

## **PUSHCART RULES**

### **15A NCAC 18A .2638 GENERAL REQUIREMENTS FOR PUSHCARTS AND MOBILE FOOD UNITS**

- (a) A permit shall be issued by the local health department which provides sanitation surveillance for the restaurant or commissary from which the pushcart or mobile food unit is to operate, if the local health department determines that the pushcart or mobile food unit complies with the rules of this Section.
- (b) The permit shall be posted on the pushcart or mobile food unit. Grade cards shall not be posted.
- (c) The local health department which issues the permit shall be provided by individuals receiving a permit a list of counties and locations where each pushcart or mobile food unit will operate.
- (d) Individuals receiving a permit to operate a pushcart or mobile food unit shall provide the local health department in each county in which food service operations are proposed a list of locations where they will operate. Such lists must be kept current.
- (e) Prior to initiating food service operations in a particular jurisdiction, the operator of the pushcart or mobile food unit shall submit to that particular jurisdiction such carts or units for inspection or reinspection to determine compliance with this Section.
- (f) Pushcarts or mobile food units shall operate in conjunction with a permitted restaurant or commissary and shall report at least daily to the restaurant or commissary for supplies, cleaning, and servicing. Facilities, in compliance with this Section, shall be provided at the restaurant or commissary for storage of all supplies. The pushcart shall also be stored in an area that protects it from dirt, debris, vermin and other contamination. Water faucets used to supply water for pushcarts and mobile food units shall be protected to prevent contact with chemicals, splash and other sources of contamination. Solid waste storage and liquid waste disposal facilities must also be provided on the restaurant or commissary premises.
- (g) All foods shall be obtained from approved sources and shall be handled in a manner so as to be clean, wholesome, and free from adulteration.
- (h) All potentially hazardous foods shall be maintained at 45° F (7° C) or below or 135° F (57° C) or above, or as required in Rule .2609 of this Section. A metal stem-type thermometer accurate to 2°F (1° C.) shall be available to check food temperatures.
- (i) Only single-service eating and drinking utensils shall be used in serving customers. Single-service items shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until used, and shall be handled in a manner to prevent contamination.
- (j) All garbage and other solid waste shall be stored and disposed of in an approved manner.

(k) Employees shall be clean as to their person and foodhandling practices. Clean outer clothing and hair restraints are required for employees engaged in the preparation or handling of food to prevent the contamination of food or food contact surfaces.

(l) No person who has a communicable or infectious disease that can be transmitted by foods, or who is a carrier of organisms that cause such a disease, or who has a boil, infected wound, or an acute respiratory infection with cough and nasal discharge, shall work with a pushcart or mobile food unit in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces, with disease-causing organisms or transmitting the illness to other persons.

(m) All equipment and utensils shall comply with the rules of this Section.

(n) The pushcart or mobile food unit shall be kept in a clean and sanitary condition and be free of flies, roaches, rodents, and other vermin.

### **15A NCAC 18A .2601 DEFINITIONS**

The following definitions shall apply in the interpretation and enforcement of this Section:

(1) "Approved" means procedures and equipment determined by the Department to be in compliance with this Section. Food equipment that is certified for sanitation by an American National Standards Institute (ANSI) - accredited program shall be approved. ANSI sanitation standards are incorporated by reference including subsequent amendments and editions. These standards may be obtained from ANSI, 1819 L Street, NW, 6th Floor, Washington, DC 20036, at a cost of six-hundred sixty-five dollars (\$665.00) and are also available for inspection at the Division of Environmental Health.

(2) "Catered elderly nutrition site" means an establishment or operation where food is served, but not prepared on premises, operated under the rules of the N.C. Department of Human Resources, Division of Aging.

(3) "Commissary" means a food stand that services mobile food units and pushcarts. The commissary may or may not serve customers at the food stand's location.

