

**Salem  
Chapter 196**

**Sanitary Production  
and  
Distribution of Food**

# **Salem Chapter 196**

## **Sanitary Production and**

## **Distribution of Food**

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## **Salem Chapter 196 Sanitary Production and Distribution of Food**

**Statutory Authority:** This chapter is adopted under the authority granted to towns, in NH RSA 31:39K, to license food service establishments pursuant to NH RSA 147:1, NH RSA 143 and NH RSA 143-A; as these laws exist and as may be amended in the future. On February 8, 1988, the Salem Board of Health adopted fees and licensing

categories referred to as Salem Chapter 196- Sanitary Food Code, for all food service establishments pursuant to this authority. Revisions were adopted on November 18, 1996. Salem Chapter 196- The Sanitary Production and Distribution of Food is based on NH Hep-2300- New Hampshire Rules for the Sanitary Production and Distribution of Food adopted by the NH Legislature on March 26, 1998 and by the Salem Board of Selectmen on October 19, 1998, as it exists and as may be amended in the future. In the event of differences in the two documents, the more stringent shall apply.

**Purpose:** The purpose of this chapter is to ensure that the health of the public is protected from the consumption of food contaminated by food service establishments or retail food stores during storage, preparation, service or display; and to ensure that food service establishments and retail food stores have adequate facilities and procedures in place to minimize contamination during storage, preparation, service and display of food.

### **DEFINITIONS**

#### **196-0 Definitions**

**“Acceptable level”** means the presence of a hazard which does not pose the likelihood of causing an unacceptable health risk.

**“Acid foods”** means foods that have a natural pH of 4.6 or below.

**“Acidified foods”** means low-acid foods to which acid(s) or acid food(s) are added, which result in a water activity greater than 0.85 and have a finished equilibrium pH of 4.6 or below. These foods include, but are not limited to beans, cucumbers, cabbage, artichokes, cauliflower, puddings, peppers, tropical fruits, and fish, singly or in any combination.

**“Adulterated”** means “adulterated” as defined in NH RSA 146:3.

**“ANSI”** means American National Standards Institute.

**“Aseptic processing and packaging”** means the filling of a commercially sterile, cooled product into pre-sterilized containers, followed by hermetic sealing, with a pre-sterilized closure in an atmosphere free of microorganisms.

**“ $a_w$ ”** means water activity which is a measure of the free moisture in a food, and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature

**“Bed and breakfast”** means a transient lodging facility which is the owner=s personal residence, is occupied by the owner at the time of rental to a patron, and in which the only meal served to in-house guests is breakfast. Requires commercial kitchen.

**“Beverage”** means “beverage” as defined in NH RSA 143:9.

**“Bottled drinking water”** means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

**“Bulk food”** means processed or unprocessed food in aggregate containers from which quantities desired by the consumer or the employee are withdrawn. The term bulk food does not include fresh whole fruits or fresh whole vegetables.

**“Certification number”** means a unique combination of letters and numbers assigned by the NH Department of Health and Human Services or a shellfish control authority which is legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce according to the provisions of the National Shellfish Sanitation Program.

**“Change of ownership”** means any time a controlling interest in a sole proprietorship, joint venture, partnership, corporation, limited liability company or any other kind of entity is transferred to another sole proprietor, joint venture, partnership, corporation, limited liability company or any other kind of entity.

**“CIP”** means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, including but not limited to the method used, in part, to clean and sanitize a frozen dessert machine. CIP does not include the cleaning of equipment, including but not limited to, band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

**“Colorimetric method”** means the method of determining the value of the pH of a food product using indicator dyes in solutions that gradually change color over limited pH ranges .

**“Commercial kitchen”** means a room or building, or any part thereof, used for food preparation which meets all the requirements of Salem Chapter 196 and is not a residential kitchen.

**“Commercial sterility”** means the condition achieved by the application of heat, chemical sterilants, or other treatments or by the control of water activity with the application of heat that renders the equipment, containers and thermally processed foods free of viable microorganisms, including spores of public health significance as well as microorganisms of nonhealth significance, capable of reproducing in the food under normal non-refrigerated conditions of storage and distribution.

**“Comminuted”** means reduced in size by methods including chopping, flaking, grinding, or mincing. Comminuted includes fish or meat products that are reduced in size and restructured or reformulated including but not limited to gefilte fish, gyros, ground beef, and sausage, and a mixture of 2 or more types of meat that have been reduced in size and combined, such as sausages made from 2 or more meats.

**“Commissary”** means a catering establishment, restaurant, or any other place licensed in which food, containers, or supplies are kept, handled, prepared, packaged, cleaned or stored.

**“Commissioner”** means the commissioner of the New Hampshire Department of Health and Human Services.

**“Condiment”** means any food such as, but not limited to, chutney, ketchup, mayonnaise, mustard and relish that is used to enhance the flavor of other foods.

