any Food item managed as a non-TCS menu item. Proof of a non-TCS item may include testing by a 3rd party certified independent laboratory.
- b. The FSM may require analytical testing of Food, Food-contact surfaces, testing for foreign object identification or other testing for bacterial analysis by a 3rd party certified independent laboratory.
- c. In general, product within frozen dessert dispensers shall be tested quarterly; however this frequency may be adjusted by the FSM based on history.
- d. Potable water must be available for cooking and drinking purposes, for cleaning and sanitizing Equipment, Utensils, Food-Contact Surfaces, and for handwashing. If the Food Establishment does not have a permanent service connection to MPTN's water distribution system, the FSM may require Proof of Water Potability.
- e. The FSM may require that the post treatment sanitary drainage from a Food Establishment be tested for FOG whenever non-compliance with the provisions of Chapter 9, FOG Management, has been identified.
- f. When testing is required:
 - (1) The FSM will determine the appropriate number of samples and, if necessary an appropriate frequency for sampling.
 - (2) The FSM will collect samples unless otherwise directed.
 - (a) Laboratories must be approved by the FSM;
 - (b) proper chain of custody must be maintain from time of sampling to delivery at the laboratory; and,
 - (c) all results shall be reported directly from the laboratory to the FSM.
 - (3) The Licensee shall be responsible for the cost of any required testing.

§ 9. Animals

- a. General
 - (1) Except as noted within this section animals are not allowed within a Food Establishment.

- (2) No provision of this section shall impair or diminish the ability of an individual to be accompanied by Service Animals.
- b. Service Animals are allowed in all areas of the facility where customers are normally allowed to access.
 - (1) Service Animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.
 - (2) Other species of animals, whether wild or domestic, trained or untrained, are not Service Animals.
 - (3) Establishments shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.
- c. Patrol dogs accompanying police or security officers are allowed in all areas of the facility where customers are normally allowed and also any offices and storage areas where customers are normally not permitted, or any other area to the extent required to protect human health or safety.
- d. Companion animals, or animals by any other name, are not Service Animals and are not allowed within Food Establishments. However, companion dogs may, at the discretion of the facility, be allowed within outdoor dining areas or at events where Food is served.
 - (1) The companion dog must be on a leash or confined in a pet carrier and be under the control of the owner/handler at all times.
 - (2) The outdoor dining area must be maintained clean. The Person in Charge shall ensure compliance with all Tribal ordinances related to sidewalks, public nuisance and sanitation.
 - (3) The Person in Charge shall comply with any other specific requirements that may be specified by the FSM.
- e. Restrictions
 - (1) No animal, including Service Animals, shall be allowed to sit on a chair or to be fed at the table.
 - (2) Surfaces that have been contaminated by dog excrement or other bodily fluids shall be immediately cleaned and disinfected. Animals are not allowed in kitchens, pantries or refrigeration units.
 - (3) Food Employees are prohibited from having direct contact with animals while on duty. Any Food Employee who inadvertently contacts and animal shall immediately wash their hands.
 - (4) Food and water offered to service animals or companion dogs shall only be provided in single-use disposable containers.
- f. Animal Conduct
 - (1) The owner/handler is responsible for caring for and supervising the animal.
 - (2) Employees are not obligated to supervise or otherwise care for any animal including Service Animals.
 - (a) If an animal is out of control and the owner/handler does not take effective action to control it, staff may request that the animal, even a Service Animal, be removed from the premises.
 - (b) If a Service Animal is not wearing a leash, the owner must be able to maintain control of the animal through vocal commands, visual signals, or other training techniques.
 - (c) The owner/handler of a Companion Dog, within an outdoor facility that elects to allow such animals, shall comply with all other requirements that may be established by the facility's PIC and/or FSM.

CHAPTER 5. EMPLOYEE HEALTH POLICY**§ 1. Responsibilities and Obligations**

- a. Employee
 - (1) All employees must complete the Food Employee Interview Form and the Food Employee Reporting Agreement Form at the time of hire.
 - (a) Forms will be provided by the FSM.
 - (b) Completed forms must be kept in the employee file.
 - (2) All employees are obligated to report to the PIC any symptoms, diagnoses or exposures related to diseases transmissible through Food.
 - (a) In addition to the reportable symptoms and reportable diagnoses listed within this chapter employees must report if they had Typhoid fever, diagnosed by a health practitioner, within the past three (3) months, without having received antibiotic therapy.
 - (b) Exposure means any time an employee has been exposed to, or is the suspected source of, a confirmed disease outbreak, by having:
 - (i) consumed or prepared Food implicated in the outbreak;
 - (ii) consumed Food at an event prepared by an infected person;
 - (iii) attended or worked in a setting where there is a confirmed disease outbreak;
 - (iv) lives in the same household as an individual who works or attends a setting where there is a confirmed disease outbreak; or
 - (v) lives in the same household as an individual with a reportable diagnoses identified within this chapter.
 - (3) Employees must report the information in a manner that allows the PIC to reduce the risk of foodborne disease transmission, including providing all necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms.
- b. Person In Charge (PIC)
 - (1) The PIC shall ensure that Food Employees are informed of their responsibility to report, in accordance with law, to the PIC, information about their health and activities as they relate to diseases that are transmissible through Food
 - (2) The PIC shall ensure that the appropriate actions are taken in response to a report of, or otherwise being made aware of, an Employee with any symptoms, diagnoses or exposures, related to diseases transmissible through Food.
 - (3) The PIC shall be responsible for compliance with the return to work requirements specified within this chapter.
 - (4) The PIC shall notify the FSM of an employee who is diagnosed with illnesses listed in this chapter.
 - (5) The PIC shall ensure that all Food-contact surfaces that may have been contaminated by an Food Employee, who experienced reportable symptoms at work or who were subsequently identified having a reportable diagnosis, are immediately and thoroughly cleaned and sanitized.
 - (6) The PIC shall identify and dispose of any Food that may have been contaminated by a Food Employee who experienced reportable symptoms at work or who were subsequently identified having a reportable diagnosis.

- (a) Determination whether Food prepared or served by the ill Food Employee should be discarded is based on:
 - (i) the hygienic practices observed, Foods handled, and method of preparation; and,
 - (ii) whether the Food Employee was symptomatic when handling the Food or, the specific dates on which it was handled by the Food Employee who was subsequently diagnosed. The fact that a Food Employee was asymptomatic when handling Food does not, in itself, mean the Food can be kept.
- (b) The PIC shall dispose of all Food identified by FSM as being potentially impacted.

§ 2. Reportable Symptoms

a. Exclusion from work – an employee who is suffering from any of the following symptoms shall not report to work and if at work must be sent home:

- (1) vomiting and/or diarrhea;
- (2) sore throat with fever;
- (3) jaundice (yellow skin/eyes) or,
- (4) employee with open wound or sore that cannot be properly covered.

b. Return to work – criteria for an excluded employee to return to work

(1) Vomiting and/or Diarrhea

- (a) The employee may return to work when asymptomatic for at least 24-hours; however,
- (b) if the employee had experienced vomiting or diarrhea for 3-days or longer, the employee must provide the PIC written medical documentation from a Health Practitioner stating that the employee is free of communicable disease.

(2) Sore throat with fever

The employee provides the PIC written medical documentation from a Health Practitioner stating that the employee:

- (i) has been prescribed, and completed at minimum a 24-hour course of, an antibiotic therapy for *Streptococcus pyogenes*; or
- (ii) otherwise states that “The employee has no indication of current illness involving a communicable disease and can return to work in a Food Establishment with no restrictions.”

(3) Jaundice (yellow skin/eyes)

- (a) The employee may return to work, and/or resume Food Employee duties, when the PIC obtains approval from the FSM and,
- (b) the employee provides written medical documentation from a Health Practitioner stating that the employee is free of a Hepatitis A infection.

(4) Employee with open wound or sore

- (a) An employee with an open wound or pustular boil that cannot be properly covered shall not report to work and if at work must be sent home.
- (b) The employee may return to work as a Food Employee when the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

- (i) an impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the open wound or pustular boil is on the hand, finger, or wrist;
- (ii) an impermeable cover on the arm if the open wound or pustular boil is on the arm; or,
- (iii) a dry, durable, tight-fitting bandage if the open wound or pustular boil is on another part of the body.

§ 3. Reportable Diagnoses or Exposures

a. An employee who has been diagnosed with any of the following reportable diagnoses shall not report to work and if at work must be sent home:

- (1) Norovirus
- (2) Hepatitis A virus
- (3) *Shigella* spp.
- (4) Shiga toxin-producing *E. coli* (STEC)
- (5) Typhoid fever (caused by *Salmonella* Typhi)
- (6) *Salmonella* (nontyphoidal)

b. Further, an employee who has been exposed to, as described within §1, paragraph a(2)(b) of this chapter, any of the diseases transmissible through Food listed above in paragraph a. of this section shall not report to work and if at work must be sent home.

§ 4. Medical Clearance

An employee who has been excluded from work as prescribed within this chapter may return only after:

- (1) they are asymptomatic and provide written medical documentation from a Health Practitioner stating that “The employee has no indication of current illness involving a communicable disease and can return to work in a Food Establishment with no restrictions;” and,
- (2) the FSM has approved the employee’s return to work.
- (3) The PIC shall retain the documentation from a Health Practitioner within the employee’s record.

CHAPTER 6. INSPECTION

§ 1. Right of Entry

a. The PIC shall allow the FSM and/or their staff (hereafter Inspector) access to the establishment at any reasonable time, allowing inspection, and providing information and records specified in this title, in order to determine compliance with this title or to investigate complaints.

b. Such right of entry and inspection shall extend to any premise where the FSM has reason to believe it is being operated or maintained as a Food Establishment, Community Kitchen, a kitchen where Cottage Food in compliance with Chapter 7 is prepared, any location associated with Exempt Activities specified within Chapter 8, and any other area reasonably necessary for the FSM to enforce the MPTN Food Code or ensure the human health and safety in connection with the preparation or service of Food.

c. In the event that a person denies access to the Inspector, the Inspector shall inform the person of the MPTN Food Law requirements under 26 M.P.T.L. § 3.

d. If access is still denied, the FSM shall compel access through initiation of enforcement procedures, which under extreme compliance failures can include, pursuant 26 M.P.T.L. § 4, an order to cease the food operation. Enforcement procedures may also result in penalties being assessed.