(4) "Critical Violation" means a violation relating to any one of the following risk factors that directly contribute to foodborne disease outbreaks:

(a) improper hot and cold holding, cooling or reheating potentially hazardous foods in accordance with Rules .2608 through .2609, .2612, .2615, .2638, or .2645 of this Section;

(b) inadequate cooking in accordance with Rule .2609 of this Section;

(c) poor personal hygiene of food handlers in accordance with Rules .2609, .2616, .2635, or .2638 of this Section;

(d) cross-contamination and contamination of food-contact surfaces in accordance with Rules .2608, .2610 through .2611, .2617 through .2620, .2622, .2635, .2638, or .2645 of this Section; or

(e) food from unapproved sources in accordance with Rules .2608, .2612 through .2613, .2622, or .2635 of this Section.

(5) "Department of Environment and Natural Resources" or "Department" means the North Carolina Department of Environment and Natural Resources. The term also means the authorized representative of the Department. For purposes of any notices required pursuant to the rules of this Section, notice shall be mailed to "Division of Environmental Health, Environmental Health Services Section, North Carolina Department of Environment and Natural Resources," 1632 Mail Service Center, Raleigh, NC 27699-1632.

(6) "Drink stand" means those establishments in which only beverages are prepared on the premises and are served in multi-use containers, such as glasses or mugs.

(7) "Employee" means any person who handles food or drink during preparation or serving, or who comes in contact with any eating, cooking, or processing utensils or equipment, or who is employed at any time in a room in which food or drink is prepared or served.

(8) "Environmental Health Specialist" means a person authorized to represent the Department on the local or state level in making inspections pursuant to state laws and rules.

(9) "Equipment" means refrigeration, including racks and shelving used in refrigeration, utensil cleaning and culinary sinks and drainboards, warewashing and dishwashing machines, food preparation tables, counters, stoves, ovens, and other food preparation and holding appliances.

(10) "Food" means any raw, cooked, or processed edible substance including meat, meat food products, poultry, poultry products, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

(11) "Food service establishment" means any establishment or operation where food is prepared or served at wholesale or retail for pay, or any other establishment or operation where food is prepared or served that is subject to the provisions of G.S. 130A-248. The term does not include establishments which only serve such items as dip ice cream, popcorn, candied apples, or cotton candy.

(12) "Food stand" means a food service establishment which prepares or serves foods and which does not provide seating facilities for customers to use while eating or drinking.

(13) "Good repair" means that the item in question can be kept clean and used for its intended purpose.

(14) "Hermetically sealed container" means a container designed and intended to be secure against the entry of micro-organisms and to maintain the commercial sterility of its contents after processing.

(15) "Highly susceptible population" means persons who are more likely than other persons in the general population to experience foodborne disease because they are:

- (a) immunocompromised, preschool age children or adults, 55 years of age or older; and
- (b) obtaining food as a patient or client at a facility that provides services such as custodial care, health care or assisted living, such as an adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

(16) "Limited food service establishment" means a food service establishment as described in G.S. 130A-247(7).

(17) "Local health director" means the administrative head of a local health department or his authorized representative.

(18) "Meat" or "meat food products" means meat and meat food products as defined in G.S. 106- 549.15(14).

(19) "Meat market" means those food service establishments as defined in G.S. 130A-247(1)(v).

(20) "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily moved.

(21) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, or company.

(22) "Potentially hazardous food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including *Clostridium botulinum*. This term includes raw or heat treated foods of animal origin, raw seed sprouts, and treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity ( $A_w$ ) value of 0.85 or less.

(23) "Poultry" or "poultry products" means poultry and poultry products as defined in G.S. 106-549.51(25) and (26).

(24) "Private club" means a private club as defined in G.S. 130A-247(2).

(25) "Pushcart" means a mobile piece of equipment or vehicle which serves hot dogs or foods which have been prepared, pre-portioned, and individually pre-wrapped at a restaurant or commissary.

(26) "Risk Factor" means a contributing factor that increases the chance of developing foodborne illness as it relates to food safety issues within a food service establishment.

(27) "Responsible person" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee is the responsible person.

(28) "Restaurant" means a food service establishment which prepares or serves food and which provides seating.