**“Confirmed disease outbreak”** means a food borne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative organism and epidemiological analysis implicates the food as the source of the illness.

**“Construction items”** means inspection sheet items 196-14, 15, 16; 34-39 which are structural components of the food service establishment or retail food store.

**“Consumer”** means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food service establishment, retail food store or food service establishment that commercially processes food, and does not offer the food for resale.

**“Controlled atmosphere packaging”** means packaging of a product in a modified atmosphere followed by maintaining subsequent control of that atmosphere.

**“Cook-chill”** means a specialized process of reduced oxygen packaging where large volumes of food are cooked, sealed in heat-stable cooking bags from which air has been expelled and rapidly chilled.

**“Corrosion-resistant material”** means a material that maintains surface clean ability characteristics required by 196-14 under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

**“Critical control point”** means a point or procedure in a specific food system where loss of control results in an imminent health hazard.

**“Critical factor”** means any property, characteristic, condition, aspect, or other parameter, variation of which may affect the scheduled process and the attainment of commercial sterility.

**“Critical item”** means an inspection item on the inspection sheet that is preceded by an asterisk, violation item which is more likely than other violations to contribute to food contamination, illness, or environmental health hazard.

**“Critical limit(s)”** mean criteria that must be controlled to insure prevention, elimination, or reduction of hazards within safety parameters determined by the HACCP plan for each preventive measure associated with the critical control point. .

**“Department”** means the Salem Health Department unless otherwise noted.

**“Deviation”** means a condition which occurs when one or more of the critical factors indicated in the scheduled process are not met or when failure to meet a required critical limit for a critical control point raises a question regarding the public health safety and/or commercial sterility of the product.

**“Dishwashing”** means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

**“Drinking water”** means potable water that meets the requirements of NH Env WS 315.01(e)

**“Easily cleanable”** means a characteristic of a surface that:

- (1) Allows effective removal of soil by normal cleaning methods;
- (2) Is dependent on the material, design, construction, and installation of the surface; and
- (3) Varies with the likelihood of the surface=s role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface=s approved placement, purpose, and use.

**“Easily movable”** means:

- (1) Weighing 14 kg, 30 pounds, or less, mounted on casters, gliders, or rollers, or provided with a mechanical means requiring no more than 14 kg ,30 pounds, of force to safely tilt a unit of equipment for cleaning; and
- (2) Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

**“Employee”** means the license holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food service establishment or retail food store.

**“Equipment”** means an article that is used in the operation of a food service establishment or retail food store including but not limited to a freezer, grinder, hood, ice maker, meat block, mixer oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or dishwashing machine. Equipment does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, including but not limited to hand trucks, forklifts, dollies, pallets, racks, and skids.

**“Especially vulnerable consumers”** means individuals who are more likely than other consumers to experience food borne disease, including but not limited to persons who:

- (1) Have a liver disease;
- (2) Have reduced stomach acidity;
- (3) Have a weakened immune system; or
- (4) Are older adults, pregnant women and children three years old or younger.

**“Finished equilibrium pH”** means the pH of the product usually taken 24 hours after processing to ensure all components of the product have been acidified equally.

**“Fish”** means fresh or saltwater finfish, crustaceans, and other forms of aquatic life, including but not limited to alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals, other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. Fish also includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

**“Food”** means any raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption or as defined in NH RSA 143-A:3.

**“Food borne disease outbreak”** means an incident in which 2 or more persons experience a similar illness after ingestion of a common food and epidemiological analysis implicates the food as the source of illness or a single case of illness such as one person ill from botulism or chemical poisoning.

**“Food contact surface”** means a surface or a utensil with which food normally comes into contact; or a surface of equipment or a utensil from which food may drain, drip, or splash back into a food, or onto a surface normally in contact with food.

**“Food employee”** means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces in a food service establishment or retail food store.

**“Food preparation sink”** means a separate and individual sink unit, with one or more compartments, which is used exclusively in conjunction with food preparation or production, included but not limited to the washing of fresh produce and the thawing of frozen food.

**“Food service establishment”** means any fixed or mobile restaurant: temporary food service establishment; coffee shop, cafeteria; short order cafe; luncheonette; grill; tea room; sandwich shop; soda fountain; tavern bar; cocktail lounge; night club; roadside stand; industrial feeding establishment; food vending operation; home food manufacturing site and bed and breakfast facility whether attended or unattended; private, public or nonprofit organization or institution routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

**“HACCP”** means Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

**“HACCP Plan”** means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

**“Hazard”** means a biological, chemical, or physical property that may cause an imminent health hazard.

**“Hermetically sealed container”** means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its content after processing.

**“Highly susceptible population”** means a group of persons who are more likely than other populations to experience foodborne disease because they are:

- (1) Immunocompromised;
- (2) Older adults and in a facility that provides health care or assisted living services, including but not limited to a hospital or nursing home; or
- (3) Preschool age children in a facility that provides custodial care, including but not limited to a day care center.