§ 2. Frequency of Inspection

a. Permanent Food Establishments

- (1) Establishments will be inspected at frequencies based on their assigned risk category (see Ch 3, §3a). The FSM will review the inherent and potential food safety risks of each establishment's operation so that appropriate resources may be allocated to each category. At a minimum each establishment will be inspected accordingly:
 - (a) Category 1 Establishments – three (3) times per year (every four (4) months)
 - (b) Category 2 Establishments – four (4) times per year (quarterly)
 - (c) Category 3 Establishments – six (6) times per year (every other month)
 - (d) Category 4 Establishments – six (6) times per year (every other month)
 - (e) Retail Stores – two (2) times per year (every six (6) months)
- (2) The inspection frequency may be increased based upon the FSM's assessment of:
 - (a) the hazards associated with the particular Foods that are prepared, stored, or served;
 - (b) the type of operation including methods and extent of Food storage, preparation, and service;
 - (c) the volume of service and the extent to which patrons may be representative of a Highly Susceptible Population;
 - (d) inspection findings and history of repeat violations; and,
 - (e) the number of complaints investigated and found to be valid.

b. Mobile Food Establishments

- (1) An initial inspection shall be conducted prior to issuing the license.
- (2) Subsequent routine inspections, consistent with the risk category frequency specified within paragraph a, will be conducted when the Mobile Food Establishment has an on-going presence within Mashantucket.

c. Temporary Events

- (1) A pre-event inspection shall be required for all vendors offering Food prior to issuing the license.
- (2) the Inspector may routinely visit the venue throughout the length of the event to evaluate operational compliance.
 - (a) Deficiencies noted shall be immediately addressed by the Food Vendor; otherwise
 - (b) The FSM will revoke the vendor's license and compel operations to cease.
- (3) Vendors engaged solely in Exempt Activities shall also be evaluated for compliance with the applicable requirements specified within Chapter 7.

d. Catered Events

All catered events requiring licensure are subject to random inspection by the FSM.

e. Community Kitchens

- (1) A new Community Kitchen will be evaluated by the FSM to ensure compliance with the required basic sanitation requirements prior to issuance of a Certificate of Occupancy by the LUC.
- (2) A Community Kitchen may be evaluated for compliance with the basic sanitation requirements when:
 - (a) requested by the owner/operator;
 - (b) the FSM has received a complaint related to the kitchen;
 - (c) the FSM becomes aware of a significant event involving the kitchen; or,
- (3) any other time when the kitchen has not been otherwise inspected within a year.

§ 3. Conduct of Inspections

- a. Prior to conducting the inspection, the Inspector shall review the last two routine inspections for the Food Establishment.
- b. Inspectors shall prioritize efforts to obtain on-site corrective actions, appropriate to the type of violation.
 - (1) For violations of contributing risk factors and MPTN Food Code interventions, the Inspector is to give emphasis to Hazard Analysis and Critical Control Point (HACCP) principles.
 - (2) Emphasis will be for those violations that contribute to an increased risk of foodborne illness and that can be corrected immediately.
 - (3) On-site corrective action as appropriate to the violation may include:
 - (a) destruction of Foods that the FSM has determined that TCS Food has been outside the applicable temperature range for more than four (4) hours, or when the time period is otherwise unknown;
 - (b) embargo or destruction of Foods from unapproved sources;
 - (c) accelerated cooling of Foods when cooling time limits can still be met;
 - (d) reheating when small deviations from hot holding time/temperature have occurred;
 - (e) continued cooking when proper cooking temperatures have not been met;
 - (f) initiated use of gloves, tongs, or utensils to prevent bare hand contact with ready-to-eat Foods;
 - (g) required hand washing when potential contamination is observed; or,
 - (h) ill Food Employees are restricted or excluded from food handling and preparation.
 - (4) The Inspector shall record on-site corrections, note instances of repeat violations and document related discussions with the PIC.
- c. When noting deficiencies, the Inspector shall record:
 - (1) the proper MPTN Food Code reference violated;
 - (2) recommended corrective actions; and,
 - (3) written comments regarding repeat violations.
- d. Inspectors are to discuss with the PIC various options for long-term control of repeated risk factor violations.
 - (1) Long-term control options are appropriate for facilities with a history of cyclic violations or a pattern of repeated violations of the same type.

- (2) Long-term control of out-of-compliance risk factors requires a commitment by the PIC to develop effective monitoring and control measures or system changes that address behavior or processes most often associated with foodborne illness. Examples of options for long-term control would be the establishment of:
 - (a) risk control plans;
 - (b) standard operating procedures;
 - (c) buyer specifications;
 - (d) menu modifications;
 - (e) HACCP plans;
 - (f) utilizing checklist/logs; and,
 - (g) equipment or facility modifications.
- e. During the course of the inspection, Inspector shall also examine all Equipment and Food processing and storage areas paying special attention to the processes that discharge wastewater through a facility's FCU.
 - (1) The Inspector may open and inspect the FCU and request to see all records pertaining to the maintenance and repair of the device.
 - (2) The Inspector may ask questions to ascertain whether the BMP procedures outlined in the "FOG Management Plan" have been implemented.
 - (3) Any deficiencies noted by the Inspector will result in a written Notice of Violation together with a schedule for correcting the deficiencies, a re-inspection date and penalties assessed.
- f. Prior to concluding the inspection, Inspectors shall discuss the inspection results with the PIC. Details of these discussions should be included within the inspection report.

§ 4. Inspection Reports

- a. Each Inspector will complete an inspection report that is clear, legible, concise, and accurately records findings, observations and discussions with establishment management.
- b. Inspection reports shall utilize forms designed to ensure the conduct of a complete inspection by listing items to be assessed with space for the Inspector to enter their general compliance findings.
 - (1) Items shall be grouped under key word phases with distinction provided between foodborne illness risks factors/public health interventions and good retail practices;
 - (a) Risk factors that contribute to foodborne illness outbreaks are Food preparation practices and employee behaviors most commonly observed by the US Centers for Disease Control and Prevention during outbreak investigations. The five broad categories of these risk factors are:
 - (i) improper holding temperatures;
 - (ii) inadequate cooking;
 - (iii) contaminated Equipment;
 - (iv) food from unsafe sources; and,
 - (v) poor personal hygiene.
 - (b) Public health interventions are control measures to prevent foodborne illness and injury. The MPTN Food Code public health interventions are:
 - (i) demonstration of knowledge;

- (ii) employee health controls;
 - (iii) controlling hands as a vehicle of contamination;
 - (iv) time and temperature parameters for controlling pathogens; and,
 - (v) consumer advisory.
 - (c) Good retail practices are systems to control basic operational and sanitation conditions within a facility, and if not controlled, they could be contributing factors to foodborne illness by introducing hazards (biological, chemical and physical), into the end product, either directly or indirectly.
- (2) Each item listed shall include space for the Inspector to note their compliance finding, risk factor designation, and status for items out of compliance.
 - (a) The Inspector's four options for compliance action are:
 - (i) IN compliance,
 - (ii) OUT of compliance,
 - (iii) Not Applicable (N/A) to the establishment's operation, or
 - (iv) Not Observed (N/O) at the time of the inspection.
 - (b) The Inspector shall note the risk designations for each item out of compliance:
 - (i) Priority (P),
 - (ii) Priority Foundation (Pf), or
 - (iii) Core (C); and,
 - (c) Each item noted as OUT of compliance shall further be identified, when applicable, with:
 - (i) Corrected On-Site (COS); and/or,
 - (ii) Repeat violations (R) Repeat Violations - second and subsequent violations, relevant to the same specific section of the Code, within the past two routine inspections.
- c. Inspection reports shall include a Temperature Observations section where the Inspector shall list:
 - (a) the common name of the Food as well as the condition;
 - (b) process, and location of the Food at the time of measurement; and,
 - (c) temperatures in compliance and out of compliance.
- d. Inspection reports shall include a section for Observations and Corrective Actions. For each item marked OUT of compliance, the Inspector shall provide:
 - (a) the specific reference to the section of the USDA Food Code or MPIN Food Code violated;
 - (b) a written description of the conditions noted; and,
 - (c) the date by which the violations must be corrected.
 - (d) Inspector observations may refer to the compliance history of an establishment, including any prior violations and corrective action.
- e. Reports shall be signed by the PIC to acknowledge receipt of inspection findings and that the PIC was informed of all violations.
 - (1) An acknowledgement of receipt does not constitute an agreement with the inspection findings.
 - (2) Refusal to sign an acknowledgement of receipt will not affect the Licensee's obligation to correct the violations noted in the inspection report within the time frame specified.

- (3) Refusal to sign an acknowledgement of receipt is noted in the inspection report and conveyed to the establishment's historical record.
 - (4) Should the establishment fail the inspection, the Inspector must inform the PIC of the administrative remedies stated within these rules.
 - (5) Reports shall also document details of any denial of access to perform an inspection or refusal to provide information necessary for the inspection.
- f. A copy of the report shall be provided, via email, to the PIC within two (2) days of the inspection.

§ 5. Violation Correction

a. Violations noted on the inspection report must be corrected by the time stated on the inspection report. When determining the date by which violations must be corrected the FSM shall consider the seriousness of the observation with regard to prevention of foodborne illness. However, the maximum time specified shall not exceed the period identified below based on the risk designation.

- (1) Priority item violations, unless otherwise specifically indicated by the Inspector, must be corrected onsite or within 72 hours.
- (2) Priority Foundation items must be corrected, unless otherwise specifically indicated by the Inspector, within 10 days.
- (3) Core item violations must be corrected, unless otherwise specifically indicated by the Inspector, within 90 days.

b. The licensee must contact the FSM as soon as the Priority violation(s) have been corrected.

c. Depending on the type of the violations, the Inspector shall confirm corrections by:

- (1) conducting follow-up inspections; or,
- (2) accepting evidence of abatement such as photos or invoices documenting equipment repair.

d. If the violations are not corrected within the provided timeline, the FSM will issue a Warning Letter to top level management describing the noncompliance, outlining the actions to resolve the violations and setting a new deadline to correct the violations.