(29) "Sanitize" means the approved bactericidal treatment by a process which meets the temperature and chemical concentration levels in 15A NCAC 18A .2619.

(30) "Sewage" means the liquid and solid human body waste and liquid waste generated by water-using fixtures and appliances, including those associated with foodhandling. The term does not include industrial process wastewater or sewage that is combined with industrial process wastewater.

(31) "Shellstock" means any shellfish which remains in their shells. Shellfish which are shucked or on the half-shell shall not be considered shellstock.

(32) "Single service" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended for onetime, one person use and then discarded.

(33) "Substantially similar" means similar in importance, degree, amount, placement or extent.

(34) "Temporary food establishment" means those food or drink establishments which operate for a period of 15 days or less, in connection with a fair, carnival, circus, public exhibition, or other similar gathering.

(35) "Utensils" means any kitchenware, tableware, glassware, cutlery, containers and similar items with which food or drink comes in contact during storage, preparation, or serving.

#### **15A NCAC 18A .2639 SPECIFIC REQUIREMENTS FOR PUSHCARTS**

(a) Only hot dogs shall be prepared, handled, or served from a pushcart; however, foods which have been prepared, pre-portioned and individually pre-wrapped at a restaurant or commissary may be served from a pushcart.

(b) Food and utensils on the cart exposed to the public or to dust or insects shall be protected by glass, or otherwise, on the front, top, and ends, and exposed only as much as may be necessary to permit the handling and serving of hot dogs.

(c) Toilet facilities, lavatory facilities, and running water are not required. Single-service towels are required.

(d) The permit applicant or permittee shall provide documentation to the Department which demonstrates the ability of all pre-portioned, individually pre-wrapped foods placed on the pushcart to hold temperatures under conditions approximating actual use, for the time periods specified by the permit applicant.

(e) Each pre-wrapped food item shall bear the name of the restaurant or commissary at which it was prepared, the name of the food item and the time and date of expiration. The wrapper shall enclose the food at all times but sealing is not required.

(f) Pre-portioned, individually pre-wrapped food that remains after the specified time period has elapsed shall not be sold for human consumption.

(g) Pushcarts shall not be provided with seating facilities.

(h) Pushcarts shall not be used for consumer self-service.

Other requirements:

### **15A NCAC 18A .2609 REFRIGERATION: THAWING: AND PREPARATION OF FOOD**

(a) All potentially hazardous foods, in a food service establishment, requiring refrigeration shall be kept at or below 45° F (7° C), except when being prepared or served. An air temperature thermometer accurate to 3° F (1.5° C) shall be provided in all refrigerators.

(b) Refrigeration and freezer capacity shall be sufficient to maintain required temperatures on all potentially hazardous foods.

(c) Potentially hazardous foods shall be thawed:

- (1) in refrigerated units at a temperature not to exceed 45° F (7° C);
- (2) under potable running water of a temperature of 70° F (21° C), or below, with sufficient water velocity to agitate and float off loose food particles into the overflow;
- (3) as a part of the conventional cooking process; or
- (4) in a microwave oven only when the food will be immediately transferred to conventional cooking equipment as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven.

(d) Employees preparing food shall have used antibacterial soap, dips or hand sanitizers immediately prior to food preparation or shall use clean, plastic disposable gloves or sanitized utensils during food preparation. This requirement is in addition to all other handwashing requirements in this Section. Food shall be prepared with the least possible manual contact, with utensils and on preparation surfaces that have been cleaned and rinsed prior to use. Preparation surfaces which come in contact with potentially hazardous foods shall be sanitized as provided in Rule .2618(c) of this Section. Raw fruits and raw vegetables shall be washed with potable water to remove soil and other contaminants before being cooked or served.

(e) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140° F (60° C) except as follows:

- (1) poultry, poultry stuffings, stuffed meats, and stuffings containing meat shall be cooked to heat all parts of the food to at least 165° F (74° C) with no interruption of the cooking process,
- (2) pork and any food containing pork shall be cooked to heat all parts of the food to at least 150° F (66° C),

- (3) ground beef and foods containing ground beef shall be cooked to an internal temperature of at least 155° F (68° C),
- (4) roast beef shall be cooked to an internal temperature of at least 130° F (54° C), and
- (5) beef steak shall be cooked to a temperature of 130° F (54° C) unless otherwise ordered by the immediate consumer.

