

NATIONAL RECOVERY ADMINISTRATION

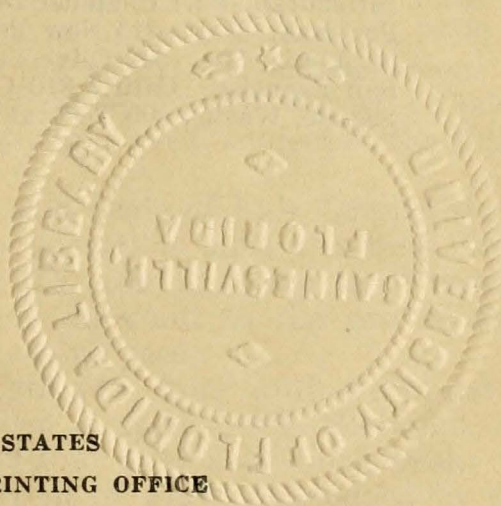
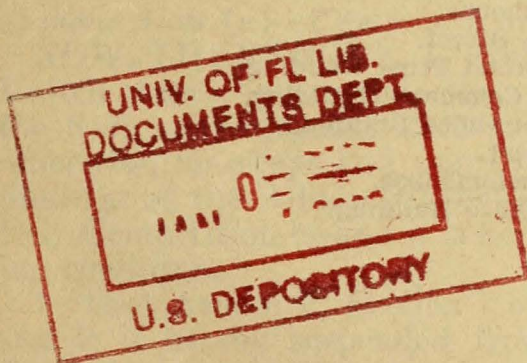
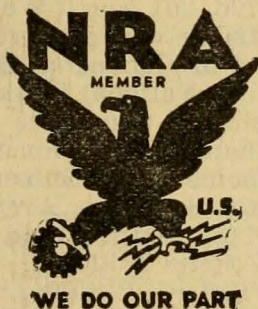
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CODE OF FAIR COMPETITION

FOR THE

RESTAURANT INDUSTRY

AS APPROVED ON FEBRUARY 16, 1934

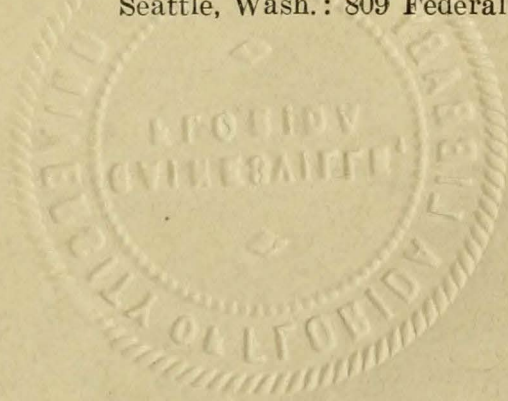


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Approved Code No. 282

## CODE OF FAIR COMPETITION

FOR THE

## RESTAURANT INDUSTRY

As Approved on February 16, 1934

BY

PRESIDENT ROOSEVELT

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### EXECUTIVE ORDER

#### CODE OF FAIR COMPETITION FOR THE RESTAURANT INDUSTRY

An application having been made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Restaurant Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of Title I of said Act and that the requirements of clauses (1) and (2) of subsection (a) of Section 3 of the said Act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report, recommendations and findings of the Administrator and do order that the said Code of Fair Competition be and it is hereby approved, subject to the following conditions:

1. That Article V, Section 7 of said Code of Fair Competition be and it is hereby suspended from operation until the first day of June, 1934, or until such time as the Administrator shall have reviewed the operation of said Code pursuant to the provisions of Article IX, Section 3 thereof, as to employees:

(a) who are paid for a forty-eight (48) hour work week, not less than the minimum wages prescribed in Article VI, Section 1, subsection (a) of said Code for a fifty-four (54) hour work week;

(b) not less than fifty (50) percent of whom are lodged by their employers on or in the vicinity of the restaurant premises; and

(c) who are employed in a restaurant which serves food only at restricted meal periods for a limited number of hours at each meal

period, at prices which customarily are included in a combination price for board and lodging furnished by the same establishment; provided:

(i) that not more than fourteen (14) consecutive hours shall elapse between the beginning and termination of the hours worked by the above described employees in any twenty-four (24) hour period;

(ii) that not more than two intervals off duty shall be permitted during the course of any twenty-four (24) hour period of employment, and

(iii) that no such employee shall be permitted to work more than nine (9) hours in any twenty-four (24) hour period nor more than forty-eight (48) hours in any one week.

