

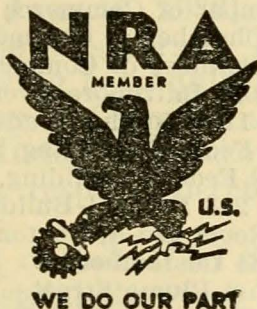
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

RESTAURANT TRADE IN
THE TERRITORY OF HAWAII

AS APPROVED ON MARCH 5, 1935



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Approved Code No. 553

CODE OF FAIR COMPETITION

FOR THE

RESTAURANT TRADE IN THE TERRITORY OF HAWAII

As Approved on March 5, 1935

ORDER

CODE OF FAIR COMPETITION FOR THE RESTAURANT TRADE IN THE TERRITORY OF HAWAII

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Restaurant Trade in the Territory of Hawaii, and hearings having been duly held thereon, and the Deputy Administrator having rendered his report, and the annexed report of the National Industrial Recovery Board on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, the National Industrial Recovery Board, pursuant to authority vested in it by Executive Orders of the President, including Executive Order No. 6859, dated September 27, 1934, and otherwise does hereby incorporate by reference the annexed report of the National Industrial Recovery Board, and does hereby concur in and adopt the findings of fact made therein, and does further find that the said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act, and does hereby order that said Code of Fair Competition for the Restaurant Trade in the Territory of Hawaii, annexed hereto, be, and it is hereby approved, subject to the following conditions:

(1) That all members of the Restaurant Trade as defined in the said Code under Article II, Sections 1 and 2 thereof, to the extent that they are engaging in the said trade in the Territory of Hawaii, shall be exempt from the provisions of the Code of Fair Competition for the Restaurant Industry, as approved on February 16, 1934, provided, however, that the exemption hereinabove granted does not extend to operators of "hotel restaurants."

(2) This Code shall become effective thirty (30) days from the date hereof unless good cause to the contrary is shown to the Na-

tional Industrial Recovery Board within twenty-five (25) days and the National Industrial Recovery Board issues a subsequent order staying or modifying this Order of Approval.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By W. A. HARRIMAN, *Administrative Officer.*

Approval recommended:

ARMIN W. RILEY,
Division Administrator.

WASHINGTON, D. C.,
March 5, 1935.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Restaurant Trade in the Territory of Hawaii. This Code was sponsored by the Hawaiian Territorial Restaurant Association. The Public Hearing on this Code was held in Honolulu, T. H., on March 30, 1934. Adjourned Public Hearings were held April 2, 1934 and April 11, 1934. There are approximately three hundred seventy-five (375) firms and approximately one thousand (1,000) employees in this Trade in Hawaii. The capital invested is slightly less than One Million Dollars (\$1,000,000) and the annual trade is slightly less than Three Million Dollars (\$3,000,000). The trade is dominated by the Orientals. There are few large firms.

HOURS AND WAGES

The Code provides for a maximum fifty-four (54) hour week for males and forty-eight (48) hour for females. Employees are not permitted more than six (6) days in any one week. Watchmen and guards are permitted to work fifty-six (56) hours per week but may not work more than thirteen (13) days in any fourteen (14) day period. Chief cooks who receive not less than Eighteen Dollars (\$18.00) per week are permitted to work seven (7) days per week but not more than fifty-six (56) hours per week. Maintenance employees are exempted from the maximum hours but must be paid one and one-third ($1\frac{1}{3}$) times their normal rate for all hours in excess of the basic hour maximum permitted other employees. In cases of emergency threatening damage or destruction to the property of a restaurant establishment, maintenance employees, watchmen, and guards may be permitted to work in excess of six (6) days per week. Executives receiving not less than Twenty-five Dollars (\$25.00) per week are permitted to work in excess of the maximum hours. In restaurants employing twenty (20) workers or less the number of workers who may be permitted to work overtime is restricted to one worker for every five (5) employed. In restaurants employing more than twenty (20) workers the number allowed to work overtime is restricted to one worker for every five (5) for the first twenty (20) workers, and to one worker for every eight (8) above twenty (20).