- (1) The PIC may request an extension period to abate violations.
- (2) The Inspector will decide whether to grant an extension based on the reason the extension was requested and type of violation.
- (3) If extension is granted a new correction date will be established.

e. If the violations are not corrected within the time frame provided, a fine may be issued.

f. Failure to satisfactorily correct violations by the specified period of time may result in enforcement proceedings by the FSM such as issuing a fine or suspending the Food Establishment's license to operate.

§ 6. Inspection Failure

a. A failed inspection occurs when an establishment:

- (1) Receives 3 or more Risk Factor item violations; or
- (2) Receives 6 or more Good Retail Practices violations

b. Food Establishments that receive a failed inspection will be reinspected within 10-days ensure that all corrections were completed and remain corrected.

- (1) Follow-up inspection for Priority item violations will occur prior to the reinspection.
- (2) All other violations noted on the failed inspection must be corrected prior to the reinspection unless, before the reinspection, an alternative compliance date has been agreed to by the FSM.

§ 7. Investigation of Complaints or Reports of Foodborne Illness

a. General

- (1) Food Establishments shall contact the FSM as soon as possible whenever a patron has contacted them complaining of symptoms of a potential foodborne illness.
- (2) The FSM shall develop standard forms used to conduct interviews and document responses when investigating complaints and reports of foodborne illness.
 - (a) Forms used to investigate complaints of foodborne illness symptoms shall include at minimum:
 - (i) Complainant demographic and contact details including any other known persons expressing symptoms.
 - (ii) Suspected source of illness including establishment name, date and time visited and specific Foods consumed.
 - (iii) History of symptoms, medical treatment and clinical testing
 - (b) Forms used to investigate case reports of foodborne illness shall, in addition to the information required on the form for complaints, include:
 - (i) Travel history
 - (ii) Human exposure potential – other potential exposure pathways and situations where illness may spread.
 - (iii) Local Cluster/Events, Finding Additional Cases
 - (iv) Potential Food sources and diet information – 72 hour Food consumption history.
 - (v) Other potential exposures (animal, water, environmental, etc.)
 - (c) A single form may be developed for use in both scenarios provided that the applicable required information is completed to the extent available.

b. Complaint of Potential Foodborne Illness

- (1) Upon receiving a complaint of potential foodborne illness, the FSM shall contact the complainant, conduct an interview and complete the applicable form.
 - (a) The FSM shall make at least two (2) attempts to contact the complainant.
 - (b) If a complainant cannot be reached for interview via telephone, the FSM shall leave a voicemail and/or send an email to complainant with call back information.
- (2) The FSM shall notify the Food Establishment about the complaint and obtain information pertaining to issues regarding employee health, hot and cold holding equipment, Food handling, preparation, storage, if it has received any other complaints, or other information pertaining to the claim. FSM may conduct an inspection of the facility.

c. Diagnosed Foodborne Illness

- (1) The FSM shall conduct case interviews as soon as possible after an initial notification of a diagnosed foodborne illness.
- (2) During initial contact, the FSM should verify contact information and preferred means of contact, the best times of day to reach a case-patient, and other preferences (as reasonable), such as preferred

- language. The FSM should, if necessary and as resources are available, arrange for the interview to be conducted with an interpreter or other means of translation service.
- (3) If a complainant cannot be reached for interview via telephone, the FSM shall leave a voicemail and/or send an email to complainant with call back information.
 - (a) At least three (3) attempts shall be made to contact each case-patient.
 - (b) Attempts should be made at different times of day,
 - (c) at least one attempt should be made during evening or weekend hours, if possible.
 - (4) If the original complainant still cannot be reached, a letter should be mailed explaining the reason for attempted contact, contact information for the FSM, and educational prevention materials about the enteric pathogen. The letter may also contain a paper copy of, or web link to, the questionnaire for the complainant to fill out on their own.
 - (5) Since interviews may be conducted before other linked cases may be known, interviewers should explain to case-patients that they may be re-contacted for additional details about their illness.
 - (6) The interview shall include a detailed Food exposure history as part of an initial interview.
 - (7) In all cases of a diagnosed Foodborne Illness the facilities suspected of being involved will be formally inspected by the FSM.

CHAPTER 7. COTTAGE FOOD

§ 1. General

- a. Vendors seeking to sell only Cottage Food who meet the definition of In-business at Ch. 1, §5b(19) must register and obtain approval from the FSM prior to commencing that activity within Mashantucket.
- b. Cottage Food may only be offered for sale person-to-person, from the producer, or the producer's designee with extensive knowledge about the Food and its preparation, to the actual consumer.

§ 2. Registration

- a. Registrations shall be submitted utilizing the applicable forms provided by the FSM.
 - (1) Submissions must be complete containing all information requested within the form.
 - (2) Registrations will not be deemed complete until all additional information requested by the FSM, upon review, is provided.
 - (3) Failure to provide all requested information in a timely manner with result in rejection of the registration.
- b. Registrations must include:
 - (1) names of preparers and any persons who will be designees vending;
 - (2) the physical address of where the Cottage Food is proposed to be prepared;
 - (3) the physical address and location description for proposed vending location(s);
 - (4) a detailed list of products proposed to prepare and offer, including: type, name and description of product(s) and method of production;
 - (5) Proof of Water Potability for the water source the kitchen utilizes when preparing Cottage Food.

- (6) when required by the jurisdiction where the kitchen used to prepare Cottage Food located, a copy of any license, registration or certification issued to the vendor; and,
 - (7) proof of training – persons engaged in activities authorized by a Cottage Food registration must provide proof of, at minimum, Food handler training programs accredited by the American National Standards Institute.
- c. Registration Renewal
- (1) Registrations must be renewed annually; and,
 - (2) any time a proposed change is made to the menu of Food to be offered, a change in vending location is made, or a change in the Food preparers or designees is made.
 - (3) Renewal must include Proof of Water Potability.

§ 3. Food Preparation Requirements

- a. Persons engaged in Cottage Food preparation shall maintain rooms, equipment and utensils used for preparing, storing or otherwise handling the Food in a clean and sanitary condition.
- (1) All equipment and utensils used in processing or handling product shall be maintained in good repair to ensure sanitary conditions in the operation.
 - (2) There shall be no handling or storing of materials which may create unsanitary conditions in any place where Food is prepared, stored or otherwise handled.
 - (3) Persons involved in the preparation or handling of Food products must be in good health and free of communicable disease including any gastrointestinal illnesses, and their hands and arms must be free of open wounds, cuts, and sores.
 - (4) Food handlers must frequently wash their hands with warm water and soap prior to handling Food and after any act that contaminates hands, such as eating, coughing, sneezing, handling garbage, blowing nose, or visiting the restroom.
 - (5) Pets shall not be allowed in areas of Food preparation.

§ 4. Vending Operational Requirements

- a. Vendors of Cottage Food shall inform consumers that the Food offered is Cottage Food prepared in a kitchen that is not subject to regulation or inspection by the FSM via, at minimum, placing a clearly visible placard at the location of sale stating;
- (1) “The Food offered at this stand was not prepared in a kitchen that was licensed by the MPTN’s Food Safety Program.”
 - (2) When approved by the FSM, the vendor may post a placard that utilizes similar language required by other jurisdictions where the vendor may also be licensed.
- b. Cottage Food shall not be offered at any location where it could appear or be construed that the Food offered was prepared within a kitchen licensed by the FSM (e.g. Cottage Food shall not be offered within or immediately outside a Food Establishment).
- (1) Vending locations must be approved by the FSM.
 - (2) The FSM may require additional signage when a vending location is located near a Food Establishment licensed by the FSM.

§ 5. Labeling

a. Food items that are not served, or otherwise sold in individual portions, for immediate consumption must be boxed, bagged or otherwise Packaged with a label providing the following information:

- b. common name of the Food;
- c. the name and address of the Cottage Food operation;
- d. a listing, in order of predominance, of all the ingredients in the Food; including,
- e. identification of any Major Food Allergen the Food may contain; and,
- f. a clearly legible statement that the product was, “Not prepared in a kitchen that was licensed by the MPTN’s Food Safety Program.”

g. Major Food Allergens are defined at 21 U.S.C. 321(qq)(1). Currently the nine (9) Major Food Allergens listed are milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, soybeans and sesame. Identification, as specified by federal labeling requirements, is made by either:

- (1) identifying the major allergen group within parentheses after the ingredient list per paragraph d. of this section [e.g. flour (wheat), whey (milk)]; or,
- (2) including a separate “Contains” list, near the ingredients list [e.g. Contains Wheat and Milk].

§ 6. Record Keeping and Reporting

a. Vendors of Cottage Food must maintain records including Food product recipes or formulations, ingredient purchase receipts, and details pertaining to storage of the Food product prior to sale, for a period of at least 30-days.

b. Persons engaged in Cottage Food activities shall notify the FSM of any complaints they receive of foodborne illness, including providing contact information for follow-up by the FSM.

§ 7. Right to Inspect

Persons engaged in Exempt Activities shall allow free and open access to the FSM to inspect all aspects related to the activity when necessary to investigate:

- (1) complaints of foodborne illness;
- (2) reports of unsanitary conditions or other health hazards; or
- (3) anytime the FSM has reason to suspect non-compliance with the provisions of this chapter.

§ 8. Enforcement

Persons engaged in preparing/vending Cottage Food are subject to the inspection and enforcement provisions specified within this title and the Tribal Food Law (26 M.P.T.L.).