2. That Article V, Section 7 of said Code of Fair Competition be and it is hereby suspended from operation until the first day of June, 1934, or until such time as the Administrator shall have reviewed the operation of said Code pursuant to the provisions of Article IX, Section 3 thereof, as to employees of hotel restaurants employing not more than fifteen (15) persons in the operation of said restaurants, provided:

(a) that no such employee shall be permitted to work in excess of forty-eight (48) hours in any one week nor more than nine (9) hours in any twenty-four (24) hour period;

(b) that no such employee shall be paid for such forty-eight (48) hour work week, less than the minimum wages prescribed in Article VI, Section 1, subsection (a) of said Code for a fifty-four (54) hour work week;

(c) that not more than fourteen (14) consecutive hours shall elapse between the beginning and termination of the hours worked by such employees in any twenty-four (24) hour period; and

(d) that not more than two intervals off duty shall be permitted during the course of any twenty-four (24) hour period of employment.

3. That the regular full time work week of any class of employees immediately prior to the date of this order, shall not be increased, irrespective of the regular full time work week of such class of employees on June 16, 1933; and that under no circumstances whatsoever shall any female employee be permitted to work in excess of forty-eight (48) hours in any one week except as provided in Article V, Section 5 of said Code.

4. That because the Administrator believes that further investigation of the stop loss provision of this Code is required, the provisions of Article VII, Section 12, be and hereby are suspended from operation and shall not become effective pending further investigation and report from the Code Authority and further investigation by the Administrator to determine whether such provisions shall be indefinitely suspended or modified, or become effective and pending further order by the Administrator.

5. That within ninety (90) days after the effective date of this Code, the Administrator may, after due notice, hold such further hearings as he may deem necessary for the purpose of determining

the adequacy of the minimum wages established in this Code, and thereafter shall submit to me his report and recommendations for my further order, which further order by me shall constitute a modification of, and shall have the effect of a further condition of, my approval of this Code.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,  
*Administrator.*

THE WHITE HOUSE,  
*February 16, 1934.*

## LETTER OF TRANSMITTAL

The PRESIDENT,  
*The White House, Washington, D.C.*

SIR: This is a report of the hearing on the Code of Fair Competition for the Restaurant Industry, conducted in accordance with the provisions of the National Industrial Recovery Act.

The hearings on the labor provisions of the Code were held in the Main Auditorium of the United States Chamber of Commerce Building on November 27, 28 and 29, 1933. The hearing on the fair trade practice provisions was held in Room "B" of the United States Chamber of Commerce Building on December 11, 1933.

The Code was presented by the National Restaurant Association, which comprises in its own membership the leaders of the Industry throughout the United States. There are affiliated with this association over 150 state and local restaurant associations, who joined with the parent association in presenting the Code. These associations are said to represent at least 70 percent of the Industry by volume of business.

During the preparation of this Code the National Restaurant Association caused meetings to be held in the various regional sections of the country, and an opportunity was given to all members of the Industry to state their views as to the pertinent provisions of the Code.

### THE INDUSTRY

It is estimated that the Industry as defined in the Code comprises at least 450,000 units, and that between 1,250,000 and 1,500,000 persons are now employed in the Restaurant Industry. It is said that the number of persons now employed in restaurants is considerably larger than the number employed in 1929. It is estimated that the annual payrolls of the Industry amount to between \$1,000,000,000 and \$1,200,000,000.

### PROVISIONS OF THE CODE

The work hours may not be entirely satisfactory from a purely social standpoint, but they represent a very substantial reduction from the hours which prevailed in the Restaurant Industry and will result in an estimated employment of between 125,000 and 150,000 persons in the Industry above the number employed on June 15, 1933. The Code provides for a six day work week, which is a definite innovation in the Industry.

The Code provides for minimum wages for all classes of employees and it is estimated by the Industry that the resultant increase in total payrolls will be at least 25 percent above the amounts paid as of June 15, 1933.

The Code further provides that it may be reviewed by the Administrator not later than June 1, 1934, to ascertain whether the provisions thereof have affectuated or will affectuate the policy and purposes of the National Industrial Recovery Act.

#### FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant association is an industrial association truly representative of the aforesaid Industry; and that said association imposes no inequitable restrictions on admission to membership therein.

(c) The Code is not designed to and will not permit monopolies or monopolistic practices.

(d) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(e) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons, I recommend that this Code be approved.

Respectfully,

HUGH S. JOHNSON,  
*Administrator.*

FEBRUARY 15, 1934.

# CODE OF FAIR COMPETITION FOR THE RESTAURANT INDUSTRY

## ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Restaurant Industry.

## ARTICLE II—APPLICATION OF THE CODE

The provisions of this Code, and such other provisions as may subsequently be approved and annexed hereto, and except as specifically hereinafter otherwise provided, shall apply and be binding upon every member of the Restaurant Industry, as hereinafter defined in Article III.

## ARTICLE III—DEFINITIONS

### RESTAURANT INDUSTRY

SECTION 1. The term "restaurant industry" as used herein, shall mean the business of operating, directly or indirectly or through any subdivision, a restaurant, as hereinafter defined in Section 2.

