**Conference for Food Protection**

**2018 Issue Form**

**Issue: 2018 I-003**

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| **Council Recommendation:** | Accepted as  Submitted |  | Accepted as Amended |  | No Action |  |
| **Delegate Action:** | Accepted |  | Rejected |  |  |  |

*All information above the line is for conference use only.*

**Issue History:**

This is a brand new Issue.

**Title:**

UFE 3 – Amend Food Code Food Establishment definition and exemption for PIC

**Issue you would like the Conference to consider:**

Recommendations to amend the most current published version of the Food Code to add "unattended food establishments" to the definition of a food establishment and to add an additional exemption to the assignment of a person in charge (PIC) in §2-101.11.

**Public Health Significance:**

The most recent published version of the Food Code does not provide a definition for an unattended food establishment. The lack of a definition causes confusion for industry and regulators during the permitting process and for proper compliance with and enforcement of applicable sections of the Food Code.

A food establishment without a person in charge present at all times is non-compliant with §2-101.11 and each permit holder is required to submit a variance request to the applicable regulatory authority for each establishment. The suggested changes to the Food Code define an unattended food establishment and outline minimum requirements for food protection when a person in charge is not present.

**Recommended Solution: The Conference recommends...:**

that a letter be sent to the FDA requesting that Sections 1-201.10(B) and 2-101.11 of the most recent published version of the Food Code be amended as follows (new language is underlined):

1. **Section 1-201.10(B) be revised to add the following language**:

"Food Establishments" includes:

(a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the REGULATORY AUTHORITY; and

(b) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the PREMISES; and regardless of whether there is a charge for the FOOD.

(c) An unattended operation that sells packaged time/temperature control for safety food using an automated payment system, where a person in charge is not required to be present on the premises during all hours of operation, and where entry is not accessible by the general public.

2. **Section 1-291.10(B) be further revised to add a new definition** for the term "unattended" means the PERSON IN CHARGE is not present on the premises during all hours of operation.

3. **Section 2-101.11 be revised to add exemptions for the Person-in-Charge**:

(A) Except as specified in ¶ (B) and (C) of this section, the PERMIT HOLDER shall be the PERSON IN CHARGE or shall designate a PERSON IN CHARGE and shall ensure that a PERSON IN CHARGE is present at the FOOD ESTABLISHMENT during all hours of operation.

(C) A FOOD ESTABLISHMENT that is UNATTENDED and provides, at minimum, all of the following food protections:

(1) The FOOD ESTABLISHMENT is only accessible to a controlled population, such as occupants of the building.

(2) All food is sold in packages intended for individual retail sale and labeled per LAW.

(3) Refrigerated equipment for display or sale of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD is equipped with self-closing doors and meets the automatic shut-off requirements for vending machines specified in section 4-204.111.

(4) The FOOD ESTABLISHMENT is under continuous electronic surveillance or similar security precautions as approved by the REGULATORY AUTHORITY.

(5) The PERMIT HOLDER ensures that food is in sound condition, UNADULTERATED, from APPROVED SOURCES, protected from contamination, accurately presented, delivered and stored at the required temperatures, and that equipment is cleaned on a routine basis and at a frequency acceptable to the REGULATORY AUTHORITY.

(6) Contact information for the PERMIT HOLDER is continuously and conspicuously posted at the point of sale.

**Submitter Information 1:**

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It is the policy of the Conference for Food Protection to not accept Issues that would endorse a brand name or a commercial proprietary process.