Non-service employees must be paid not less than Thirteen and 50/100 Dollars (\$13.50) for a fifty-four (54) hour week in cities over 25,000 and not less than Twelve and 50/100 Dollars (\$12.50) per week in cities between 10,000 and 25,000 and not less than Eleven and 50/100 Dollars (\$11.50) per week in places with a population less than 10,000. Service employees must be paid not less than Twelve

Dollars (\$12.00) for a fifty-four (54) hour week in cities over 25,000 and not less than Eleven Dollars (\$11.00) per week in cities between 10,000 and 25,000, and not less than Ten Dollars (\$10.00) per week in places with a population of less than 10,000.

The Code prohibits child labor.

ECONOMIC EFFECT OF THE CODE

The proposed Code will result in an average weekly increase in weekly wages of about thirty percent (30%) and an increase in employment of about twenty-five percent (25%).

FINDINGS

The Deputy Administrator for Hawaii in a letter addressed to the National Industrial Recovery Board has made a clear and detailed report of the present economic condition of this Trade. He has made lengthy and detailed findings of fact in regard to said Trade. The said report of the Deputy Administrator for Hawaii with the findings contained therein is incorporated by reference into this report. The National Industrial Recovery Board does hereby expressly concur in and adopt the findings contained in the said report of the Deputy Administrator for Hawaii.

For these reasons, this Code has been approved.

For the National Industrial Recovery Board:

W. A. HARRIMAN,
Administrative Officer.

MARCH 5, 1935.

CODE OF FAIR COMPETITION FOR THE RESTAURANT TRADE IN THE TERRITORY OF HAWAII

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this Code is approved as a Code of Fair Competition for the Restaurant Trade, and its provisions shall be the standards of fair competition for such Trade and be binding upon every member thereof.

ARTICLE II—DEFINITIONS

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

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. This includes, without limitation, concessionaires, wherever located, clubs, and employee restaurants, but excludes school, hospital and hotel restaurants.

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.

SECTION 4. The term "*Member of the Trade*" as used herein shall include, but without limitation, any individual, partnership, association, corporation, or other form of enterprise engaged in the Trade, either as an employer or on his or its own behalf.

SECTION 5. The term "*Employee*" as used herein shall include any and all persons engaged in the Trade, however compensated, except a member of the Trade.

SECTION 6. The term "*Employer*" as used herein shall include anyone by whom such employee is compensated or employed.

SECTION 7. The term "*Curb Employee*" as used herein shall mean employees engaged exclusively as outside salesmen serving curb customers.

SECTION 8. "*Employee Restaurants*" are those conducted in connection with another business exclusively for the convenience and/or financial accommodation of the employees of that business.

SECTION 9. 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.

¹ See paragraph 2 (1) of order approving this Code.

SECTION 10. The terms "*Watchmen*" and "*Guards*" as used herein shall mean employees engaged in watching and safeguarding the premises and property of a restaurant.

SECTION 11. (a) The term "*Service Employee*" as used herein shall include waiters and waitresses engaged in table 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 National Industrial Recovery Board on application by such affected parties, and on recommendation of the Territorial Code Authority, may, after such notice and hearing as it may deem necessary, make such reclassification as justice may require.

(b) Employees who are engaged in serving the public from behind the counter shall not be classified as service employees.

SECTION 12. The term "*Executive*" as used herein shall mean an employee responsible for the management of the business or a recognized subdivision thereof.

SECTION 13. The term "*Part-time Employee*" as used herein shall mean an employee who works less than the maximum work week prescribed herein.

SECTION 14. The term "*County*" as used herein means the City and County of Honolulu as defined in Section 1717 of the Revised Laws of Hawaii 1925, and each of the counties of the Territory of Hawaii as defined in Section 1575 of the Revised Laws of Hawaii 1925.