(f) Liquid eggs, or uncooked frozen eggs, dry eggs and egg products shall be used only for cooking and baking purposes. This Paragraph does not apply to pasteurized products.

(g) Potentially hazardous foods that have been cooked and then refrigerated shall be reheated to 165° F (74° C) or higher throughout before being served or before being placed in a hot food storage facility except that, food in intact packages from processing plants that are regulated by the food regulatory agency that has jurisdiction over the plants may initially be reheated to 135° F (57° C). Reheating time shall not exceed two hours.

(h) All potentially hazardous foods shall be stored at temperatures of 135° F (57° C) or above; or 45° F (7° C) or below except during necessary periods of preparation and serving. However, roast beef, as described in Subparagraph (e)(4) of this Rule shall be stored at a temperature of at least 130° F (54° C) or above; or 45° F (7° C) or below.

(i) Time only, rather than the temperature requirements set forth in Paragraph (h) of this Rule may be used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption if:

- (1) the food is marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control;
- (2) the food is cooked and served, served if ready-to-eat, or discarded, within four hours from the point in time when the food is removed from required temperature control;
- (3) food in unmarked containers or packages or marked to exceed the four hour limit in Subparagraph (1) of this Paragraph, is discarded; and
- (4) written procedures approved by the Department, as being in accordance with the rules of this Section, are maintained in the establishment for the handling of food from the time of completion of the cooking process or when the food is otherwise removed from required temperature control. These procedures shall be made available to the Department upon request.

(j) Time only, rather than temperature requirements as set forth in Paragraph (h) of this Rule may be used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for customer take-out, if:

- (1) the food is marked or otherwise identified to indicate the time that is two hours past the point in time when the food is removed from temperature control;
- (2) the food is cooked and served, served if ready-to-eat, or discarded, within two hours from the point in time when the food is removed from required temperature control;

- (3) food in unmarked containers or packages or marked to exceed the two hour limit in Subparagraph (1) of this Paragraph, is discarded; and
- (4) written procedures approved by the Department, as being in accordance with the Rules of this Section, are maintained in the establishment for the handling of food from the time of completion of the cooking process or when the food was otherwise removed from required temperature control.

These procedures shall be made available to the Department upon request.

(k) An establishment wishing to move foods controlled under Paragraphs (i) and (j) of this Rule for immediate consumption on the premises, shall have their written procedures for the handling of the food from the time of completion of the cooking process or when the food was otherwise removed from required temperature control, approved by the Department, as being in accordance with the rules of this Section, and shall maintain those approved procedures in the establishment.

(l) In a food establishment that serves a highly susceptible population, time only, rather than temperature, may not be used as the public health control for raw eggs.

(m) All potentially hazardous food that is transported must be maintained at temperatures as noted in Paragraph (h) of this Rule.

(n) A metal stem-type thermometer accurate to 2°F (1 °C) shall be available to check food temperatures.

(o) Cooked potentially hazardous food shall be cooled:

- (1) from 135°F (57°C) to 70°F (21°C) within two hours; and
- (2) from 135°F (57°C) to 45°F (7°C) or less within a total of six hours.

(p) Potentially hazardous food shall be cooled to 45°F (7°C) or less within four hours, if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

(q) Cooling shall be accomplished in accordance with the time and temperature criteria specified in Paragraphs (o) and (p) of this Rule by using one or more of the following methods based on the type of food being cooled:

- (1) placing the food in shallow pans;
- (2) separating the food into smaller or thinner portions;
- (3) using rapid cooling equipment;
- (4) stirring the food in a container placed in an ice water bath;
- (5) using containers that facilitate heat transfer;
- (6) adding ice as an ingredient; or
- (7) other effective methods.