CHAPTER 8. ACTIVITIES EXEMPT**§ 1. General**

a. Activities at the facilities identified within this chapter are Exempt Activities, are excluded from the definition of Food Establishment and not subject to the licensure requirements of this title, when:

- (1) conducted in compliance with the requirements specified within this chapter;
 - (2) operated by individuals who are not In-business;
 - (3) not conducted by a licensed Food Establishment; and,
 - (4) not using the Food preparation area or Equipment of a Food Establishment.
- b. Persons engaged in Exempt Activities shall maintain rooms, Equipment and utensils used for preparing, storing or otherwise handling the Food in a clean and sanitary condition.
- (1) All Equipment and Utensils used in processing or handling Food shall be maintained in good repair to ensure sanitary conditions in the operation.
 - (2) There shall be no handling or storing of materials which may create unsanitary conditions in any place or places where Food is prepared, stored or otherwise handled.
 - (3) Persons involved in the preparation or handling of Food products must be in good health and free of communicable diseases including any gastrointestinal illnesses, and their hands and arms must be free of open wounds, cuts, and sores.
 - (4) Food handlers must frequently wash their hands with warm water and soap prior to handling Food; and after any act that contaminates hands, such as eating, coughing, sneezing, handling garbage, blowing nose, or visiting the restroom.
 - (5) Pets shall not be allowed in areas of Food preparation.
- c. Persons engaged in Exempt Activities shall provide notification to consumers that the Food offered is exempt from regulation and inspection by the FSM via, at minimum, placing a clearly visible placard(s) at the sale or service location with the language specified within this chapter.
- d. Persons engaged in Exempt Activities shall allow free and open access to the FSM to inspect all aspects related to the activity when necessary to investigate:
- (1) complaints of foodborne illness;
 - (2) reports of unsanitary conditions or other health hazards; or
 - (3) anytime the FSM has reason to suspect non-compliance with the provisions of this chapter.
- e. Persons engaged in Exempt Activities shall notify the FSM of any complaints they receive of foodborne illness, including providing contact information for follow-up by the FSM.
- f. Persons engaged in Exempt Activities remain subject to the inspection and enforcement provisions specified within this title and the Tribal Food Law (26 M.P.T.L.).

§ 2. Lemonade Stands

- a. When operated by a minor using only non-TCS ingredients with no direct hand contact (i.e. powdered drink mix), that serves the beverage into single service cups and operates no more than 30 days per year; or,
- b. When the minor can demonstrate to satisfaction of the FSM knowledge of the proper Food handling and storage practices required to ensure the safety of freshly made lemonade.

§ 3. Individuals Offering Food at Community Events

- a. Resale of Packaged Food – the sale of the following Food items at individual stands at events qualify as Exempt Activities:
 - (1) Packaged, non-TCS Food, including beverages, containing labeling sufficient for resale (21 CFR §101);

- (2) Packaged frozen ice cream novelties; and
 - (3) Bulk, dry, non-ready to eat non-TCS Food such as pastas, dry beans, raw dry grains, inshell nuts, coffee beans, tea leaves, or herbs and spices.
- b. Served Beverages
- (1) Non-TCS beverages that are dispensed directly from Packaged commercial containers into single-service containers at time of sale.
 - (2) Hot coffee and hot tea with powdered creamer or ultra-high temperature (UHT) pasteurized liquid creamer in individual serving containers; except that:
 - (a) Food products, including teas, containing safrole, oil of sassafras, dihydro safrole, and iso-safrole are deemed to be adulterated in violation of the federal Food, Drug and Cosmetic Act (Federal Register of December 3, 1960 – 25 FR 12412); therefore,
 - (b) ‘Sassafras tea’ may only be served when produced with “safrole-free extract of sassafras” as prescribed at 21 CFR §172.580.
- c. Cottage Food
- (1) Preparation and sale of Cottage Food items are Exempt Activities when offered for sale by persons not In-business at individual stands at Community Events and the seller:
 - (a) only sells, samples or serves the Food directly to the end consumer;
 - (b) is the individual that actually produced the Food or a person with extensive knowledge about the Food and its preparation;
 - (c) informs consumers that the Food offered is not subject to regulation and inspection by the FSM via, at minimum, placing a clearly visible placard at the sale location stating, “The Food offered at this stand was not prepared in a kitchen that was inspected by the MPIN’s Food Safety Program;” and,
 - (d) maintains records including Food product recipes or formulations, ingredient purchase receipts, and details pertaining to storage of the Food product prior to sale.
 - (2) Food items that are not served, or otherwise sold in individual portions, for immediate consumption must be boxed, bagged or otherwise Packaged with a label providing the following information:
 - (a) common name of the Food;
 - (b) the name and address of the preparer;
 - (c) a listing, in order of predominance, of all the ingredients in the Food; including,
 - (i) identification of any Major Food Allergen the Food may contain; and,
 - (ii) a statement that the product was, “Not prepared in a kitchen that was inspected by the MPIN’s Food Safety Program.”
 - (d) Major Food Allergens are defined at 21 U.S.C. 321(qq)(1). Currently the nine (9) Major Food Allergens listed are milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, soybeans and sesame. Identification, as specified by federal labeling requirements, is made by either:
 - (i) identifying the major allergen group within parentheses after the ingredient list per paragraph b(2)(c) of this section [e.g. flour (wheat), whey (milk)]; or,
 - (ii) including a separate “Contains” list, near the ingredients list [e.g. Contains Wheat and Milk].
 - (3) The FSM shall have the final authority in determining whether an item is a TCS Food not eligible as an Exempt Activity and may prevent individuals who violate the provisions of this paragraph (paragraph c.) from selling, sampling or serving these Foods.

d. Foraged Native Vegetation – the sale of products harvested from the native environment is an Exempt Activity when offered for sale at individual stands at Community Events and:

- (1) The seller:
 - (a) is the individual that actually harvested the product; or may be an immediate family member residing in the harvester’s household with extensive knowledge about the product and where it was harvested;
 - (b) is competent in the identification and safe consumption of the item(s) offered for sale; and,
 - (c) only sells products in whole form enabling self-identification by the purchaser prior to sale.
- (2) Each item offered for sale must be labeled with:
 - (a) the common name of the product preceded by the term “Wild” (e.g. Wild Blueberries, or Wild Morel Mushrooms);
 - (b) the name and address of the harvester, and seller if different, and date harvested; and,
 - (c) the language specified within paragraph d(3) of this section unless provided to the purchaser as a separate card.
- (3) The seller must communicate the following statement to customers prior to completing the sale. At minimum, this communication shall be made by placing a placard at a prominent location at the point of sale that reads:

“Products labeled as “Wild” were harvested from their native growing environment and have NOT been inspected by local health officials. These products should only be purchased and consumed by individuals capable of independently identifying the products and evaluating their safety for consumption.”
- (4) Harvested products must be protected from contamination and offered in their natural state after rinsing, trimming of unnecessary parts, or separating greens from roots.
- (5) All products offered must have been harvested lawfully. The harvest of forest products, including non-timber products, from Mashantucket without permit, or otherwise authorized by tribal policy, is an illegal federal trespass.
- (6) The following items harvested are NOT allowed to be sold as Food items:
 - (a) any item containing compounds “deemed to be adulterated” by the U.S. Food and Drug Administration (e.g., sassafras tea, is deemed to be adulterated in violation of the act based upon an order published in the Federal Register of December 3, 1960 (25 FR 12412)); and,
 - (b) any other harvested item determined to pose a higher potential safety risk either through possible product mis-identification or a known variable sensitivity within the general public.
 - (i) Determination of whether a product shall be banned will be made by the:
 - a. MPIN Natural Resources Protection Committee when the potential exists for mis-identification of harvested product (e.g. mushrooms that could easily be misidentified with poisonous varieties); or
 - b. MPIN Health & Human Services Committee when issues of variable sensitivity within the general public are at issue (e.g. when the elderly or young have the potential for adverse reaction to product consumption).
 - (ii) The FSM may petition the appropriate Committee for determination of products that it should consider banning.
 - (iii) Either Committee may, in lieu of banning, establish and require additional safeguards governing the sale of harvested species.

- (iv) The FSM shall maintain a list, on the LUC's public website, of all products that a Committee has either banned or established additional safeguards governing the sale.
- (v) It is the sellers responsibility to review this list prior to offering any harvested product for sale.
- (c) This regulation does not apply to harvested products offered at a non-Food stands for purposes other than consumption.

§ 4. Maple Syrup and Honey

a. Maple Syrup - processing and sale of maple syrup, when not combined with any other substance, is an Exempt Activity provided that:

- (1) Every practicable precaution shall be taken to exclude birds, bats, insects, rodents and other vermin and animals from the premises of the operation.
- (2) All finished product containers must be clean and sanitary.
 - (a) Maple syrup shall be filtered; and
 - (b) Packaged at a temperature above 180° Fahrenheit (ideally between 185°-190°).
- (3) Final product containers shall be properly labeled by clearly legible type with:
 - (a) the name and address of the farm/preparer; and
 - (b) "Not prepared in a kitchen that was licensed by the MPIN's Food Safety Program."

b. Honey - processing and sale of raw honey, when not combined with any other substance, is an Exempt Activity provided that:

- (1) every practicable precaution shall be taken to exclude birds, bats, insects (except those involved in the production of the product), rodents and other vermin and animals from the premises of the operation; and,
- (2) in addition to the labeling criteria stipulated within paragraph a(3) of this section, honey containers must include the statement in clearly readable type: "HONEY IS NOT RECOMMENDED FOR INFANTS LESS THAN TWELVE (12) MONTHS OF AGE."

§ 5. Vegetables and Fruits

a. Cultivated raw, whole vegetables, herbs, and fruit Packaged and sold direct to the consumer, a restaurant or a retail establishment within Mashantucket is an Exempt Activity when:

- (1) the fresh produce is protected from contamination and offered in their natural state after rinsing, trimming of unnecessary parts, or separating greens from roots;
- (2) any additional preparation, such as washing, peeling and cutting, is performed at a licensed kitchen or, when approved by the FSM, a Community Kitchen; and,
- (3) Unless the point of sale is located at the growing site, the name and address of the farm where grown is identified, either by:
 - (a) a posting made at a prominent location at the point of sale; or
 - (b) by labeling each container when offered in bulk delivery.

b. The sale of spouts, or any other produce classified as a TCS Food, is NOT an Exempt Activity cover by this section.