SECTION 15. The terms "*President*", and "*Act*", as used herein shall mean, respectively, the President of the United States and Title I of the National Industrial Recovery Act.

SECTION 16. Population for the purposes of this Code shall be determined by reference to the Fifteenth Census of the United States (U. S. Department of Commerce, Bureau of the Census, 1930).

ARTICLE III—HOURS

SECTION 1. *Basic Working Days*.—No employee shall be permitted to work more than six (6) days in any one week, except as herein-after otherwise provided.

SECTION 2. *Basic Working Hours*.—No male employee shall be permitted to work more than fifty-four (54) hours in any one week, except as provided in Section 4 of this Article. No female employee shall be permitted to work more than forty-eight (48) hours in any one week, except as provided in Section 4 of this Article.

SECTION 3. *Employment by Several Employers*.—No employer shall knowingly permit any employee to work for any time which, when added to the time spent at work for another employer or employers, exceeds the maximum permitted herein.

SECTION 4. *Exceptions to Maximum Hours or Periods of Labor*.

(a) *Watchmen and Guards*.—Watchmen and guards shall not be permitted to work more than thirteen (13) days in any fourteen (14) day period and not more than fifty-six (56) hours per week.

(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 the maximum permitted their respective sexes under Section 2 of this Article.

(c) *Executives*.—Subject to the conditions set forth in Section 5 of this Article, executives regularly receiving not less than Twenty-five Dollars (\$25.00) per week, exclusive of any charges for meals may be permitted to work in excess of the maximum hours of work prescribed in this Article.

(d) *Chief Cooks*.—Chief cooks who are employees receiving not less than Eighteen Dollars (\$18.00) per week, exclusive of any charges for meals, may be permitted to work seven (7) days per week but not more than fifty-six (56) hours per week.

(e) *Emergency*.—In cases of emergency requiring the specific attention of a particular executive, maintenance employee, watchman and/or guard, or threatening damage or destruction to the property of a restaurant establishment, such executive receiving the salary hereinabove specified, maintenance employee, watchman and/or guard may be permitted to work in excess of six (6) days per week.

SECTION 5. *Limitation Upon Number of Persons Working Unrestricted Hours*.—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:

(a) 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 4 (a) of this Article) shall not exceed one (1) worker for every (5) workers or fraction thereof.

(b) In establishments comprised of more than twenty (20) workers, the total number of workers (not including those workers specified in Section 4 (a) of this Article) shall not exceed one (1) worker for every five (5) workers for the first twenty (20) workers, and shall not exceed one (1) worker for every eight (8) workers above twenty (20).

SECTION 6. *Spread of Working Hours and Number of Shifts Per Day*.—Not more than fourteen (14) 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 two (2) intervals off duty shall be permitted during the course of such fourteen (14) consecutive hour period of employment. Time out for meals within the fourteen (14) hour spread but not to exceed a total of one (1) hour, shall not constitute an interval off duty between split shifts.

ARTICLE IV—WAGES

SECTION 1. *Basic Schedule of Wages.*—(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
Over 25,000.....	\$13. 50	\$12. 00
10,000 to 25,000.....	12. 50	11. 00
Less than 10,000.....	11. 50	10. 00

(b) *Curb Employees.*—The minimum wages prescribed in paragraph (a) of Section 1 of this Article for service employees shall apply to curb employees. The Territorial Code Authority may, however, 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 may submit to the National Industrial Recovery Board recommendations based upon its investigation and study, for its further consideration of this provision or for the modification thereof. The National Industrial Recovery Board may, after such notice and hearing as it may prescribe, approve such recommendations, and upon such approval by the National Industrial Recovery Board, such recommendations shall constitute a part of and have the same force and effect as the provisions of this Code.

