

15A NCAC 18A .2635 REQUIREMENTS FOR TEMPORARY FOOD ESTABLISHMENTS

The following requirements shall be satisfied in order for temporary food establishments to qualify for a permit under Rule .2602 of this Section:

- (1) Temporary food establishments shall be located in clean surroundings and kept in a clean and sanitary condition. They shall be so constructed and arranged that food, utensils, and equipment will not be exposed to insects, dust, and other contamination. Protection against flies and other insects shall be provided by screening or by effective use of fans.
- (2) Where food or griddles are exposed to the public or to dust or insects, they shall be protected by glass, or otherwise, on the front, top, and ends, and exposed only as much as may be necessary to permit handling and serving of the food.
- (3) All griddles, warmers, spatulas, refrigerators, and other utensils and equipment shall be cleaned routinely and maintained in a sanitary manner.
- (4) Running water under pressure shall be provided. The water supply shall be approved and of a safe, sanitary quality. Provisions shall be made for heating water for the washing of utensils and equipment. At least a single vat sink, large enough in which to wash cooking utensils, pots, and pans, must be provided. At least one drainboard or counter top space must be provided.
- (5) Facilities shall be provided for employees' handwashing. These may consist of a pan, soap, and single-use towels.
- (6) Convenient and approved toilet facilities shall be provided for use by employees. Public toilet facilities provided on the grounds are acceptable if reasonably convenient, adequate, and kept clean. Sewage shall be disposed of in an approved manner.
- (7) Potentially hazardous foods shall be refrigerated in accordance with Rule .2609 of this Section. All food shall be stored, handled, and displayed in accordance with Rule .2610(a) through (d) of this Section. Food service equipment shall be stored in accordance with Rule .2620 of this Section.
- (8) Garbage and refuse shall be collected and stored in standard water-tight garbage cans provided with tight fitting lids or other approved containers or methods. Garbage and refuse shall be removed at least daily and disposed of in a sanitary manner. Waste water shall be so disposed of as not to create a nuisance. Each operator shall keep his immediate premises clean.
- (9) All food served shall be clean, wholesome, and free from adulteration. Potentially hazardous foods such as cream-filled pastries and pies, and salads such as potato, chicken, ham, crab, etc., shall not be served in a temporary food establishment. Hamburgers shall be obtained from an approved market or plant in patties separated by clean paper, or other wrapping material, and ready to cook. Wrapped sandwiches shall be obtained from an approved source. Poultry shall be prepared for cooking in an

approved market or plant. Drinks served shall be limited to packaged, canned, or bottled drinks, packaged milk, coffee, or carbonated beverages from approved dispensing devices.

(10) Food prepared by local groups shall be prepared in an approved kitchen, and such groups shall maintain a record of the type and origin of such foods. These foods shall be prepared, transported, and stored in a sanitary manner protected from contamination and spoilage.

(11) 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 in a temporary food establishment 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.

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 (Aw) 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 .2602 PERMITS

(a) No permit to operate shall be issued to a person until an evaluation by the Department shows that the establishment complies with this Section.

(b) Upon transfer of ownership of an existing food service establishment, the Department shall complete an evaluation. If the establishment satisfies all the requirements of the rules, a permit shall be issued. If the establishment does not satisfy all the requirements of the rules, a permit shall not be issued. However, if the Department determines that the noncompliant items are construction or equipment problems that do not represent a threat to the public health, a transitional permit may be issued. The transitional permit shall expire 180 days after the date of issuance, unless suspended or revoked before that date, and shall not be renewed. Upon expiration of the transitional permit, the owner or operator shall have corrected the noncompliant items and obtained a permit, or the food service establishment shall not continue to operate.

(c) The Department may impose conditions on the issuance of a permit or transitional permit. Conditions may be specified for one or more of the following areas:

- (1) The number of seats or persons served.
- (2) The categories of food served.
- (3) Time schedules in completing minor construction items.
- (4) Modification or maintenance of water supplies.
- (5) Use of facilities for more than one purpose.
- (6) Continuation of contractual arrangements upon which basis the permit was issued.
- (7) Submission and approval of plans for renovation.
- (8) Any other conditions necessary for a food service operation to remain in compliance with this Section.

(d) If a permit or transitional permit has been suspended, the suspension shall be lifted after the Department has evaluated the food service operation and found that the violations causing the suspension have been corrected. If a permit or transitional permit has been revoked, a new permit shall be issued only after the Department has evaluated the food service operation and found it to comply with all applicable rules. The evaluations shall be conducted within a reasonable length of time after the request is made by the operator.