### RESTAURANT

SECTION 2. The term "restaurant" as used herein shall include any establishment which, for compensation, prepares and offers food for consumption either on any of its premises, or by catering and banquet service, or by box lunch service, or by curb service, and customarily serves at least ten (10) people per day.

### FOOD

SECTION 3. The term "food" as used herein, shall mean nutritive material intended for human consumption, in solid and/or liquid form, whether simple, mixed, compounded, cooked, uncooked, or otherwise prepared, excluding however, preparations sold or produced primarily for their vitamin content, or medicinal or quasi-medicinal preparations.

### MEMBER OF THE INDUSTRY

SECTION 4. The term "member of the industry" as used herein, includes, without limitation, any individual, partnership, association, corporation, or other form of enterprise engaged in the industry, either as an employer or on his or its own behalf.

## EMPLOYER

SECTION 5. The term "employer" as used herein, shall mean any one by whom an employee is compensated or employed.

## EMPLOYEE

SECTION 6. The term "employee" as used herein, shall mean any person employed in the restaurant industry.

## CURB EMPLOYEE

SECTION 7. The term "curb employee" as used herein, shall mean employees engaged exclusively as outside salesmen serving curb customers.

## DEFINITION OF PERSONNEL

SECTION 8. (a) *Maintenance Employee*.—The term "maintenance employee" as used herein, shall mean an employee essential to the upkeep and/or preservation of the premises and property of a restaurant.

(b) *Watchmen and Guards*.—The term "watchmen and guards" as used herein, shall mean employees engaged in watching and safeguarding the premises and property of a restaurant.

(c) *Service Employee*.—The term "service employee" as used herein shall include waiters and waitresses engaged in table, counter, and/or room service and hat and coat checkers, whose duties consist chiefly in rendering direct service to customers, and who regularly receive monetary recognition from such customers for the services rendered; provided, however, that if the classification of any employee or group of employees as service or non-service employees should operate to discriminate unjustly between employees of the same restaurant establishment or between restaurant establishments of the same class operating under similar conditions, the Administrator on application by such affected parties, and on recommendation of the Code Authority, may, after such notice and hearing as he may deem necessary, make such reclassification as justice may require.

(d) *Executive*.—The term "executive" as used herein, shall mean an employee responsible for the management of the business or a recognized subdivision thereof.

(e) *Part-time employee*.—The term "part-time employee" as used herein shall mean an employee who works less than the maximum work week prescribed herein.

## SOUTH

SECTION 9. The term "South" as used herein shall mean Virginia, West Virginia, Maryland, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, New Mexico and Texas.

## PRESIDENT, ACT AND ADMINISTRATOR

SECTION 10. The terms "President", "Act" and "Administrator" as used herein shall mean, respectively, the President of the United

States, Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

#### POPULATION

SECTION 11. "Population" for the purposes of this Code shall be determined by references to the Fifteenth Census of the United States (U. S. Department of Commerce, Bureau of the Census, 1930).

### ARTICLE IV—GENERAL LABOR PROVISIONS

#### COLLECTIVE BARGAINING

SECTION 1. (a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

#### CHILD LABOR

SECTION 2. On and after the effective date of this Code, no person under the age of sixteen (16) years shall be employed in the Restaurant Industry.

This provision shall not relieve any employer from complying with any state or federal law which imposes more stringent requirements as to age of employees than are prescribed by this section.

### ARTICLE V—HOURS OF LABOR

#### BASIC WORKING DAYS

SECTION 1. No employee shall be permitted to work more than six (6) days in any one week, except as hereinafter otherwise provided.

#### BASIC WORKING HOURS

SECTION 2. No male employee except as hereinafter otherwise provided, shall be permitted to work more than fifty-four (54) hours in any one week and no female employee shall be permitted to work more than forty-eight (48) hours in any one week; provided, however that where the normal full-time work week for any particular class of employees was forty-eight (48) hours, or any number of hours less than fifty-four (54) hours per week on June 16, 1933, or

for the employees first full week of employment after June 16, 1933, such full-time work week of such class of employees shall not be increased, nor shall the full time weekly wage of such class of employees be reduced below their full time weekly wage on June 16, 1933, for performing the same work.

#### EMPLOYMENT BY SEVERAL EMPLOYERS

SECTION 3. No employer shall knowingly engage any employee for any time which totaled with that already performed with another employer or employers, exceeds the maximum hours prescribed herein.

#### NOTICE OF MAXIMUM HOURS TO BE POSTED

SECTION 4. Within eight (8) days after the effective date of this Code every member of the industry shall post and maintain in a conspicuous place, readily accessible to all employees during the ordinary course of their duties, a notice of the maximum hours permitted under this Code.

#### EXCEPTIONS TO MAXIMUM HOURS OR PERIODS OF LABOR

SECTION 5. (a) *Watchmen and Guards.*—The maximum hours of work prescribed in this Article shall not apply to watchmen and guards.