**“Imminent health hazard”** means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

**“Indicator papers”** means the paper tape treated with indicator dye which changes color when dipped into the sample solution of the food product which determines the approximate value of the pH of the food when the color is compared to a standard color chart.

**“Indicator solutions”** means the aqueous solutions used in comparing the test color of a solution of a food product to a set of color standards in which the comparison determines an approximate value of pH.

**“Injected”** means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat as with juices which may be referred to as Ainjecting”, Apinning” or Astitch pumping”.

**“Inspection item”** means those inspection report items which are checked during an inspection of a food service establishment, retail food store, or food service establishment that commercially processes food.

**“Kitchenware”** means food preparation and storage utensils.

**“License”** means the document issued by the Salem Health Department which authorizes a license holder to operate a food service establishment or retail food store in the town of Salem.

**“License holder”** means the person legally responsible for the operation of a licensed food service establishment or retail food store, including but not limited to the owner, the owner=s agent, or other person.

**“Linens”** means fabric items including but not limited to cloth hampers, cloth napkins, table cloths, and work garments including cloth gloves.

**“Lot”** means the amount of a product produced during a period of time indicated by a specific code.

**“Low-acid foods”** means any foods with a finished equilibrium pH greater than 4.6 and a water activity greater than 0.85, except alcoholic beverages and tomatoes or tomato products having a finished equilibrium pH less than 4.7.

**“Manufactures food in a residential kitchen “** means an operation that prepares and packages non-potentially hazardous food using a residential kitchen. Residential kitchen food preparation, production and distribution is prohibited in the town of Salem without a fully licensed commercial kitchen.

**“Meat”** means the flesh of animals used as food including but not limited to dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish and poultry, that is offered for human consumption.

**“mg/L”** means milligrams per liter, which is the metric equivalent of parts per million (ppm).

**“Modified atmosphere packaging”** means packaging of a product in an atmosphere which has had a one-time modification of gaseous composition so that it is different from that of air, which normally contains 78.08% nitrogen, 20.96% oxygen, and 0.03% carbon dioxide.

**“Molluscan shellfish”** means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

**“Mobile food unit”** means a food service establishment mounted on wheels or otherwise designed to be immediately moveable.

**“Monitoring”** means a planned sequence of observations or measurements of critical limits designed to produce an accurate record and intended to ensure that the critical limit maintains product safety.

**“Natural pH”** means the pH of the raw product.

**“Packaged”** means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food service establishment, a retail food store or a food service establishment processing food. Packaged does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

**“Person in charge”** means either the license holder or an individual designated as such by the license holder or the individual with whom the inspector communicates during the inspection.

**“pH”** means the symbol for the negative log of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution.

**“Plumbing fixture”** means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system, or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

**“Plumbing system”** means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

**“Poisonous or toxic materials”** means substances that are not intended for ingestion and are included in 4 categories including:

- (1) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents including but not limited to caustics, acids, drying agents, polishes, and other chemicals;
- (2) Pesticides, which include substances such as insecticides and rodenticides;
- (3) Substances necessary for the operation and maintenance of the establishment including but not limited to nonfood grade lubricants and personal care items that may be deleterious to health; and

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- (4) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, including but not limited to petroleum products and paints.

**“Potentially hazardous food”** means:

- (1) A food which is natural or synthetic and is in a form capable of supporting the:
  - (a) Rapid and progressive growth of infectious or toxigenic microorganisms; or
  - (b) Growth and toxin production of *Clostridium botulinum*; or
  - (c) In raw shell eggs, the growth of *Salmonella enteritidis*; and
- (2) A food including but not limited to:
  - (a) An animal food or a food of animal origin, that is raw or heat treated; or
  - (b) A food of plant origin that is heat- treated or consists of raw seed sprouts;
  - (c) Cut melons; and
  - (d) Garlic and oil mixtures that are not acidified or otherwise modified at a food service establishment that processes food in a way that results in mixtures that do not support the rapid and progressive growth of infectious or toxigenic microorganisms or the growth and toxin production of *Clostridium botulinum*.

**“Potentiometric method”** means the method used to determine the value of pH of a food product with the use of a pH meter or potentiometer.

**“Poultry”** means any domesticated bird including but not limited to chickens, turkeys, ducks, geese, or guineas, whether live or dead.

**“Private water system”** means a system for the provision of piped water for human consumption that is not a public water supply as defined in NH RSA 485.

**“Processes food in a commercial kitchen”** means an operation that manufactures, thermally processes, and/or packages food in a licensed commercial kitchen.

**“Processes food in a residential kitchen”** means an operation that manufactures, processes, and/or packages food using a residential kitchen. This type of operation is prohibited in the town of Salem.

**“Processing authority”** means those processing institutions approved by the State of NH Department of Health and Human Services and listed in 196-50.

**“Public water system”** means a public water system as defined in NH RSA 485:1-a.

**“Pushcart”** means a non-self propelled vehicle limited to serving non-potentially hazardous foods, commissary wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters.