§ 6. Private Events

a. Operations, and facilities associated with preparing, storing, serving, vending, or otherwise offering Food solely for a Private Event, as defined at Ch. 1, §5b(24), are exempt activities provided the event does not occur within, or otherwise be construed or appear to be associated with, a licensed Food Establishment.

b. Private Events at License Food Establishments are not exempt activities; however, Food Establishments may allow, at their own discretion and risk, a private party to bring non-TCS Food items, such as breads and birthday cakes, to the establishment when:

- (1) the Food item is not in any manner subsequently prepared by persons or within facilities associated with the establishment; and,
- (2) is only consumed by members of the private party responsible for providing the Food item.

§ 7. Organizational Fundraisers

a. A tribal, religious, fraternal, sororal or charitable organization that plans to prepare and serve Food at a facility within a Community Kitchen is an Exempt Activity, even when it is advertised to the general public, if the primary purpose is to raise money in support of the organization or specific charitable cause the organization supports, and when:

- (1) the Food is cooked and immediately served;
- (2) the event does not exceed one day in length;
- (3) the number of events does not exceed seven during a 90-day period nor fifteen within a 365-day period;
- (4) any TCS Food is held at an internal temperature of:
 - (a) 41° F or below for cold-holding, except that eggs must be stored at an ambient temperature of 45° F or below; and
 - (b) 135° F or above for hot-holding.
- (5) the approved kitchen has a “Cooking for Groups,” or similar food safety poster, approved by the FSM, mounted at a prominent location within the kitchen.

b. Non-TCS dessert items listed under the definition or Cottage Food (Ch. 1, §5, ¶b(4)(a)) are allowed to be pre-prepared by organizational members and served at the event.

c. Foraged Native Vegetation may not be served or utilized as an ingredient within any dish unless:

- (1) provided by an individual who:
 - (a) actually harvested the product or an immediate family member residing in the harvester’s household with extensive knowledge about the product and where it was harvested;
 - (b) is competent in the identification and safety of the product for consumption;
 - (c) provides the product(s) in whole form enabling identification by the food preparer; and,
 - (d) signs a “transfer of possession form,” that shall be provided to the FSM upon request, containing the following information:
 - (i) the harvester’s name, address, phone number;
 - (ii) the name of each product harvested and the quantity provided;
 - (iii) the date and location of the harvest; and

- (iv) the following statement: "I personally harvested and am competent in the identification of all provided products listed on this form. I certify that once harvested these products have been properly handled and stored, and certify that they are safe for consumption."
- (2) the Food preparer is competent in the identification of the foraged products provided and have positively identified each item for safe consumption.
- (3) each menu item is identified as containing a foraged item by the common name preceded by the term "Wild" (e.g. Contains Wild Fiddleheads). At minimum this identification shall include:
 - (a) listing the foraged product(s) within the menu item's description; and/or
 - (b) placing a placard next to the dish on the serving table indicating the foraged product(s) contained.
- (4) the event organizer communicates the following statement to all attendees:

"Ingredients labeled as "Wild" were harvested from their native growing environment and have NOT been inspected or evaluated as safe for consumption by Tribal Food Safety." At minimum this communication shall consist of:

 - (a) placing the statement in bolded type at the bottom of each menu, or if menus are not provided, placing a placard in a prominent location at the serving table; and
 - (b) placing placards at a prominent location at the entrance to the dining area.
- d. Wild game meat, that has not been inspected by federal inspectors, may only be served when it had been donated by a hunter who had legally taken it or law enforcement personnel; and:
 - (1) the hunter making the donation shall label each individual package or the container holding more than one package with their name, address and phone number;
 - (2) the hunter making the donation shall sign a "transfer of possession form" with:
 - (a) their name, address and phone number;
 - (b) type of game animal, the specific parts and quantity provided;
 - (c) the date(s) and location(s) of the kill with a certifying indicator (e.g. checkbox) that the wild game was legally taken by them in accordance with all regulations related to wildlife; and,
 - (d) a declaration by the donor stating, "I am personally familiar with the original take, preparation and storage of the meat identified on this form and to the best of my belief certify that the meat is suitable for safe consumption."
 - (3) Payment shall not be required to attend the event,
 - (a) donations may be solicited in the form of suggested amounts; however,
 - (b) any person who offers less than the suggested donation, or no donation at all, may not be refused service.
 - (4) The event sponsor must keep a list of all patrons that attend the event including the patrons name, address and phone number.
 - (5) Records specified within paragraphs d(2) and d(4) of this section shall be provided to the FSM upon request.
 - (6) The event sponsor shall post at a conspicuous location at the entrance to the dining area at least one clearly legible sign bearing the following message: "The Wild Game served at this facility has not been subject to tribal food safety or federal inspection."
 - (a) The words of the message shall be easily readable printed in letters of not less than three-fourths of an inch high; and

- (b) the notice shall be clearly printed on each menu provided and each ticket issued for the event.
- (7) For purposes of this section, "Wild Game" shall include, but not be limited to, bear, deer, moose, rabbit, squirrel and game birds, except migratory birds regulated by the federal government, as defined by the rules and regulations relating to wildlife.
- (8) All uninspected meat must be handled, prepared and stored so that it does not come in contact with other Food before the other Food is served.

§ 8. Vending Machines

Vending machines vending hard candy, gumballs, or pre-Packaged non-TCS Food (and beverages) are Exempt Activities.

§ 9. Charity Food Donation/Distribution

a. The Bill Emerson Food Donation Act established federal protection from civil and criminal liability for persons involved in the donation and distribution of Food and grocery products to needy individuals when certain criteria are met. In order to receive protection under the Act, a person must donate in good faith apparently wholesome Food or apparently fit grocery products to a nonprofit organization for ultimate distribution to needy individuals. The Act also provides protection against civil and criminal liability to the nonprofit organizations that receive such donated items in good faith.

- (1) The term "apparently wholesome food" means Food that meets all quality and labeling standards imposed by applicable Federal, tribal, state, and local laws and regulations even though the Food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.
- (2) The term "apparently fit grocery product" means a grocery product that meets all quality and labeling standards imposed by applicable Federal, tribal, state, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

b. Cottage Food as defined at Chapter 1, §5, b(4) may be donated for charitable distribution within Mashantucket provided it is Packaged and labeled in compliance Chapter 7, §5).

c. The donation of commercially canned, boxed, and otherwise Packaged Foods is encouraged.

d. Food donations may include fresh produce, including home-grown fruits and vegetables. Fresh produce should be protected from contamination and receive final preparation, such as washing and cutting, in a Community Kitchen or licensed kitchen.

e. Food Donation by Licensed Food Establishments

- (1) Food Establishments are encouraged to donate surplus Foods for Charity Food Distribution. Because licensed Food Establishments have commercial-grade Equipment, unlike many Community Kitchens, these may safely include Foods that have gone through typical multiple Food preparation steps and handled with the same consideration for safety as the Food sold to customers.
- (2) Food must be properly Packaged and labeled in accordance with the FDA Food Code (currently, Chapter 3-602.11).

f. Food Donation by Food Processors

Food processors are encouraged to donate Foods that may not meet their specifications for reasons that do not affect food safety, such as package printing errors. Each Food package may lack complete labeling required for commercial distribution, as long as the charitable distributing organization is given enough information to mark each container with the common name of the Food. At least one accurate, complete label must be provided with each master carton.

g. Distressed Foods

- (1) Prepacked Foods that are beyond the 'best used by' date that have been stored for a long time, gone through a fire, or suffered another disaster may still be safe. Contact the FSM to see if these Foods can be safely donated under the specific circumstances involved.
- (2) Perishable Foods past the original manufacturer's "sell by" (or "best if used by") date are suitable for donation, but not Foods past a "use by" date.

h. Uninspected Meat Donations

- (1) Wild game meat may be donated, by lawful hunters or law enforcement personnel, to individuals and community based organizations within Mashantucket.
 - (a) Only healthy animals, not exhibiting obvious signs of illness prior to harvest, may be donated;
 - (b) Animals shall be eviscerated within one-hour of harvest.
 - (c) Animals shall have been properly field dressed unless immediately transported to a nearby processor.
 - (d) Meat shall be stored at a temperature of 41° F or below.
- (2) Organizations receiving donated wild game meat shall ensure that the meat had been processed and Packaged by a meat cutter approved by the FSM and that individual packages are properly labeled, clearly legible, with:
 - (a) type of the game animal;
 - (b) name, address and phone number of the person providing the Meat; and.
 - (c) the following safety warning: "UNINSPECTED WILD GAME MEAT, THOROUGHLY COOK TO 165°F INTERNAL TEMPERATURE."
- (3) Labelling as specified within paragraph (2) above is encouraged, but not required, when the hunter, or law enforcement, donates the Meat directly to an individual who shall be responsible for preparing it for consumption by members of their own household or their nonpaying guests.

i. Foods Unsuitable for Donation – notwithstanding anything to the contrary contained in this chapter, Foods that are not suitable for donation because of safety concerns include:

- (1) Home canned, vacuum-packed or pickled Foods.
- (2) Foods in soiled containers.
- (3) Perishable Foods past a "use by" date, unless properly frozen.
- (4) Foods in sharply dented or rusty cans.
- (5) Foods in opened or torn containers exposing the Food to potential contamination.
- (6) Unpasteurized milk.
- (7) Foods with an "off" odor.
- (8) Foods prepared, cooked, cooled, or reheated at home (except for properly labeled Cottage Food).