(b) *Maintenance Employees.*—The maximum hours of work prescribed in this Article shall not apply to maintenance employees, provided, however, that such employees shall be paid at not less than one and one-third times their normal rate for all hours worked in excess of their fifty-four (54) hours in any one week.

(c) *Executives.*—Subject to the conditions set forth in Section 6 of this Article, executives regularly receiving not less than the salaries hereinbelow set forth, exclusive of any charges for meals may be permitted to work in excess of the maximum hours of work prescribed in this Article. In the South executives regularly receiving not less than fifteen per cent (15%) less than the salaries hereinbelow set forth, exclusive of any charges for meals, may be permitted to work in excess of the maximum hours of work prescribed in this Article. In Kansas and Missouri, executives regularly receiving not less than ten per cent (10%) less than the salaries hereinbelow set forth, exclusive of any charges for meals may be permitted to work in excess of the maximum hours of work prescribed in this Article.

	<i>Per week</i>
Cities of over 300,000 population-----	\$30. 00
Cities of from 100,000 to 300,000 population-----	27. 50
Cities of from 25,000 to 100,000 population-----	25. 00
Cities or places of less than 25,000 population-----	22. 50

(d) *Limited Overtime.*—In cases of temporary peak times, when the maximum hour provisions of this Article would unduly restrict business operations, the Code Authority may, upon application setting forth the facts substantiating the necessity therefor, approve, subject to review by the Administrator, the extension of the max-

imum hours of any employee whose basic work week is fixed by Section 2 of this Article, by not more than 10% of his normal maximum hours for a period not to exceed 3 weeks in the first six months of the calendar year and not to exceed 3 weeks in the second six months calendar year; or, in the case of such an employee of a restaurant which is open for business for any period of not more than six (6) months in any calendar year by not more than ten per cent (10%) of his normal maximum hours for a period of not to exceed six (6) weeks. All such additional hours of work shall be paid for at not less than one and one-third ( $1\frac{1}{3}$ ) times the normal rate for all hours worked in any one week in excess of the employee's normal maximum hours.

(e) *Emergency*.—In cases of very special emergency requiring the specific attention of a particular executive, maintenance employee, watchman or guard, or threatening damage or destruction to the property of a restaurant establishment, executives receiving the salaries hereinabove specified, maintenance employees, watchmen and guards may be permitted to work in excess of six (6) days per week.<sup>1</sup>

#### LIMITATION UPON NUMBER OF PERSONS WORKING UNRESTRICTED HOURS

SECTION 6. Notwithstanding the provisions of the foregoing sections of this Article, and regardless of the number of persons otherwise permitted to work unrestricted hours, the total number of workers in any restaurant (whether such workers are executives, proprietors, partners, persons not receiving monetary wages, or others) who may be permitted to work unrestricted hours, shall not exceed the following ratio:

In restaurants comprised of twenty (20) workers or less, the total number of workers who may be permitted to work unrestricted hours (not including the workers specified in Section 5 (a) of this Article) shall not exceed one worker for every five workers or fraction thereof.

In establishments comprised of more than twenty (20) workers, the total number of workers (not including those workers specified in Section 5 (a) of this Article) shall not exceed one worker for every five (5) workers for the first twenty (20) workers, and shall not exceed one worker for every eight (8) workers above twenty (20).

#### SPREAD OF WORKING HOURS AND NUMBER OF SHIFTS PER DAY

SECTION 7. Not more than twelve (12) consecutive hours shall elapse between the beginning and the termination of the hours worked by any employee in any twenty-four (24) hour period, and not more than one interval off duty shall be permitted during the course of such twelve (12) consecutive hour period of employment. Time out for meals within the twelve (12) hour spread but not to exceed a total of one hour, shall not constitute an interval off duty between split shifts.<sup>2</sup>

<sup>1</sup> See paragraph 3 of order approving this Code.

<sup>2</sup> See paragraphs 2 (1) and 2 (2) of order approving this Code.

## CONFLICT WITH STATE LAWS

SECTION 8. No provision of this Article shall relieve any employer from complying with any federal law or law of any state or subdivision thereof which imposes more stringent requirements as to hours of labor than are prescribed in this Article.

## ARTICLE VI—WAGES

## BASIC SCHEDULE OF WAGES

SECTION 1. (a) Except as hereinafter otherwise provided, employees shall be paid each week at not less than the minimum rates of wages hereinbelow set forth for a fifty-four (54) hour work week.

Population of cities or places	Nonservice employees	Service employees	Population of cities or places	Nonservice employees	Service employees
Over 500,000.....	\$15. 00	\$10. 50	25,000-100,000.....	\$13. 50	\$10. 25
250,000-500,000.....	14. 50	10. 50	10,000-25,000.....	12. 75	10. 00
100,000-250,000.....	14. 00	10. 25	Less than 10,000.....	12. 00	9. 50

(b) *Curb Employees.*—The minimum wages prescribed in Section 1 of this Article shall not apply to curb employees; the Code Authority shall appoint a joint committee of employers of curb employees and employers who do not employ curb employees to investigate the effect of the provisions of this subsection upon the entire restaurant industry, which committee shall within four (4) months after the effective date of this Code submit to the Administrator recommendations based upon its investigation and study, for his further consideration of this provision or for the modification thereof. The Administrator may, after such notice and hearing as he may prescribe, approve such recommendations, and upon such approval by the Administrator such recommendations shall constitute a part of and have the same force and effect as the provisions of this Code.