(r) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

- (1) arranged in the equipment to provide maximum heat transfer through the container walls; and
- (2) loosely covered, or uncovered if protected from overhead contamination during the cooling period to facilitate heat transfer from the surface of the food.



### **15A NCAC 18A .2617 UTENSILS AND EQUIPMENT**

(a) All eating, drinking, and cooking utensils, tables, sinks, cabinets, hoods, shelves, equipment, fixtures, and other items used in connection with the preparation of food shall be kept clean and in good repair.

(b) All surfaces with which food or drink comes in contact shall consist of smooth, not readily corrodible, non-toxic materials in which there are no open cracks or joints that will collect food particles and slime, and be kept clean.

(c) Shelves, tables, and counters shall not be covered with paper, cardboard, oil cloth, or other absorbent material, and shall be free of crevices. Dining table linen or similar dining table coverings, if used, shall be kept clean and in good repair.

(d) Equipment shall meet ANSI sanitation standards. If equipment is not listed by an ANSI accredited education service program, the owner or operator shall submit documentation to the Department that demonstrates that the equipment is equivalent to ANSI sanitation standards. If the components of the equipment are the same as those meeting ANSI sanitation standards, then the Department shall deem the equipment equivalent. For purposes of these Rules, toasters, mixers, microwave ovens, water heaters and hoods shall not be considered to be equipment and shall not be required to meet ANSI sanitation standards.

(e) Beverage dispensers installed or replaced after August 1, 1998 shall be designed to avoid activation by the lip of a cup or glass when these dispensers are used to refill customer cups or glasses.

### **15A NCAC 18A .2618 CLEANING OF EQUIPMENT AND UTENSILS**

(c) All multi-use eating and drinking utensils shall be washed, rinsed, and subjected to a bactericidal treatment specified in Rule .2619 of this Section after each usage. The supply of eating and drinking utensils shall be of sufficient quantity to allow washing, rinsing, sanitizing and air-drying before re-use. All multi-use utensils except pizza pans and similar type pans (not used for table service) used in the storage, preparation, cooking, or serving of food or drink shall be cleaned and rinsed immediately after the days' operations, after each use, or upon completion of each meal as indicated. Pizza pans and similar type pans (not used for table service) which are continually subjected to high temperatures do not require cleaning after each use or day's use but shall be kept clean and maintained in good repair.

### **15A NCAC 18A .2619 METHODS OF BACTERICIDAL TREATMENT**

(a) In a hand dishwashing operation, after cleaning and rinsing, all multi-use eating and drinking utensils shall be subjected to one of the following or other equivalent bactericidal processes:

(1) Immersion for at least one minute in the 3rd compartment in clean hot water at a temperature of at least 170° F (77° C). A thermometer accurate to 3°F (5° C) shall be available and convenient to the compartment. Where hot water is used for bactericidal treatment, a booster heater that maintains a water temperature of at least 170° F (77° C) in the 3rd compartment at all times when utensils are

being washed shall be provided. The heating device may be integral with the immersion compartment.

(2) Immersion for at least two minutes in the 3rd compartment in a chemical bactericide of a strength, approved by the Department:

(A) for chlorine products, a solution containing at least 50 ppm of available chlorine at a temperature of at least 75° F (24° C);

(B) for iodophor products, a solution containing at least 12.5 ppm of available iodine and having a pH not higher than 5.0 and having a temperature of at least 75° F (24° C);

(C) for quaternary ammonium products, a solution containing at least 200 ppm of QAC and having a temperature of at least 75° F (24° C), provided that the product is labeled to show that it is effective in water having a hardness value at least equal to that of the water being used.

(3) Other equivalent products and procedures approved in 21 CFR 178.1010 "Sanitizing solutions" from the "Food Service Sanitation Manual" published by the US Food and Drug Administration. 21 CFR 178.1010 is adopted by reference in accordance with G.S. 150B-14(c).

(b) A suitable testing method or equipment shall be available, convenient, and regularly used to test chemical sanitizers to insure minimum prescribed strengths.