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 .2610 STORAGE: HANDLING: AND DISPLAY OF FOOD

(a) All unwrapped or unenclosed food and drink on display shall be protected in such manner that the direct line from the customer's mouth to the food shall be intercepted by glass or similar shields and shall be otherwise protected from public handling or other contamination, except that hand openings may be permitted on counter fronts. A beverage station staffed with an employee who is serving on a continual basis is not required to provide glass or similar shields for beverages, ice and beverage garnishes. The employee shall remove contaminated beverages, ice or beverage garnishes from the beverage station. Counter protector installations are required for all cafeteria counters, salad bars, and similar type service to prevent contamination by customers' coughing and sneezing. Nothing in this Rule requires food kept in enclosed cases to be wrapped or covered so long as effective measures are taken to prevent contamination in multi-level shelving units.

(b) Customer self-service is permitted only under the following conditions:

- (1) Buffet-style Service. Protective shields, equivalent to counter protectors, are provided to intercept contamination.
- (2) Customer Self-Service. When customers are allowed to return to a self-service area, clean and sanitized tableware other than flatware, beverage cups and glasses, shall be made available for each return trip. Written notice shall be provided informing customers that clean tableware must be used for return trips.
- (3) Family-style Service. In establishments featuring this style of service, patrons elect to participate in the family dining-table type of service. Ordinary serving dishes and utensils are acceptable.
- (4) Private events. When service is provided for a club, organization or private individual at a planned event from which the public is excluded:
 - (A) Potentially hazardous foods shall be replaced at least every two hours;
 - (B) Food containers shall be arranged so customers' clothing does not come in contact with food;
 - (C) Long-handled serving spoons, tongs, or other utensils shall be provided and used;
 - (D) At the conclusion of the event, food that has not been consumed, shall be discarded; and

(E) Protective shields are not required for buffet-style service.

(c) Foods, except raw vegetables which are to be cooked, shall be kept under cover when not in the process of preparation and serving. Food shall not be stored on the floor, or in direct contact with shelves and racks of cold storage boxes, or permitted to come in contact with dirty clothes, newspapers, pasteboard, previously-used paper, or other contaminated surfaces. If open dishes and pans containing food are stacked, food shall be protected with wax paper or foil. Food transported to a food service establishment shall not be accepted unless wrapped, boxed, or covered so as to prevent contamination and maintained at temperatures required in Rule .2609 of this Section. Food and drink shall not be served to the general public in the kitchen. In the case of "drive-in" restaurants, all food shall be covered or wrapped before delivery to patrons' vehicles, to exclude vermin or insects, dust, and other contamination.

(d) Containers for onions, slaw, mustard, and other condiments not kept in accordance with the requirements of Paragraph (a) of this Rule shall have covers and be kept covered when not in use. Sugar shall be dispensed with either pour-type dispensers or individual packages. Waiters and waitresses shall avoid unnecessary handling of food in the process of serving.

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.

15A NCAC 18A .2620 STORAGE AND HANDLING OF UTENSILS AND EQUIPMENT

(a) After bactericidal treatment, utensils shall be air-dried and stored above the floor in a clean place. Wherever practicable, containers and utensils shall be covered or inverted or stored in tight, clean cabinets; and glasses and cups shall be stored inverted. It shall not be considered practicable to invert plates and bowls which slide when inverted or to cover plates and bowls positioned for immediate use during business hours. Utensils used in restaurants or food service establishments and equipment shall be handled in such a manner as to prevent contamination, and employees shall avoid handling clean surfaces that will come in contact with customers' mouths.

(b) Drain racks, trays, and shelves shall not be made of corrodible material, and shall be kept clean. These items are not required to be made of plastic.

(c) Spoons, spatulas, dippers, and other in-use utensils shall be stored between use in the food product with the handles extending out of the food, stored dry on a clean surface or in a container of water if the water is maintained at a temperature of at least 135F.

(d) When utensils are used to dispense frozen products or moist foods, the utensils may be stored in running water dipper wells only when the water has sufficient velocity to flush food residues into the overflow drain.

(e) Single-service utensils 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 of the utensils by hands. Single-service cup dispensers or similar devices shall be used when single-service cups are used. Nothing in the rules in this Section shall prohibit the use of plastic bags in which single-service cups or similar devices are received as the dispenser for those items.

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