## CHARGES

SECTION 2. (a) *Charge for Meals.*—Where it has been mutually agreed between an employee and an employer that such employee shall receive meals as a part of the remuneration of such employee, a sum of not to exceed twenty-five (25) cents for each meal furnished to such employee, but not to exceed a total of three (3) dollars per week, may be deducted from the wages of such employee. In no case shall an employee receive less cash per week because of this charge than that employee received on June 16, 1933, for performing the same work.

(b) *Charge for Lodging.*—No employer shall make any deductions from the minimum wages prescribed in this Article for lodging except under the following terms and conditions:

1. Where lodging has been furnished to employees by established custom in the restaurant establishment or by reason of peculiar location requiring that employees be lodged;

2. In no case shall such deductions exceed the sum of \$2.50 per week;

3. In no case shall an employee receive less cash per week because of this charge than that employee received on June 16, 1933 for performing the same work.

4. In no case shall such deductions be made except by mutual agreement between employer and employee.

5. In no case shall such deductions be made unless prior thereto, application has been made to the Code Authority, setting forth the pertinent facts specified in paragraphs 1 to 4 inclusive of this subsection, and the approval of the Code Authority, subject to review by the Administrator, has been obtained.

(c) *Charge for Uniforms.*—Where an employee is required by his employer to wear a uniform no deductions from the minimum wages prescribed in this Article shall be made by such employers, except that such uniform may, by agreement between such employee and his employer, be obtained and sold by the employer to such employee at a price of not to exceed the actual cost to the employer, subject to the following conditions:

(1) that in the case of a female employee such price shall not exceed five dollars (\$5) per uniform;

(2) that in the case of a male employee such price shall not exceed five dollars (\$5) per uniform, unless such uniform is of such standard design that it may be used by such male employee in performing the same work for other employers in the same city or place, in which case such price shall not exceed twenty dollars (\$20) per uniform;

(3) that no employer shall permit any of his agents or employees, or engage or conspire with any third party, to pursue any course of action not permitted such employers by this section.

(4) that in those cases where uniforms are purchased, employees shall have the option to purchase such uniforms outright, or to reimburse the employer at the rate of ten per cent (10%) of the price per week, except that after notice to the Code Authority, setting forth pertinent facts, and approval by the Code Authority, subject to review by the Administrator, other rates may be agreed upon and authorized. If, upon termination of employment, such purchase price shall not have been paid in full, such employee shall, in the absence of a contrary agreement by such employee, have the option to pay the unpaid balance due forthwith and retain the uniform, or to surrender such uniform to the employer and thereby cancel the obligation to make any further payments therefor. In lieu of such purchase or in the case of uniforms requiring laundering, the employee may at his option rent such uniform from the employer or compensate the employer for laundry services, at a rate of not to exceed the actual cost to the employer of laundering and in no event to exceed twenty-five (25) cents for each laundering.

(d) No deductions from the minimum wages prescribed in this Article, other than those specifically permitted in this section or as may be required by law, shall be made for any purposes whatsoever.

## LIMITATIONS ON WAGE REDUCTIONS

SECTION 3. (a) In the event that the full time weekly hours worked by any employee on June 16, 1933, are required by this Code to be reduced, the gross weekly wages of such employee as of June 16, 1933, shall not be reduced by more than one-half the difference between such gross weekly wages as of June 16, 1933, and the gross weekly wages of such employee for the maximum hours prescribed by this Code computed at the hourly rate received by such employee on June 16, 1933; provided, however, that no employee shall be paid less cash per hour than he was paid on June 16, 1933, and in no case less than the minimum rates prescribed in this Code.

(b) Notwithstanding any other provisions of this Article, the total cash paid per week to any service employee shall not be less than the amount paid to such employee in cash on June 16, 1933, for performing the same work.

## CONFLICT WITH STATE LAWS

SECTION 4. No provisions of this Article shall relieve any employer from complying with any federal law or law of any state or subdivision thereof which imposes more stringent requirements as to wages than are prescribed by this Article.

## NOTICE OF MINIMUM WAGES RATES TO BE POSTED

SECTION 5. Within eight (8) days after the effective date of this Code every member of the industry shall post and maintain in a conspicuous place readily accessible to all employees, during the ordinary course of their duties, a notice of the minimum wage rates required to be paid under this Code.