(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 employer, 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 (\$5.00) per uniform;

(2) that in the case of a male employee such price shall not exceed Five Dollars (\$5.00) 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 (\$20.00) 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 percent (10%) of the price per week; except that after notice to the Territorial Code Authority, setting forth pertinent facts; and approval by the Territorial Code Authority, subject to review by the National Industrial Recovery Board, 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 cents (25¢) for each laundering.

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

SECTION 2. *Limitations on Wage Reductions.*—No employer shall make any reduction in the full-time weekly earnings or the hourly earnings of any employee below those existing for the four weeks ending June 16, 1933.

SECTION 3. *Charges.*—(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 cents (25¢) for each meal furnished to such employee, but not to exceed a total of Three Dollars (\$3.00) 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) No deductions shall exceed the sum of Two and 50/100 Dollars (\$2.50) per week.

(3) No employee shall receive less cash per week because of this charge than that employee received on June 16, 1933 for performing the same work.

(4) No deductions shall be made except by mutual agreement between employer and employee.

(5) No deductions shall be made unless prior thereto, application has been made to the Territorial Code Authority, setting forth the pertinent facts specified in paragraphs 1 to 4 inclusive of this subsection, and approval of the Territorial Code Authority, subject to review by the National Industrial Recovery Board, has been obtained.

SECTION 4. *Minimum Wage Established.*—This Article establishes a minimum rate of pay irrespective of the basis on which an employee is compensated.

SECTION 5. *Part-time Employees.*—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.

SECTION 6. *Handicapped Workers.*—A person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, may be employed on light work at a wage below the minimum established by this Code if the employer obtains from the authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file monthly with the Territorial Code Authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. *Collective Bargaining.*—(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.

SECTION 2. *Safety and Health.*—(a) Every employer shall provide for the safety and health of employees during the hours and at the places of their employment.

(b) Standards for safety and health shall be submitted by the Territorial Code Authority to the National Industrial Recovery Board within six (6) months after the effective date of this Code.

SECTION 3. *Child Labor.*—No person under eighteen (18) years of age shall be employed in the Trade in hazardous occupations. No person under sixteen (16) years of age shall be employed in the Trade in any capacity. Any employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit, duly signed by the Authority in the Territory empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SECTION 4. *Territorial Laws.*—No provision in this Code shall supersede any Territorial or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance, or fire protection, than are imposed by this Code.

SECTION 5. *Posting.*—All employers shall post and keep posted copies of this Code in conspicuous places accessible to all employees. Every member of the Trade shall comply with all rules and regulations relative to the posting of provisions of Codes of Fair Competition which may from time to time be prescribed by the National Industrial Recovery Board.

ARTICLE VI—ORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITY

SECTION 1. (a) Within sixty (60) days after the effective date of this Code, there shall be constituted a Territorial Code Authority consisting of seven (7) members to be elected by members of the Trade at a meeting or meetings called by the Temporary Territorial Code Authority, upon ten (10) days' notice sent by registered mail to all known members of the Trade who may vote either in person, by proxy or by mail. Each member of the Trade shall be entitled to one vote. The members of the Territorial Code Authority first elected shall serve until their successors are elected. During such sixty-day period, until such Territorial Code Authority has been so constituted, the committee of the association sponsoring this Code shall constitute the Temporary Territorial Code Authority. The members of the Territorial Code Authority shall be elected in the following manner:

Two (2) shall be elected by the members of the Honolulu Restaurant Men's Association on the Island of Oahu;

One (1) shall be elected by the members of the Maui Restaurant Men's Association on the Island of Maui;

One (1) shall be elected by the members of the Kauai Restaurant Men's Association on the Island of Kauai;

One (1) shall be elected by the members of the Hawaii Restaurant Men's Association on the Island of Hawaii; and

Two (2) shall be elected by members of the Trade, not members of the Associations, or failing such election, such members shall be appointed by the National Industrial Recovery Board from a list submitted by non-members of the above named Associations, or, if such a list is not submitted, the National Industrial Recovery Board shall appoint from members of the Trade who are not members of the Associations, two (2) members of the Territorial Code Authority.