CHAPTER 9. FOG MANAGEMENT**§ 1. Prohibited Waste Discharges**

- a. No person shall cause, allow or permit the discharge of any wastewater to surface water, groundwater, a stormwater drainage system, or ground surface whether paved or unpaved.
- b. No person shall introduce into the sanitary drainage system any pollutant(s) which cause 'pass through' or 'interference' at the MPTN wastewater treatment plant.
- c. No person shall cause, allow or permit a discharge to the sewer system Fats, Oils, and Grease (FOG) that exceeds a concentration of 100 milligrams per liter (mg/L), as defined by EPA Test Method 1664 (40 CFR 136.3 Table IB); or, that may accumulate and/or cause or contribute to blockages in the sewer system or at the sewer system lateral which connects the Food Service Establishment to the sewer system.
 - (1) Food Establishments shall make every practical effort to minimize the amount of FOG discharged to the sanitary drainage system.
 - (2) Food Establishments that generate, or have the potential to generate FOG discharges, are required to operate and maintain adequately sized approved FOG Control Unit(s) (FCU).
 - (3) Food Establishments are required to recycle all waste cooking oils, yellow grease, or otherwise Renderable FOG. Renderable FOG shall be collected, stored, and properly labeled in receptacles such as barrels or drums for recycling by a renderer.
 - (4) Food Establishments shall implement FOG Best Management Practices (FOG BMPs) in its operation to further minimize the discharge of FOG to the sanitary drainage system.
 - (5) Installation and/or use of Food grinders/garbage disposal units is prohibited unless approved by the LUC.
 - (6) Emulsifiers, enzymes, or degreasers shall not be added as sanitary drainage aids to any plumbing that leads to any interceptor directly or indirectly.

§ 2. FOG Control Units (FCU)

- a. Required at Food Establishments
 - (1) New Food Establishments are required to:
 - (a) install approved and adequately sized Fog Control Unit(s) (FCU) capable of maintaining compliance with the objectives of this chapter; or,
 - (b) if proposing use of an existing FCU, demonstrate that the existing unit is adequately sized. If the existing unit is shared by other establishments, such demonstration shall include the waste characteristics of all connected facilities.
 - (2) Existing Food Establishments shall be required to install an approved new, or supplemental, FCU adequately sized whenever:
 - (a) the establishment fails to demonstrate the adequacy of existing units when proposing remodeling of Food preparation areas, significant changes to their menu or operations, or undertaking major renovations to kitchen waste plumbing;
 - (b) the establishment is found by the LUC to be contributing grease in quantities sufficient to cause sanitary drainage line stoppages or that necessitate increased maintenance on the sanitary drainage system in order to keep main line stoppages from occurring; or
 - (c) the establishment is found to discharge FOG exceeding the 100 milligrams per liter (mg/L) standard.

- (i) When provided evidence of a discharge from a FCU that exceeded the standard for the first time, Food Establishments may first attempt abatement by submitting and implementing a new or revised FOG Management Plan with enhanced FOG BMPs.
 - (ii) Establishments shall be provided a reasonable amount of time, thirty (30) days, to modify and implement their plan prior to resampling.
 - (d) A Food Establishment that is required to maintain a FCU, that is not equipped with a FCU, or is equipped with an FCU assessed as inadequate, shall not be granted a renewed Food Establishment license to operate until an adequately sized FCU is installed in accordance with the specifications of this chapter.
 - (3) A Food Establishment with limited Food preparation is exempted from this section when engaged only in reheating, hot holding or assembly of ready to eat Food products and, as a result, the FSM determines the potential to discharge FOG to sanitary drainage is negligible. . A limited Food preparation establishment does not include any operation that changes the form, flavor, or consistency of Food.
 - (4) Where a FCU is shared by more than one Food Establishment, the building owner shall be the responsible party for the maintenance, cleaning and record keeping requirements of this chapter.
- b. Required Fixture Connection
- (1) All fixtures, Equipment and drain lines located in the Food preparation and clean-up areas of Food Establishments that discharge wastewater containing FOG shall be connected to an approved FOG Control Unit (FCU), including:
 - (a) pot sinks;
 - (b) pre-rinse sinks;
 - (c) any sink into which Fats, Oils, or Grease are likely to be introduced;
 - (d) Warewashing machine, unless prohibited pursuant to paragraph (2) below.
 - (e) soup kettles or similar devices;
 - (f) wok stations;
 - (g) floor drains or sinks into which kettles may be drained;
 - (h) automatic hood wash units; and
 - (i) any other fixtures or drains that are likely to allow Fats, Oils and Grease to be discharged.
 - (2) Warewashing machine or other fixtures discharging emulsifying agents (e.g., detergents) shall be connected to the sanitary drainage system such that their potential to adversely impact the operation of any FCU is minimized.
 - (a) The decision whether a dishwasher or other fixture will be prohibited from discharging to an establishment's FCU will be made during the Plan Review specified within Chapter 2, §2.
 - (b) Regardless of whether connected to an FCU or not, all practicable means must be taken to remove grease from items prior to loading of the machine.
 - (i) The facility's FOG Management Plan, required pursuant to Ch. 2, §2a(4) of this title, shall specifically detail grease removal procedures prior to loading of the machine.
 - (ii) Compliance with those procedures will be a priority enforcement focus during all facility inspections.
- c. Design and Installation

- (1) The FCU shall be selected based of an engineer’s calculation of maximum flow and grease loading. All calculations, including reference to methods utilized shall be submitted for approval by the LUC.
 - (a) If the discharge is subsequently found to exceed the design criteria of the FCU, or otherwise the flows do not meet the discharge limitation specified within §1, ¶c of this chapter, the LUC permittee, or the Food Establishment licensee, shall be required to remove and replace the FCU or provide supplemental treatment by installing additional FCUs; therefore,
 - (b) it may prove beneficial to specify a larger unit than “required by the numbers.” Note, that any increase unit cost is typically offset by benefit of less frequent cleanings.
- (2) The installation and design is subject to the requirements of all applicable Land Use Regulations, as amended. For example MPTN’s Building Code currently specifies that:
 - (a) Gravity Grease Interceptors (GGI) shall be designed, tested and certified in accordance with IAPMO/ANSI Z1001 – Standard For Prefabricated Gravity Grease Interceptors.
 - (b) Hydromechanical Grease Interceptors (HGI) shall be designed, tested and certified in accordance with ASME A112.14.3, CSA B481.1, PDI G101. ASME A112.14.4 is the standard for an AGRU and PDI G102 addresses units with FOG sensing and alarm devices (note maintenance requirements specified in paragraph f of this section).
- (3) The FCU shall be located in the waste line downstream and as close as practical to fixtures or Equipment where grease may be introduced into the drainage or sanitary drainage system.
 - (a) In all cases, grease waste temperature within piping between the grease waste source and the FCU shall be maintained within the range: 43-49C (109.4° F — 120.2°F).
 - (b) When required, heat trace shall be designed and installed in accordance with the Institute of Electrical and Electronics Engineers (IEEE) Standard for the Testing, Design, Installation, and Maintenance of Electrical Resistance Trace Heating for Commercial Applications standard IEEE 515.1-2022.
- (4) The FCU shall be located where it will, at all times, be easily accessible for inspection, maintenance, and FOG removal and cleaning.
 - (a) Separate cleanout covers shall be provided over the inlet and outlet of the FCU.
 - (b) No permanent or temporary structures or containers shall be placed directly over an FCU.
 - (c) GGIs shall be have access manholes over each grease interceptor chamber and sanitary tee.
 - (i) The access manholes shall be a minimum of 24 inches, extend at least to finished grade, be designed and maintained to prevent water inflow or infiltration and have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.
 - (ii) No landscaping or obstructions are allowed within three (3) feet of any access points or manhole covers of any GGI.
 - (iii) In areas subject to traffic, the manholes and extensions shall be constructed of a material sufficient to withstand the traffic loading.
 - (d) HGIs shall have:
 - (i) a solids interceptor component prior to grease accumulation chamber; and,
 - (ii) flow controls shall be located immediately downstream of the last drain of the fixtures served prior to the interceptor; unless the use, location, and installation of flow controls is part of a unit’s certification type. Attention to manufacturer’s instructions is necessary for the proper application of flow controls.
 - a. Interceptors certified to PDI G101, CSA B481.1, and ASME A112.14.3 Type A require air intake (vent) for the flow control

- b. Interceptors certified to ASME A112.14.3 Type B have an unvented external flow control.
 - c. Interceptors certified to ASME A112.14.3 Types C and D do not have a vented or unvented external flow control fitting.
- (iii) Flow control fittings may not be required for floor drains or for fixtures that could flood.
- (5) No valve or piping bypass Equipment is allowed that may alter or prevent the designed operation of the FCU.
- (6) When necessary due to installation concerns, or otherwise required by the LUC, testing for leakage will be performed using either a vacuum test or water-pressure test.
- (a) Vacuum Test- seal the empty tank and apply a vacuum to two (2) inches of mercury. The tank is approved if 90 percent of the vacuum is held for two (2) minutes.
 - (b) Water-Pressure Test - seal the tank, fill with water, and let stand for twenty-four (24) hours. Refill the tank. The tank is approved if the water level is held for one (1) hour.
- d. Operation and Maintenance
- (1) Every structure at the facility shall be constructed, operated and maintained in a manner to ensure that all, and only, discharges containing FOG are directed to the FCU.
 - (2) All FCUs and Equipment shall be serviced to function properly and continuously to prevent the discharge of FOG into building sanitary drains.
 - (3) The discharge of wastewater with temperatures in excess of 140°F to any FCU is prohibited.
 - (4) In no instance shall the FCU be allowed to cause a sanitary nuisance at any time. In the event of a sanitary nuisance, such conditions shall be abated within 24 hours.
 - (5) Gravity Grease Interceptor (GGI)
 - (a) GGIs shall be maintained in efficient operating conditions by effecting all necessary repairs noted by the liquid waste transporter, the FSM, or any other Commissioner.
 - (b) Where a GGI is shared by more than one Food Establishment, the building owner shall be the responsible party for maintenance, cleaning and record keeping of the interceptor.
 - (6) Hydromechanical Grease Interceptor (HGI)
 - (a) HGIs shall be maintained in efficient operating conditions by removing all Food residues and accumulated grease on a daily basis.
 - (i) Odors normally associated with an HGI are typically not present when the properly sized solids interceptor is cleaned daily (because the Food particles which decay and cause odors never reach the interceptor).
 - (ii) Daily cleaning also improves the grease quality to the extent that recovered grease could be disposed of with other renderable fryer grease (meaning the restaurant may be compensated for the grease, since it can be recycled into a variety of products).
 - (b) HGIs shall be inspected periodically to check for leaking seams and pipes, and for effective operation of the baffles and flow regulating device. Baffles shall be maintained free of all caked-on FOG and waste.
 - (c) If at any time the automatic elements or components of an AGRU do not function as intended and designed, the malfunctioning automatic grease interceptor shall be operated and reported as a manual grease interceptor and cleaned on a daily basis until the system is repaired.
 - (i) The automatic grease interceptor shall be repaired within 30 days of malfunctioning.