## SOUTHERN WAGE DIFFERENTIAL

SECTION 6. The minimum rates of pay prescribed in this Article may be reduced by not more than fifteen per cent (15%) in the South and by not more than ten per cent (10%) in the states of Kansas and Missouri.

## CHANGE OF EMPLOYMENT

SECTION 7. Where any employee has, since June 16, 1933, secured employment in the restaurant Industry or has changed or may hereafter change his employment within the restaurant industry from one employer to another employer, the provisions of Section 2 of Article V and Section 2 of this Article with respect to "full time weekly wage" and "cash per week" shall be deemed to be the cash per week paid for the same work on June 16, 1933, by the employer for whom such employee now works or may hereafter work.

## MINIMUM WAGE ESTABLISHED

SECTION 8. This Article establishes a minimum rate of pay irrespective of the basis on which an employee is compensated.

## PART-TIME EMPLOYEES

SECTION 9. Part-time employees shall be paid not less than an hourly rate proportionate to the rates prescribed in the foregoing sections of this Article in accordance with hours worked.<sup>3</sup>

## ARTICLE VII—TRADE PRACTICES

## MISREPRESENTATION

SECTION 1. No member of the industry shall use advertising, whether printed, radio, display, or bill-of-fare, or any other form of publicity which is inaccurate in any material particular or misrepresents food, merchandise, service, credit terms, values, or policies, and no member of the industry shall use advertising and/or selling methods which tend to deceive or mislead customers or prospective customers.

## FREE DEALS

SECTION 2. No member of the industry shall offer or give a free deal. The term "free deal", as used in this paragraph means a gift of free food, money, presents, advertising space, or specimen meal, as an inducement to secure business; provided, however, that this section shall not be construed to prohibit free and general distribution of articles for advertising purposes.

## PRIZES AND PREMIUMS

SECTION 3. No member of the industry shall offer any prize or premium or gift in pursuance of a plan which involves fraud or deception or lottery.

## DEFAMATION

SECTION 4. No member of the industry shall defame a competitor by publishing or circulating false and disparaging statements about his merchandise or his business.

## BREACH OF CONTRACT

SECTION 5. No member of the industry shall maliciously induce or attempt to induce, by any false or deceptive means whatsoever, the breach of an existing contract between a competitor and his source of supply or between a competitor and his customer; or interfere with or obstruct the performance of any such contractual relations with the purpose and effect of hampering, injuring or embarrassing competitors in their business.

## TRADE MARKS AND TRADE NAMES

SECTION 6. No member of the industry shall wilfully imitate the trade marks, trade names, slogans, or other marks of identification of competitors, which imitation has the tendency and capacity of misleading or deceiving customers or prospective customers.

<sup>3</sup> See paragraph 4 of order approving this Code.

## FREE ADVERTISING

SECTION 7. No member of the industry shall accept contributions for advertising his restaurant establishment from any manufacturer, wholesaler or purveyor.

## CLAIMING TO UNDERSELL COMPETITORS

SECTION 8. No member of the industry shall use advertising which inaccurately lays claim to a policy or continuing practice of generally underselling competitors.

## ENTICEMENT OF EMPLOYEES

SECTION 9. No member of the industry shall entice employees of any competitor for the purpose of harassing such competitor or interfering with his business.

## UNLAWFULLY COERCED GIFTS

SECTION 10. No member of the industry shall pay any money or make any gifts or gratuities of any nature to any individual, organization, or association, for privilege or protection inherently his under the law.

## PAYMENTS FOR PRIVILEGE OF WORKING

SECTION 11. No employer shall accept, nor shall he knowingly permit any of his employees to accept money or gifts of any kind from an employee or prospective employee for the privilege of working or for any other advantage.

## STOP LOSS PROVISION

SECTION 12. In order to prevent and discourage the unfair competition resulting from the operation of restaurants at continuing and excessive losses with the consequent pressure exerted against labor and the producer of raw materials to absorb such losses, frequent labor turnover and increasing unemployment, no member of the industry shall sell food at retail prices which result in a foodstuff purchase cost to him in excess of fifty per cent (50%) of his gross monthly food sales; provided however, that the foregoing provision shall not prohibit any member of the industry from selling food at retail without a profit to himself and provided further that where in exceptional cases any member of the industry demonstrates to the Code Authority or its duly authorized agent that it is able to operate without losses on a percentage of foodstuff purchase cost in excess of fifty percent (50%), the Code Authority may approve, subject to review by the Administrator, the use of a higher maximum percentage of foodstuff purchase cost by such member of the industry.<sup>4</sup>

<sup>4</sup> See paragraph 4 of order approving this Code.

## ARTICLE VIII—ADMINISTRATION

## NATIONAL RESTAURANT CODE AUTHORITY

SECTION 1. (a) A Code Authority of five (5) members of the industry and not more than three (3) representatives of the Administrator, to be known as the National Restaurant Code Authority, shall be established by the industry for the purpose of administering, supervising and promoting the performance of the provisions of this Code. The Code Authority shall assist the Administrator in all matters relating to the administration of the provisions of this Code.