**“Ready-to-eat food”** means food that is in a form that is edible without washing, cooking,

or additional preparation by the food service establishment, retail food store or the consumer and that is reasonably expected to be consumed in that form including but not limited to:

- (1) Potentially hazardous food that is unpackaged and cooked to temperature and time required for the specific food under 196-03, II through VI,D; 196-03, VIII & IX;
- (2) Raw, washed, cut fruits and vegetables;
- (3) Whole, raw, fruits and vegetables that are presented for consumption without the need for further washing, such as at a buffet; and
- (4) Other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or shells are removed.

**“Recall”** means a procedure for removing product from distribution and/or the marketplace for products that are contaminated.

**“Reconstituted”** means recombining dehydrated food products with water or other liquids.

**“Reduced oxygen packaging”** means the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen; displacing the oxygen with another gas or combination of gases; or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21% oxygen. Reduced oxygen packaging includes methods that may be referred to as modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging including sous vide and cook-chill.

**“Regulatory authority”** means the local, state or federal authority having jurisdiction over the food service establishment, retail food store or food service establishment processing food.

**“Remodeled”** means undertaking construction which involves adding new seats, adding food preparation area or affects the kitchen or any other part of a food service establishment or retail food store that requires service by piped water.

**“Residential kitchen”** means the kitchen in a private residence where food is customarily prepared for consumption only by the family.

**“Retail food store”** means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premise consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments that handle only prepackaged, non-potentially hazardous foods, roadside markets that offer only fresh fruits and fresh vegetables for sale; food service establishments; or food and beverage vending machines or retail food store as defined in NH RSA 143-A:3 VII.

**“Retort”** means any closed vessel or other equipment used for thermal processing of low acid foods under pressure.

**“Sanitization”** means the application of cumulative heat or chemicals on cleaned food

contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to 99.999% reduction of representative disease microorganisms of public health importance.

**“Scheduled process”** means the process selected by the processor under the conditions of manufacture for a given product to achieve commercial sterility.

**“Servicing area”** means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

**“Sewage”** means sewage as defined in NH RSA 485-A:1, X

**“Shellfish control authority”** means a state, federal, foreign, tribal or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

**“Shellstock”** means raw, in-shell molluscan shellfish.

**“Shucked shellfish”** means molluscan shellfish that have one or both shells removed.

**“Single-service articles”** means tableware, carry-out utensils, and other items including but not limited to bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use.

**“Single-use articles”** means utensils and bulk food containers designed and constructed to be used once and discarded. Single-use articles also include but are not limited to wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans.

**“Slacking”** means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -231C, (-101F), to -41C, (251F), in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food including but not limited to spinach.

**“Smooth”** means a food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of 100 grit, number 3 stainless steel; and a nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and a floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

**“Solid waste”** means solid waste as defined in NH RSA 149-M:4.

**“Soup kitchen”** means a food service establishment operated by a charitable organization including religious societies and fraternal organizations organized pursuant to NH RSA 292, NH RSA 306, and NH RSA 418, that prepares and serves meals to the poor without charge.

**“Sous vide”** means a specialized process of reduced oxygen packaging where raw or partially cooked food is placed in a pouch which is vacuum sealed, cooked or pasteurized, then rapidly chilled and refrigerated

**“Support animal”** means a trained animal including but not limited to a Seeing Eye dog that accompanies a person with a disability to assist in managing the disability and enables the person to perform functions that the person would otherwise be unable to perform.

**“Table-mounted equipment”** means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

**“Tableware”** means eating, drinking, and serving utensils for table use, including but not limited to flatware including forks, knives, and spoons; hollowware including but not limited to bowls, cups, serving dishes, tumblers; and plates.

**“Temperature measuring device”** means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

**“Temporary food service establishment”** means any food service establishment which operates at a fixed location for a temporary period of time not to exceed two weeks, in connection with a fair, carnival, circus, public exhibition or similar transitory gathering.

**“Thermal process”** means the application of heat to food, either before or after sealing in a hermetically sealed container, for a period of time and at a temperature scientifically determined to ensure destruction of microorganisms of public health significance.

**“Titratable acidity”** means a method or the process of determining the acidity of a food in terms of the smallest amount of reagent of known concentration required to bring about a given effect in reaction with a known volume of test solution.

**“Utensil”** means any food-contact implement or container used in the storage, preparation, transportation, dispensing, sale or service of food such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; and food temperature measuring devices.

**“Vacuum packaging”** means a process that reduces the amount of air from a package and hermetically seals the package so that a near-perfect vacuum remains inside the package.

**“Vending machine”** means any self-service device that, upon insertion of a coin, paper currency, token, card or key, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

**“Vending machine location”** means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage and servicing areas on the premises that are used in conjunction with the vending machines.

**“Verification”** means methods, procedures, and tests used to determine if the HACCP system in use is in compliance with the HACCP plan.