- (ii) If the automatic grease interceptor is not capable of repair, it shall be replaced within 90 days of malfunctioning.
 - (iii) Plans for replacement shall be reviewed and approved by LUC.
- e. Cleaning Frequency – unless otherwise specifically established by the designing engineer cleaning of a FCU shall be as specified within this paragraph,
 - (1) At no time shall accumulation of FOG and solids exceed 25 percent of the design liquid level of the FCU.
 - (2) Each FCU shall be opened, inspected and completely cleaned of Food solids and FOG, by a liquid waste transporter at a frequency to avoid a grease level in excess of 25% of the operating capacity and/or to prevent exceedance of the fats, oils, and grease standard defined at §1, paragraph c. of this chapter.
 - (3) Under no circumstance shall the cleaning frequency exceed the applicable interval specified below unless authorized by the LUC:
 - (a) GGIs shall be cleaned a minimum of once per quarter (every 90 days).
 - (b) HGIs shall be cleaned a minimum of once per month (every 30 days).
 - (c) GGIs equipped with a functional monitoring device shall all be cleaned, when the FOG capacity limit reaches 25%, however, the interval between cleanings shall never exceed 180 days.
- f. It is the responsibility of the Person in Charge (PIC), or in the case of a shared GGI the building owner, to witness and/or otherwise ensure the pumping company is completely cleaning the FCU and shall ensure:
 - (1) measurement of the depth of grease inside the tank is recorded on the maintenance log;
 - (2) complete removal of the full contents of the FCU, including settled solids, wastewater and floating materials;
 - (3) cleaning of side walls, baffle walls, cross-pipes, and inlet and outlet pipes by pressure washing or scraping to remove all attached materials. Removable baffles shall be removed and cleaned during the maintenance process;
 - (4) cleaning of flow control devices to prevent blockage due to the accumulation of solid particles;
 - (5) inspection of all internal components, replacement of anything missing or broken and confirmation that the flow control device, if applicable, is installed:
 - (a) Verify that the baffle is secure and in place.
 - (b) Ensure that the sanitary "tees" on the inlet and outlet sides of the FCU are not obstructed, loose, or missing.
 - (c) Check for any cracks or other defects.
 - (6) refilling the FCU with fresh water. Decanting, skimming, or back flushing is prohibited. No waste or wastewater removed from a FCU shall be discharged back into the FCU from which it was removed or into any other FCU;
 - (7) confirmation that lids are securely and properly seated after completion of cleaning; and,
 - (8) Completion of the maintenance log with notation of deficiencies. Logs shall include the identity the technician, and be signed and dated.
 - (9) Emulsifiers, grease cutters or other chemicals or detergents which could cause FOG to pass through the system to the building sanitary drains are prohibited and shall not be used during cleaning operations.

§ 3. Best Management Practices for FOG Reduction (FOG BMPs)

- a. Food Establishments that generate, or have the potential to generate FOG discharges, shall develop and implement Best Management Practices to reduce to, the extent practicable, FOG discharges.
- b. Best management practices (BMPs) shall include, at minimum:
 - (1) Proper disposal of Food waste
 - (a) All Food waste shall be disposed of directly into the trash or garbage, and not in sinks.
 - (i) oily liquids such as sauces and salad dressings shall not be discharged into sinks, grease interceptors or grease traps.
 - (ii) Food waste and solids should be in enclosed plastic bags to prevent leaking and odors.
 - (b) Drain screens shall be installed all kitchen drains to keep Food scraps from going down the drain. Screens should be removable for frequent cleaning.
 - (c) Food Establishments shall implement policies, and train staff, to scrape or dry-wipe excess Food and grease from pots, pans, fryers, utensils, screens and mats, then dispose of it in the trash instead of putting it down the drain before washing.
 - (i) FOG scraped or removed from pots, pans, dishes and utensils shall be directed to the municipal solid waste stream for disposal.
 - (ii) Food Establishments shall allow FOG to cool before it is skimmed, scraped or wiped off of all preparation and servicing surfaces.
 - (2) Recycling of Renderable FOG
 - (a) Segregation and collection of waste cooking oil.
 - (i) All waste cooking oil shall be collected and stored properly in closed, leak-proof containers designed and located in such a manner as to facilitate transfer and collection.
 - (ii) Storage containers shall be visually inspected daily and emptied before they reach 90 percent capacity.
 - (iii) Spills shall be contained and cleaned using absorbent materials. Wet cleanup methods shall not be used.
 - (b) Location for remote collection storage areas for renderable FOG must be approved by the LUC and maintained by the Food Establishment.
 - (i) Storage areas shall be located away from storm drain catch basins.
 - (ii) Storage areas shall be regularly inspected and maintained free of debris.
 - (iii) Storage containers shall be emptied before they reach 90 percent capacity.
 - (iv) Storage container lids shall be maintained to prevent rainwater inflow and secured to prevent accidental spills, vandalism, or unauthorized use.
 - (c) Existing locations, prior to promulgation of this regulation, shall be deemed approved provided that the location meets the provisions of the preceding paragraph (b).
 - (d) Licensed waste haulers or an approved recycling facility must be used to dispose of waste cooking oil and any other renderable FOG.
 - (3) Maintenance of kitchen exhaust hoods.
 - (a) All waste generated by manual hood and hood filter cleaning shall be collected and transported off-site to an approved disposal facility.

- (b) No waste shall be flushed, discharged, conveyed or allowed to pass through to utility or non-utility owned or operated sanitary drainage system or onsite sewage treatment and disposal systems.
 - (c) Where a hood is designed to be self-cleaning, the FOG control device shall be designed for the maximum cold water and hot water flow rates. Where a surfactant/detergent is used, a separate FOG control device shall be installed and sized to provide sufficient detention time to allow FOG waste separation.
 - (d) It is the responsibility of the PIC to monitor the activities of all contracted service providers. Illicit discharges made by contractors shall be treated as violations made by the Food Establishment.
- (4) Proper Mat and Equipment Wash-Down Areas.
- (a) Mats, grills, garbage cans and other Equipment should be washed indoors utilizing a mop sink connected to a FOG Control Unit(s) (FCU). Wash with hot water (less than 140F). If soap is necessary, use sparingly.
 - (b) Wash-water shall never be released to ground, groundwater, surface waters, or storm sewer.
- (5) Proper operation of FCU and Solids Interceptor.
- (a) Units shall be visually inspected daily to prevent excessive accumulation and discharge of Food solids to a FCU or building sanitary drains.
 - (b) Solids shall be properly discarded as solid waste or otherwise removed off-site by a liquid waste transporter.
 - (c) Brown grease should not be mixed with yellow grease unless the renderable grease hauler can recycle the entire contents when they are mixed.
- c. Employee Training
- (1) The content and form of training may be prescribed by the Food Safety Manager's designee.
 - (2) Training shall occur at orientation of new employees and at quarterly refresher training of existing employees.
 - (3) Food Employees shall be periodically trained by ownership/management on the facilities BMPS, including:
 - (a) How to scrape or dry-wipe excess Food and grease from pots, pans, fryers, utensils, screens and mats, then dispose of it in the trash instead of putting it down the drain.
 - (b) How to properly dispose of grease or oils from cooking Equipment into a grease receptacle such as a barrel or drum without spilling.
 - (c) How to properly prevent and clean up spills, including the location and use of:
 - (i) absorption products to clean under fryer baskets and other locations where grease may be spilled or dripped.
 - (ii) 'Spill Kits,' containing materials such as absorbent pads or kitty litter, to clean up grease and oil spills using dry methods prior to mopping.
 - (iii) emergency contact numbers in the event additional clean-up services are required.
 - (d) FOG generating establishments shall maintain trained staff to ensure compliance with the requirements of this section and shall have at least one trained person on staff with working knowledge of the proper use and maintenance of:
 - (i) Kitchen exhaust hoods

- (ii) Solids separators
 - (iii) FOG control devices
 - (iv) Best management practices
 - (v) Yellow and brown grease storage
 - (vi) Mat and Equipment wash-down areas
- (4) Training shall be documented with employee signatures to confirm each employee's attendance and understanding of the practices reviewed.
- (i) Training records shall be available for review by FSM.
 - (ii) Training records shall be retained for a minimum of three (3) years.
- d. Kitchen signage.
- (1) Best management and waste minimization practices shall be posted conspicuously in the Food preparation and Warewashing areas at all times.
 - (2) Post "No Grease" signs above sinks and on the front of dishwashers.

§ 4. Record Keeping

- a. Each Food Establishment shall maintain records of all maintenance, repair activities, service calls and staff training identified within this Chapter.
- b. The building owner shall be responsible for maintaining records of all applicable operation and maintenance associated with a FCU provided for tenant use.
- c. All records shall be retained onsite for a period of not less than five (5) years and made available to FSM staff upon request.
- d. At a minimum, each Food Establishment shall maintain the following records as applicable:
 - (1) All scheduled and unscheduled service calls to clean waste drains, building sanitary drains, or building sewers.
 - (2) Employee training pursuant to FOG BMPs required by this chapter.
 - (3) Logs of all cleaning, maintenance and repairs of a FCU.
 - (4) Kitchen exhaust hood cleaning including waste manifest forms
 - (5) The quantity of renderable FOG recycled.

§ 5. Inspection

- a. In general, the FSM will inspect for compliance with this Chapter during the routine Food Establishment inspections specified within Chapter 6 of this title; however,
 - (1) Pursuant to 14 M.P.T.L., ch. 3, §2, any Commissioner may inspect, monitor, meter, sample and examine records necessary to determine compliance with this Land Use Regulation.
 - (a) Commissioners representing Utilities, Fire Safety, Building Code Enforcement and Natural Resources Protection are likely to take interest in a facility's compliance with this chapter.
 - (b) Though not required, the general intent is for Commissioners to coordinate any inspection and enforcement action related to Food Establishments with the FSM.