(b) The Code Authority shall be selected immediately upon the approval of this Code and in accordance with the following rules:

(1) Five members of the industry shall be chosen; three shall be selected by the National Restaurant Association and two shall be appointed by the Administrator to represent those members of the industry who are not members of said association.

(2) The Administrator may appoint not more than three representatives to participate, but without vote, in the activities of the Code Authority and of any committee thereof.

(3) Any vacancies occurring in the membership of the Code Authority shall be filled by the selection of a new member in the same manner and from the same class as that of the member whom he replaces.

(4) The Code Authority shall have as its chairman one of its members duly elected by said Code Authority.

(5) Members of the Code Authority shall serve for such term as may be designated or until their successors are selected.

(c) In order that the Code Authority shall at all times be truly representative of the industry and in other respects comply with the provisions of the Act, the Administrator may, after such hearings as he may deem proper, require an appropriate modification in the method of selection of the Code Authority.

(d) The Code Authority may from time to time present to the Administrator recommendations based on conditions in the industry which will tend to effectuate the operations of this Code. The Code Authority shall consult with the Administrator as to such administrative interpretations of this Code as he or it may propose. Such recommendations, upon the approval of the Administrator, after such notice and hearing as he may prescribe, and such interpretations, upon their issuance by him after consultation with the Code Authority, shall become operative as a part of the Code.

(e) The Code Authority shall, subject to the approval of the Administrator, supervise the organization and operation within States of State Code Authorities, which shall be subject to the National Restaurant Code Authority, for the purpose of assisting in the administration and enforcement of this Code within such States, and further, of local trade area codes authorities which shall be subject to the National and State Code Authorities. All such State and local code authorities shall be truly representative of the industry in their respective areas.

Subject to such regulations as the National Restaurant Code Authority shall issue, each State Code Authority shall be responsible for the administration of this Code within the State, and shall make such reports to the National Restaurant Code Authority on all matters of local administration, finance, enforcement methods and progress as the National Restaurant Code Authority may direct.

(f) The National Restaurant Code Authority may provide for the payment by each member of the industry of his equitable share of the expenses of the administration of this Code, subject to the approval of the Administrator.

#### RULES, REGULATIONS AND DECISIONS

SECTION 2. (a) Rules, regulations and decisions of the National Restaurant Code Authority pertaining to the administration of this Code shall be submitted for consideration to the Administrator, and such rules, regulations and decisions shall be subject to his disapproval; *provided* that if such decision by the Administrator is not announced within ten days, the National Restaurant Code Authority may act in accordance with such rule, regulation or decision until such time as the rule, regulation or decision shall be disapproved.

(b) If the Administrator shall determine that any action of the Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by the Code Authority pending final action, which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty days notice to him of intention to proceed with such action in its original or modified form.

#### HOTEL RESTAURANTS ADMINISTRATION : LIAISON COMMITTEE

SECTION 3. (a) The provisions of this Code in their application to restaurants operated in conjunction with hotels as defined in the Code of Fair Competition for the Hotel Industry, approved by the President on November 17, 1933, shall be administered by the Code Authority constituted by Article VIII of said Code of Fair Competition for the Hotel Industry, subject, however, to the provisions of the following paragraphs of this Section. This Section shall not be construed as relieving any hotel restaurant from the provisions of this Code.

(b) The Code Authority hereby constituted for the Restaurant Industry and the Code Authority constituted for the Hotel Industry by the aforesaid Code as approved November 17, 1933, shall each appoint from their respective Code Authority members one representative. The two representatives so appointed shall constitute the Hotel and Restaurant National Liaison Committee.

(c) The National Liaison Committee, as a body separate from the Hotel and Restaurant Code Authorities, shall have the power to determine and to make recommendations concerning the respective jurisdiction of the Hotel and Restaurant Code Authorities; and any dispute which may arise in either industry as to the respective juris-

diction or as to any conflicting rules, regulations and decisions of the said two Code Authorities, shall be referred to the National Liaison Committee for determination. All determinations and recommendations of the National Liaison Committee shall be subject to the approval of the Administrator. Except as is in this Section 3 (c) otherwise provided, the National Liaison Committee shall have no power to administer any of the provisions of this Code.

(d) Where deemed necessary by the National Liaison Committee or by the Administrator, the National Liaison Committee shall cause to be constituted for limited periods in any state or local area a state or local liaison committee, to consist of two members similarly appointed by the respective State Hotel and Restaurant Code Authorities functioning in such State. Within the area for which any such state or local liaison committee shall have been constituted, the powers of such state or local committee shall be the same as are hereby conferred upon the National Liaison Committee, subject, however, to review and approval by the latter and by the Administrator.