## **I. CONDITION AND SOURCES OF FOOD**

### **196-01 Condition and Sources**

#### **A. Condition**

1. Food in food service establishments and retail food stores shall be:
  - a. In sound condition, free from spoilage, filth, or other contamination; and
  - b. Safe for human consumption.
2. A food that is unsafe or adulterated shall be either:
  - a. Salvaged according to a procedure proposed by the license holder subject to approval by the Salem Health Department; or
  - b. Discarded.
3. Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified in 196-11,II shall be discarded.
4. Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, including but not limited to nasal or oral discharges, or other means shall be discarded.
5. Only the following egg products shall be acceptable for sale or use:
  - a. Clean and sound eggs which are labeled and graded in accordance with the requirements of the NH Department of Agriculture under the provisions of NH RSA 228:22-30 and Agr 905;
  - b. Liquid, frozen, or dry eggs and egg products if obtained pasteurized; and
  - c. Hard boiled, peeled eggs, commercially prepared and packaged.
6. Retail food store or food service establishment operators shall not apply sulfiting agents to fresh fruits and vegetables intended for raw consumption nor serve or offer for sale for raw consumption these foods if so treated before receipt by others , with the exception of grapes.
7. Only the following milk products shall be acceptable for sale or use:
  - a. Pasteurized fluid milk and fluid milk products; and

- b. Dry milk and dry milk products made from pasteurized milk and milk products.
8. The following foods shall be discarded as solid waste in accordance with 196-34:
  - a. Spoiled foods;
  - b. Refrozen foods;
  - c. Foods from swollen, rusty or leaky cans;
  - d. Foods damaged by fire, smoke, water or other contaminating substance; and
  - e. Dented cans with compromised hermetic seals.
9. Shellstock shall meet the requirements of NH He-P 2150.03(a).

B. Sources

1. Food in food service establishments and retail food stores shall be obtained from sources that comply with all laws relating to food and food labeling.
2. Food that is not from an approved source as specified in this section shall be discarded.
3. Food in hermetically sealed containers that was not prepared in a food service establishment that commercially processes food shall not be sold or used by food service establishments or retail food stores.
4. Ice shall be:
  - a. Manufactured from potable water and handled in a sanitary manner if used or offered for sale by license holders; and
  - b. Packaged if offered for sale by license holders.
5. All bottled water used or served in food service establishments or retail food stores shall be from a source which is licensed or registered by the NH Department of Health and Human Services in accordance with NH RSA 143:10.
6. Molluscan shellfish shall be obtained from sources certified under NH RSA 143:21.
7. Fish, other than molluscan shellfish, intended for consumption in their raw form shall be:
  - a. Obtained from a supplier which freezes the fish as specified under 196-03 or
  - b. Frozen on the premises as specified under 196-03, XV and records of freeze

temperature and time to which the fish is subjected shall be retained for a period of 90 calendar days beyond the time of service or sale of the fish.

8. Raw and frozen shucked shellfish shall be obtained in non-returnable packages legibly bearing:
  - a. The name and address of the shucker-packer of the shellfish;
  - b. The person=s authorized certificate number; and
  - c. The Asell by" date for packages with a capacity of less than 1.87 L, one-half gallon, or the date shucked for packages with a capacity of 1.87 L, one-half gallon, or more.
9. Food service establishments and retail food stores shall not sell or provide fish unless they are commercially caught or harvested.
10. Molluscan shellfish which have been recreationally caught or harvested shall not be sold by license holders.
11. For highly susceptible populations:
  - a. Pasteurized shell eggs or pasteurized liquid, frozen or dry eggs or egg products shall be substituted for raw shell eggs in the preparation of:
    - (1) Foods including but not limited to Caesar salad, hollandaise or bernaise sauce, mayonnaise, eggnog, ice cream, and egg fortified beverages that are not cooked as specified in 196-03; and
    - (2) Cooked eggs if the eggs are broken, combined in a container, and not cooked immediately or if the eggs are held before service following cooking.
  - b. Apple juice, apple cider, and other beverages containing apple juice shall be obtained pasteurized, or in a commercially sterile shelf-stable form in a hermetically sealed container.

## **II. FOOD PROTECTION**

### **196-02 Food Storage and Identification**

- A. Bulk Foods Unless its identity is unmistakable, bulk food, including but not limited to cooking oil, syrup, salt, sugar, or flour, not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name.
- B. Shellstock and Shucked Shellfish Identification and Original Container

1. Except as specified in 2. and 3. below, molluscan shellfish shall not be removed from the container in which they were received other than immediately before sale or preparation for service.
2. Shellstock removed from the container in which they were received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer shall only be removed from the display or display container and provided to the consumer if:
  - a. The source of the shellstock on display is identified and recorded as specified under NH He-P 2150.03 (a); and
  - b. The shellstock are protected from contamination.

C. Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer=s request if:

1. The labeling information for the shellfish on display as specified under 196-01 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and
2. The shellfish are protected from contamination.