Where a vacancy occurs in the membership of the Territorial Code Authority, such vacancy shall be filled by the majority vote of the remaining Code Authority members, provided that such vacancy is filled by a representative from the same group as was the vacating member.

(b) In addition to membership as above provided, there may be three (3) members, without vote, to be known as Administration Members, to be appointed by the National Industrial Recovery Board to serve for such terms as it may specify.

SECTION 2. Each trade or industrial association directly or indirectly participating in the selection or activities of the Territorial Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the National Industrial Recovery Board true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the National Industrial Recovery Board may deem necessary to effectuate the purposes of the Act.

SECTION 3. In order that the Territorial Code Authority shall at all times be truly representative of the Trade and in other respects comply with the provisions of the Act, the National Industrial Recovery Board may prescribe such hearings as it may deem proper;

and thereafter if it shall find that the Territorial Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification of the Territorial Code Authority.

SECTION 4. Nothing contained in this Code shall constitute the members of the Territorial Code Authority partners for any purpose. Nor shall any member of the Territorial Code Authority be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Territorial Code Authority. Nor shall any member of the Territorial Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own wilful malfeasance or nonfeasance.

SECTION 5. If the National Industrial Recovery Board shall at any time determine that any action of the Territorial Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the National Industrial Recovery Board may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Territorial Code Authority or agency pending final action which shall not be effective unless the National Industrial Recovery Board approves or unless it shall fail to disapprove after thirty (30) days' notice to it of intention to proceed with such action in its original or modified form.

SECTION 6. (a) Subordinate to the Territorial Code Authority established in Section 1 of this Article, there shall be constituted County Code Authorities for those counties of the Territory, where in the opinion of the National Industrial Recovery Board the Territorial Code Authority will require assistance of a regional group in its duties of investigation, fact-finding, education, and research. Members of the County Code Authorities shall be elected in a manner satisfactory to the National Industrial Recovery Board, by the Trade at large in the county where they are to serve and shall be truly representative of the Trade in that county.

(b) In addition to membership on the County Code Authority as above provided, there may be one (1) member, without vote, to be known as the Administration member, to be appointed by the National Industrial Recovery Board to serve for such term as it may specify.

SECTION 7. *Powers and Duties.*—Subject to such rules and regulations as may be issued by the National Industrial Recovery Board, the Territorial Code Authority shall have the following powers and duties, in addition to those authorized by other provisions of this Code:

(a) To insure the execution of the provisions of this Code and to provide for the compliance of the Trade with the provisions of the Act.

(b) To adopt by-laws and rules and regulations for its procedure.

(c) To obtain from members of the Trade such information and reports as are required for the administration of the Code. In addition to information required to be submitted to the Territorial Code Authority, members of the Trade subject to this Code shall furnish such statistical information as the National Industrial Recovery

Board may deem necessary for the purposes recited in Section 3 (a) of the Act to such Federal and Territorial agencies as it may designate; provided that nothing in this Code shall relieve any member of the Trade of any existing obligations to furnish reports to any government agency. No individual report shall be disclosed to any other member of the Trade or any other party except to such other governmental agencies as may be directed by the National Industrial Recovery Board.

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Territorial Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(e) To make recommendations to the National Industrial Recovery Board for the coordination of the administration of this Code and such other codes, if any, as may be related to or affect members of the Trade.

(f) (1) It being found necessary in order to support the administration of this Code and to maintain the standards of fair competition established hereunder and to effectuate the policy of the Act, the Territorial Code Authority is authorized:

a. To incur such reasonable obligations as are necessary and proper for the foregoing purposes and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Code;

b. To submit to the National Industrial Recovery Board for its approval, subject to such notice and opportunity to be heard as it may deem necessary (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the Trade;

c. After such budget and basis of contribution have been approved by the National Industrial Recovery Board, to determine and obtain equitable contribution as above set forth by all members of the Trade, and to that end, if necessary, to institute legal proceedings therefor in its own name.