(e) All records of the Hotel and Restaurant Code Authorities (pertaining to restaurants) shall at all times be open to examination by the National Liaison Committee and all similar records of any state or local code authority in each industry shall be at all times open for examination by the National Liaison Committee and by the appropriate state or local liaison committee, if any, constituted for such area.

(f) The expenses of the National, State and Local Liaison Committee, shall, upon approval thereof by the National Liaison Committee, be borne equally by the said two Code Authorities.

#### SANITATION COMMITTEE

SECTION 4. Within sixty (60) days after the effective date of this Code, the Code Authority shall appoint a committee to cooperate with the United States Public Health Service and a committee appointed by the Conference of State and Provincial Health Authorities of North America in formulating and recommending for the approval of the Administrator, minimum standards of cleanliness, maintenance of equipment and other sanitary safeguards. Upon the approval of such standards by the Administrator, members of the restaurant industry shall conform with such minimum standards, provided, however, that nothing contained in this section shall relieve any member of the industry from complying with any state or local laws, regulations or ordinances, either prior to the formulation and approval of such standards, nor thereafter, if the requirements of such laws, regulations or ordinances are more stringent than the minimum standards approved by the Administrator pursuant to the foregoing provision.

#### ARTICLE IX—GENERAL

##### MEMBERSHIP IN ASSOCIATION

SECTION 1. Membership in the National Restaurant Association or any affiliated or state associations, or in any other trade or indus-

trial association participating in the selection or activities of the National Restaurant Code Authority, or represented upon the National Restaurant Code Authority, shall be open to all members of the Restaurant Industry, and said associations shall impose no inequitable restrictions upon admission to membership therein.

#### EXCEPTIONS IN CASES OF UNUSUAL OR UNDUE HARDSHIP

SECTION 2. Where the operation of the provisions of this Code imposes an unusual or undue hardship upon any member of the Restaurant Industry or group of such members, such member or group of members may make application for relief to the Administrator through the Code Authority and the Administrator may, after such public notice and hearing as he may deem necessary, grant such exception to or modification of the provisions of this Code as may be required to effectuate the purposes of the National Industrial Recovery Act.

#### REVIEW BY ADMINISTRATOR

SECTION 3. The operation of this Code may be reviewed by the Administrator not later than June 1, 1934, to ascertain whether the provisions thereof have effectuated or will effectuate the policy and purposes of the National Industrial Recovery Act.

#### REPORTS AND INVESTIGATIONS

SECTION 4. The National Restaurant Code Authority shall, subject to the approval or upon the request of the Administrator, require from members of the Restaurant Industry such reports as are necessary to effectuate the purposes of this Code and may, upon its own initiative or upon complaint of any person affected, make investigation as to the functioning and observance of any provisions of the Code and report the results of such investigations to the Administrator. Any reports required by the Code Authority shall be submitted to an impartial agency designated by the Code Authority, and not a member of the industry, and shall not be revealed to any member of the industry, except in summary, provided however, that such information shall be available to the Administrator upon request and provided further that such information may be divulged if necessary to facilitate the administration of this Code. In addition to information to be submitted to the Code Authority, there shall be furnished such statistical information as the Administrator may deem necessary for the purposes recited in Section 3(a) of the Act to such Federal and State agencies as the Administrator may designate; no provision of this Code shall relieve any member of the industry of any existing obligation to furnish reports to governmental agencies.

#### PROHIBITION AGAINST MONOPOLIES

SECTION 5. The provisions of this Code shall not be interpreted or applied to promote monopolies or monolistic practices or to eliminate or oppress small enterprises or to discriminate against them.

## DURATION OF IMMUNITIES

SECTION 6. The benefits, privileges, and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

## PROHIBITION AGAINST USE OF SUBTERFUGE

SECTION 7. No member of the industry shall use any subterfuge to frustrate the spirit and intent of this Code, which is, among other things, to increase employment by universal covenant, to remove obstructions to commerce, to shorten hours of work, and to raise wages to a living basis.

## RIGHT OF PRESIDENT TO CANCEL OR MODIFY

SECTION 8. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Section 10 (b) of Title I of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation, issued under Title I of said Act.

## MODIFICATIONS AND SUPPLEMENTARY PROVISIONS

SECTION 9. Such of the provisions of this Code as are not required to be included herein by the National Industrial Recovery Act, may with the approval of the President, be modified or eliminated as changes in conditions or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code will be submitted for the approval of the President to prevent unfair competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act.

## EXPIRATION

SECTION 10. This Code shall continue in effect until June 16, 1935, or the earliest date prior thereto on which the President shall by proclamation, or the Congress shall by joint resolution, declare that the emergency recognized by Section 1 of the National Industrial Recovery Act has ended.

## ARTICLE X—EFFECTIVE DATE

The effective date of the Code shall be the second Monday after its approval by the President of the United States.

Approved Code No. 282.  
Registry No. 1728-2-11.





UNIVERSITY OF FLORIDA



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