D. Consumption of Raw or Undercooked Animal Foods If a raw or undercooked animal food, including but not limited to beef, eggs, fish, lamb, , pork, poultry, or shellfish, is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another ready-to-eat food the license holder shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards or other effective written means of the significantly increased risk associated with especially vulnerable consumers eating such foods raw or undercooked.

### **196-03 Potentially Hazardous Food Meets Temperature Requirements**

#### **I . Potentially Hazardous Foods**

A. Potentially hazardous foods, as defined in 196-0 , shall include but not be limited to:

1. An animal food, or a food of animal origin, that is raw or heat-treated;
2. A food of plant origin that is heat-treated or consists of raw seed sprouts;
3. Cut melons; and
4. Garlic and oil mixtures that are not acidified or otherwise modified at a food service establishment that processes food in a way that results in mixtures that do not

support the rapid and progressive growth of infectious or toxigenic microorganisms or the growth and toxin production of *Clostridium botulinum*;

B. Potentially hazardous foods shall not include:

1. An air-cooled hard-boiled egg with shell intact;
2. A food with an  $a_w$  value of 0.85 or less;
  3. A food with a pH level of 4.6 or below when measured at 24EC, (75EF);
  4. A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;
5. A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *Salmonella enteritidis* in eggs or *Clostridium botulinum* can not occur, such as a food that has an  $a_w$  value above 0.85 and a pH level above 4.6 when measured at 241C, (751F), and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms;
6. A food that does not support the rapid and progressive growth of infectious or toxigenic microorganisms or the growth and toxin production of *Clostridium botulinum* even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

C. The temperature of potentially hazardous food shall be 51C, (411F), or below or 601C, (1401F), or above at all times, except as otherwise provided in these rules.

D. Refrigerated, potentially hazardous food shall be at a temperature of 51C, (411F), or below when received, except as provided in 196-03, X, C.

E. Potentially hazardous food cooked to the temperature and time specified in 196-03, II-VI which is received hot shall be maintained at a temperature of 601C, (1401F), or above.

F. Potentially hazardous food shall be at proper temperatures in accordance with 196-03 and shall show no signs of spoilage when received.

II. Raw Animal Foods

A. Except as specified in B. and C. below, raw animal foods, including but not limited to eggs, fish, poultry, meat, and foods containing these raw animal foods, shall be cooked so that the entire portion of each of the identified foods meets the following time and temperature requirements:

1. 63EC, (145EF), or above for 15 seconds for:
  - a. Raw shell eggs that are broken and prepared in response to a consumer=s order for immediate service; and
  - b. Fish and meat, except for those identified in C. below; or
2. For pork , comminuted fish and meats, injected meats, and eggs that are not prepared as specified in A, 1.a. above, 68EC, (155EF), for 15 seconds or the temperature specified in 196-03, III that corresponds to the cooking time.
3. As specified in 196-03, V for whole beef roasts and corned beef roasts; and
4. 74EC, (165EF) or above for 15 seconds for poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, or stuffing containing fish, meat or poultry.

B. The requirements of 196-03, A above shall not apply if, except for food establishments serving a highly susceptible population, the food is:

1. A raw animal food, including but not limited to raw egg; raw fish; raw marinated fish; raw molluscan shellfish, steak tartare; or
2. A partially cooked food including but not limited to lightly cooked fish, rare meat, or soft cooked eggs served or offered for sale in a ready-to-eat form, and the consumer is informed under 196-02, D that to ensure its safety, the food should be cooked as specified under 196-03, A above.

C. Roasts of beef and corned beef roasts shall be cooked:

1. In an oven that is preheated to the temperature specified for the roast=s weight in 196-03, IV that is held at or above that temperature; and
2. To the temperature specified in 196-03, V and held for the corresponding amount of time required by 196-03, V for that temperature.

### III. Minimum Food Temperature and Holding Time Required for Cooking all Parts of Pork, Comminuted Fish and Meats, and Injected Meats

A. The minimum food temperature and holding time required under 196-03, A, 2 for cooking all parts of pork, comminuted fish, and injected meats shall be in

compliance with the requirements set forth in Table 2.4.1, below:

Table 2.4.1 Minimum Temperature and Holding Time for Cooking All Parts of Pork, Commminuted Fish and Meats, and Injected Meats

<u>Minimum Temperature EC (EF)</u>	<u>Minimum Time</u>
63 (145)	3 minutes
66 (150)	1 minute

**IV. Oven Parameters Required for Destruction of Pathogens on the Surface of Whole Beef Roasts and Corned Beef Roasts**

A. Whole beef roasts and corned beef roasts shall be cooked in an oven that is preheated to the temperature specified for the roast=s weight and held at that temperature, as specified in the requirements set forth in Table 2.4.2, below:

Table 2.4.2 Cooking Temperatures for Beef Roasts and Corned Beef Roasts Based on Oven Type and Weight