(2) Each member of the Trade shall pay his or its equitable contribution to the expenses of the maintenance of the Territorial Code Authority, determined as hereinabove provided, and subject to rules and regulations pertaining thereto issued by the National Industrial Recovery Board. Only members of the Trade complying with the Code and contributing to the expenses of its administration as hereinabove provided, (unless duly exempted from making such contributions,) shall be entitled to participate in the selection of members of the Territorial Code Authority or to receive the benefits of any of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration.

(3) The Territorial Code Authority shall neither incur nor pay any obligation substantially in excess of the amount thereof, as estimated in its approved budget, and shall in no event exceed the total amount contained in the approved budget, except upon approval of the National Industrial Recovery Board, and no subse-

quent budget shall contain any deficiency item for expenditures in excess of prior budget estimates except those which the National Industrial Recovery Board shall have so approved.

(g) To recommend to the National Industrial Recovery Board any action or measures deemed advisable, including further fair trade practice provisions to govern members of the Trade in their relations with each other or with other trades/industries; measures for industrial planning, and stabilization of employment; and including modifications of this Code which shall become effective as part hereof upon approval by the National Industrial Recovery Board after such notice and hearing as it may specify.

(h) To appoint a Trade Practice Committee which shall meet with the Trade Practice Committees appointed under such other Codes as may be related to the Trade for the purpose of formulating fair trade practices to govern the relationships between employers under this Code and under such other codes to the end that such fair trade practices may be proposed to the National Industrial Recovery Board as amendments to this Code and such other codes.

(i) To provide appropriate facilities for arbitration, and subject to the approval of the National Industrial Recovery Board to prescribe rules of procedure and rules to effect compliance with awards and determinations.

(j) It shall create as an independent agency of the Territorial Code Authority a Joint Industrial Board consisting of an equal number of representatives of employers and employees, and an impartial chairman elected by the members of the Board, to deal with all matters in the Code relating to hours, wages, and general labor provisions. The designated employees' representatives shall be truly representative of the employees of the Trade and chosen by such employees. The membership of this Board shall be approved by the National Industrial Recovery Board.

ARTICLE VII—UNFAIR TRADE PRACTICES

SECTION 1. *Misrepresentation*.—No member of the Trade 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 Trade shall use advertising and/or selling methods which tend to deceive or mislead customers or prospective customers.

SECTION 2. *Free Deals*.—No member of the Trade 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.

SECTION 3. *Prizes and Premiums*.—No member of the Trade shall offer any prize or premium or gift in pursuance of a plan which involves fraud or deception or lottery.

SECTION 4. *Defamation*.—No member of the Trade shall defame a competitor by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or by other

false representation, or by falsely disparaging the grade or quality of his goods.

SECTION 5. *Breach of Contract*.—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.

SECTION 6. *Payments for Privilege of Working*.—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.

ARTICLE VIII—MODIFICATION

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act.

SECTION 2. Such of the provisions of this Code as are not required to be included herein by the Act may, with the approval of the National Industrial Recovery Board, be modified or eliminated in such manner as may be indicated by the needs of the public, by changes in circumstances, or by experience. All the provisions of this Code, unless so modified or eliminated, shall remain in effect until June 16, 1935.

ARTICLE IX—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made more difficult of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases except such as may be required to meet individual cost should be delayed, and when made, such increases should so far as possible, be limited to actual additional increases in the seller's costs.

ARTICLE X—MONOPOLIES, ETC.

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE XI—EFFECTIVE DATE

This Code shall become effective thirty (30) days after its approval by the National Industrial Recovery Board.

Approved Code No. 553.

Registry No. 1728-31.

UNIVERSITY OF FLORIDA



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