- (2) When requested, as necessary for a detailed inspection of the FCU, the PIC shall provide the specific time and date of the next scheduled unit cleaning.
- b. Where the building owner is responsible for operation, maintenance and record keeping of a shared FCU:
 - (1) The Building Owner shall provide LUC all maintenance logs for each FCU they maintain annually, prior to March 1st, for the previous calendar year.
 - (2) Commissioners seeking to perform a detailed inspection of a shared FCU shall coordinate inspection during a routine unit cleaning, provided that:
 - (a) the next routine cleaning is scheduled to occur no longer than 30-days from the request; and,
 - (b) the Facility Owner provides the date and time of the next routine cleaning within 10-days of the request; and,
 - (c) that the time and date of the routine cleaning occurs during normal MPTN government business hours; otherwise,
 - (d) the Facility Owner shall cause that a cleaning of the unit be scheduled at a mutually acceptable date/time no longer than 30-days from the request.
 - (3) Failure of a building owner to coordinate a request by a Commissioner to inspect will result in enforcement action by the LUC which may include, in addition to other penalties the LUC contracting for the service and back charging the Facility Owner.
- c. Food Establishments, or building owners in the case shared FCUs, are required to provide immediate, clear, safe and uninterrupted access to a FCU.
- d. Whenever the FSM, or LUC, suspects that the FCU may not be performing as designed they shall:
 - (a) mandate timely repairs; and/or
 - (b) sample or cause the discharge from the FCU to be tested for FOG.

CHAPTER 10. ENFORCEMENT

§ 1. Enforcement of the FDA Food Code

- a. The enforcement authority for violations with direct reference to the FDA Food Code is specified by the Tribal Food Law (26 M.P.T.L.).
- b. Penalty Assessment
 - (1) The FSM shall assess fines whenever the Food Establishment fails to correct violations within the time stated within the Warning Letter, described at Ch. 6, §5 ¶ d., issued by the FSM.
 - (a) Violations noted on the inspection report must be corrected by the time stated on the inspection report.
 - (b) Outside of the routine inspection process, when the FSM becomes aware of conditions which are or may be a violation of the MPTN Food Code, the FSM may issue verbal or written orders or warnings. Food Establishments must correct violations within such orders or warnings by the date specified.
 - (2) Failure to correct any violations identified by the FSM or other Commissioner by the date and time agreed on will result in fines not to exceed \$500 per violation. The fine schedule is as follows:
 - (a) First Time

- (i) Priority (P) violations: \$250 per violation
 - (ii) Priority Foundation (Pf) violations: \$200 per violation
 - (iii) Core (C) violations: \$100 per violation
 - (b) Repeated Enforcement Actions - second and subsequent violations, relevant to the specific section of the Code, previously fined within one year will be assess fines twice those identified within the above subparagraph (a).
 - (3) Continued failure to correct a violation after a fine has been issued may result in suspension/revocation of the Food Establishments license.
 - (4) The proposed variance request will be reviewed in light of the alternate procedures and/or HACCP plan submitted. A variance may be granted if:
 - (a) the granting of the variance will not undermine the purposes of the MPTN Food Code;
 - (b) the proposed variance will not have the potential to adversely affect the environment or, the potential to affect the general health, safety and welfare of the Tribe, it's employees and guests;
 - (c) denying the variance will cause hardship out of proportion to the benefit intended by the Code; and,
 - (d) the provisions for which the variance is sought can be properly mitigated or the effect of the variance is neutral.
 - (5) The FSM may condition its approval of the variance by stipulating alternative equivalents, or alternative compliance methods than those proposed by the Applicant.
- c. Cease and Desist Orders
- (1) The FSM may issue a cease and desist order to temporarily halt food service operations whenever, due to equipment failure or lack of critical supplies, the establishment cannot maintain sanitary operations or proper refrigeration.
 - (a) At the discretion of FSM, provisional accommodations may be implemented on a temporary basis to address noted deficiencies.
 - (b) The FSM may move to suspend the Food Establishment's license upon determination that the provisional measures do not adequately mitigate the condition, or when permanent corrective measures are not implemented within the time period specified by the FSM.
 - (2) The FSM may also issue a cease and desist order, effectively conditioning a Food Establishment's existing license and allowing otherwise compliant operations continue, whenever the health hazard or non-compliant condition can be mitigated without impacting the entire operation thru isolation, cessation of specific activities, or elimination of specific menu items.
- d. Suspension/Revocation of License
- (1) The FSM may, by providing written notice, summarily suspend a Food Establishment's license without prior warning, notice of a hearing, or a hearing, when:
 - (a) an Imminent Health Hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition such as vermin infestation, failure to initiate on-site corrective actions identified by the FSM (Ch. 6, §3, ¶b(3)), or other circumstance that may endanger public health; or,
 - (b) the Food Establishment fails to correct a violation for which a penalty had been assessed.
 - (2) The FSM may, after holding a hearing and exhausting administrative remedies, suspend or revoke a Food Establishment's license when there has been a history of repeated non-compliance.

- e. Reinstatement of License/Removal of Conditions
 - (1) A license suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the FSM through reinspection and other means as appropriate.
 - (a) After receiving a written request from the licensee stating that the conditions cited in the summary suspension order no longer exist, the FSM shall conduct a reinspection of the Food Establishment.
 - (b) The FSM shall conduct such inspection within two (2) business days, meaning days that the FSM is normally at work, after receipt of the licensee's request.
 - (2) A license revocation shall remain in effect for the time period specified and shall not be reinstated unless the facility, by inspection of the FSM, is in complete compliance with all aspects of this MPIN Food Code.
- f. Facility Closure - Operation without a valid license
 - (1) A person may not operate a Food Establishment without a valid license to operate issued by the FSM.
 - (a) Activities identified within Chapter 7 and Chapter 8 are only excluded from the definition of Food Establishment, and therefore do not require a license, when operated in full compliance with the applicable requirements specified within those chapters; therefore,
 - (b) operation of activities identified within Chapter 7 and Chapter 8, when not in compliance with the applicable requirements, is operation of a Food Establishment without a license and prohibited.
 - (2) If a Food Establishment maintains operations without a valid license, the FSM shall, Pursuant to 26 M.P.T.L., §7, initiate an action in the Tribal Court requesting a temporary or permanent injunction regarding such activities.
- g. Appeal
 - (1) As specified within 26 M.P.T.L., §5, any recipient of a fine or order issued by the FSM shall have 10 days from the receipt to request an Administrative Appeal by the FSM.
 - (a) The FSM shall confer with the recipient taking into consideration the recipient's response.
 - (b) If the FSM is satisfied with the response the Inspector shall issue a written order reflecting the resolution of the issue.
 - (c) If the FSM is not satisfied with the response, the Inspector shall provide written notification that the order and/or fine as amended or otherwise shall remain in effect.
 - (2) The recipient, if having first pursued resolution through the administrative appeal process described above in ¶1, may within 20 days of receiving a final action by the FSM seek review by the Tribal Court (see 26 M.P.T.L. § 6).
- h. Variance Requests
 - (1) The FSM may grant variances to certain provisions with direct reference to the FDA Food Code.
 - (2) Variance requests must be made on the form provided by the FSM.
 - (a) The request must include specific reference to the code provision for which relief is being sought;
 - (b) Proposed alternate procedures to comply with the intent of those provisions; and,
 - (c) A clear argument to justify granting a variance; also

- (d) A HACCP plan may be required if it is relevant to the variance being requested (see FDA Food Code, currently at ¶3-502.11 and ¶3-502-12).

§ 2. Enforcement of Supplemental Provisions Defined by this Title

a. Provisions of this Title that lack direct reference to the FDA Food Code (see Ch. 1, § 1, ¶ c.), have been adopted pursuant to the Tribal Land Use Law (14 M.P.T.L. ch. 3, § 2). Therefore, the enforcement procedure defined within that Title shall govern.

b. Citations

Pursuant to 14 M.P.T.L. ch. 9, § 3b., the following schedule of common penalties may be assessed within citations issued for violations of provisions related to those specified within Ch. 1, § 1, ¶ c of this Title.

Violation of provisions stipulated within Chapter 9 FOG Management	
Failure to maintain FCU cleaning, inspection and maintenance records in proper order	\$100
Failure to maintain access to an FCU	\$100
Failure to maintain FOG management Equipment in proper working order	\$200
Failure to clean FOG management Equipment quarterly or when 25% of the depth of the trap is filled with Food solids and FOG, whichever comes first	\$200
Failure to repair FOG equipment within timeframe specified	\$500
Failure to properly recycle renderable grease	\$500
Discharge of cleaning fluids and/or grease generated from hood cleaning operations	\$1,000
Discharge of renderable FOG to a FCU or the sanitary drainage system.	\$1,000
Improper management of renderable FOG resulting in a release to the environment	\$1,000
Violation of provisions stipulated within Chapter 4, § 7 - Frozen Dessert Dispensers	
Failure to maintain daily logs	\$100
Failure to properly clean non-heat treatment unit	\$250
Use of "ReRun"	\$250
Failure to test for bacteriological contamination	\$250
Failure to confirm proper completion of a "Heat treatment cycle" every 24-hours	\$250

c. Enforcement Orders

Any violation, other than those specifically identified above within ¶ b., shall be referred to the Administrator of the Land Use Commission who, if upon review determines there is reason to believe there is a violation or non-compliance, will issue the appropriate enforcement order.

d. Variance Requests

Requests for a variance to a provision related to those specified within Ch. 1, § 1, ¶ c of this Title shall be directed to the Administration for the MPTN Land Use Commission as specified within 14 M.P.T.L, Ch. 8.

e. Appeals

Any person who has been assessed a penalty pursuant to this section may request a hearing before the Commission:

- (a) the request for a hearing must be filed with the Commission’s Administrator within thirty (30) calendar days of the issuance of the penalty; and
- (b) the hearing shall follow the procedures established within 40 M.P.T.L, with the Commission’s Administrator serving as the Hearing Official.