<u>Oven Type</u>	<u>Oven Temperature/Roast</u>	<u>Weight</u>
	<u>Less than to 4.5 kg (10 lbs)</u>	<u>4.5 kg (10 lbs) or more</u>
<u>Still Dry</u>	177E C (350EF) or more	121E C (250EF) or more
<u>Convection</u>	163E C (325EF) or more	121EC (250EF) or more
<u>High Humidity</u>	121E C (250EF) or less	121EC (250EF) or less

B. For cooking whole beef roasts and corned beef roasts in high humidity oven types:

1. The relative humidity shall be greater than 90% for at least one hour as measured in the cooking chamber or exit of the oven; or
2. The roasts of beef or corned beef roasts shall be in a moisture-impermeable bag that provides 100% humidity.

**V. Minimum Holding Cooking Required at Specified Temperatures for Cooking All Parts of Roasts of Beef and Corned Beef .**

A. Whole beef roasts and corned beef roasts shall be cooked to heat all parts of the roast to a temperature and for the holding time that corresponds to that temperature, as specified in Table 2.4.3, below:

Table 2.4.3 Minimum Holding Cooking Required at Specified Temperatures for Cooking All

Parts of Roasts of Beef and Corned Beef

<u>Temperature</u>	<u>Time</u>	<u>Temperature</u>	<u>Time</u>	<u>Temperature</u>	<u>Time</u>
<u>EC (EF)</u>		<u>EC (EF)</u>		<u>EC (EF)</u>	
<u>54 (130)</u>	<u>121 minutes</u>	<u>58 (136)</u>	<u>32 minutes</u>	<u>61 (142)</u>	<u>8 minutes</u>
<u>56 (132)</u>	<u>77 minutes</u>	<u>59 (138)</u>	<u>19 minutes</u>	<u>62 (144)</u>	<u>5 minutes</u>
<u>57 (134)</u>	<u>47 minutes</u>	<u>60 (140)</u>	<u>12 minutes</u>	<u>63 (145)</u>	<u>3 minutes</u>

B. Holding times in Table 2.4.3 may include post-oven heat rise.

**VI. Microwave Cooking** Raw animal foods cooked in a microwave oven shall be:

- A. Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
- B. Covered to retain surface moisture;
- C. Heated to a temperature of at least 74EC, (165EF), in all parts of the food; and
- D. Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

**VII. Cooked Fruits and Vegetables** Fruits and vegetables cooked for hot holding shall be cooked to a temperature of 601C, (1401F).

**VIII. Reheating for Hot Holding**

- A. Potentially hazardous food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74EC, (165EF), for 15 seconds.
- B. Potentially hazardous food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74EC, (165EF), and the food is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating.
- C. Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a licensed food service establishment commercially processing food that is heated for hot holding shall be heated to a temperature of at least 60EC, (140EF).
- D. Reheating for hot holding shall be done so that the temperature of the food goes from 5EC, (41EF), to 74EC, (165EF), within 2 hours.

E. Remaining unsliced portions of roasts of beef cooked as specified in 196-03, II shall be reheated for hot holding using oven parameters and minimum time and temperature conditions specified in 196-03, II.

IX. Reheating for Immediate Service License holders shall serve cooked and refrigerated food prepared for immediate service in response to an individual consumer order, including but not limited to a roast beef sandwich au jus, at any temperature.

X. Cooling

A. Cooked potentially hazardous food not being hot held or served immediately to consumers shall be cooled as follows:

1. From 60EC, (140EF), to 21EC, (70EF), within 2 hours; and
2. From 21EC, (70EF), to 5EC, (41EF), or below, within 4 hours.

B. Potentially hazardous food shall be cooled to 5EC, (41EF), or below within 4 hours if prepared from ingredients at ambient temperature, including but not limited to reconstituted foods and canned tuna.

C. A potentially hazardous food, including but not limited to shell eggs and shellfish received in compliance with laws allowing a temperature above 5EC, (41EF), during shipment from the supplier shall be cooled to 5EC, (41EF), or below within 4 hours.

XI. Cooling Methods.

A. Cooling shall be accomplished by one or more of the following methods based on the type of food being cooled including but not limited to:

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; or
6. Adding ice or frozen ingredients.

B. 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 container walls and
2. Loosely covered, or uncovered if protected from overhead contamination as specified  
196-08, V, during the cooling period to facilitate heat transfer from the surface of the food.

XI. Potentially Hazardous Food: Hot and Cold Holding Except during preparation, cooking or cooling, or when time is used as a public health control as specified in 196-03, XIV, potentially hazardous food shall be maintained:

1. At 60EC, (140EF), or above, except that roasts cooked to a temperature and for time specified in  
196-03, V, A may be held at a temperature of 54EC, (130EF); or
- B. At 5EC, (41EF), or less, except as specified  
196-03, XIII, F.

XII. Vending Machines, Automatic Shutoff

A. A machine vending potentially hazardous food shall have an automatic control that prevents the machine from vending food if there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as required under  
196-03 until the machine is serviced and restocked with food that has been maintained at required temperatures.

B. It shall be permissible for the temperature specified for activation of the automatic shutoff within a machine vending potentially hazardous food to deviate from the temperature required under A. above in accordance with the following:

1. In a refrigerated vending machine, at an ambient temperature of 7EC, (45EF), or more, for no more than 30 minutes immediately after the machine is filled, serviced or restocked; or
2. In a hot holding vending machine, at an ambient temperature of 60EC, (140EF), or less, for no more than 120 minutes after the machine is filled, serviced, or restocked.

**XIII. Ready-to-Eat, Potentially Hazardous Food, Date Marking and Disposition**

A. Except as specified in C. below, refrigerated, ready-to-eat, potentially hazardous food prepared and held for more than 24 hours in a food service establishment and a retail food store shall be marked with the date of preparation and consume by date as specified under E. below.

B. Except as specified in C. and D. below, a container of refrigerated, ready-to-eat, potentially hazardous food prepared and packaged by another food service establishment, retail food store or a food service establishment commercially processing food shall be marked to indicate the date, as specified under G. below, by which the food shall be consumed.

C. The requirements of A. and B. above shall not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer=s request.

D. The requirements of B. above shall not apply to whole, unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing.

E. A food specified in A. above shall be discarded if not consumed within 7 calendar days from the date of preparation.

F. Refrigerated, ready-to-eat, potentially hazardous food prepared in a food service establishment or retail food store and dispensed in a vending machine with an automatic shut-off control that is activated at a temperature of :

1. 5°C, (41°F), shall be discarded if not sold within 7 days; or
2. 7°C, (45°F), shall be discarded if not sold within 4 days; and

G. A food specified in B. above shall be discarded if not consumed within 7 calendar days after the original package is opened in a food establishment.

**XIV. Time as a Public Health Control**

A. The measures contained in this section shall be implemented by any license holder choosing to use time only, rather than time in conjunction with temperature, as a public health control to assure the safety of:

1. A working supply of potentially hazardous food which has not yet been cooked; and
2. A supply of ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption.

B. Foods listed under A1. and A2. above shall be:

1. Marked or otherwise identified to indicate the time of day that is 4 hours later than the time of day when the food is removed from temperature control, and discarded if not served by that marked or identified time; or
2. Discarded if found in unmarked containers or packages or if marked with a time that is more than 4 hours past the time that the food is removed from temperature control.

C. License holders choosing to use time only as a public health control, as authorized by this section, shall prepare written procedures specifying the method for ensuring compliance:

1. The provisions of B. above; and
2. 196-03, X. for food that is prepared, cooked, and refrigerated before time is used as a public health control.

XV. Parasite Destruction

A. Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of:

1. -20EC, (-4EF), or below for 168 hours, 7 days, in a freezer; or
2. -35EC, (-31EF), or below for 15 hours in a blast freezer.

B. Records of freezing temperatures and time to which the fish are subjected shall be recorded and records shall be retained for 90 calendar days beyond the time of service or sale of the fish.

XVI. Non-dairy Creaming, Whitening, or Whipping Agents Non-dairy creaming, whitening, or whipping agents reconstituted on the premises shall be stored in sanitized, covered containers not exceeding one gallon in capacity and cooled to 5EC, (41EF), or below within four hours after preparation.

XVII. Frozen Foods Frozen foods shall be kept frozen until cooked or thawed as provided under  
196-06.

XVIII. Refrigeration and Hot Food Facilities to Maintain Product Temperature Refrigeration and hot food facilities shall be provided to assure the maintenance of all potentially hazardous food at required temperatures during storage, preparation, display, service and transportation.

**196-04 Cooling, Heating and Holding Capacities**

A. Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity, based upon the amount and type of food, to provide food temperatures as specified under 196-03, I-XI.

B. Cooling systems which use outside air to cool walk-ins shall be acceptable provided that:

1. The regulatory authority, is notified prior to installation;
2. The air intake is located where it will not receive exhaust from idling vehicles, restrooms, hoods or any toxic fumes;
3. Air filters shall be used; and
4. The walk-in compressor shall automatically start when the outside air is unable to cool the walk-in to 5EC, (41EF).

**196-05 Temperature Measuring Devices**

**I. Specifications**

A. Food temperature measuring devices shall be provided and readily accessible for use in assuring attainment and maintenance of food temperatures as specified under 196-03, I-XI.

B. In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

C. Except as specified in D. below, cold or hot holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device=s temperature display.

D. The requirements of C. above shall not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of design, type, and use of the equipment, including but not limited to calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars.

E. Temperature measuring devices shall be designed to be easily readable.

F. Food temperature measuring devices and water temperature measuring devices on dishwashing machines shall have a numerical scale, printed record, or digital readout in increments no greater than 1EC or 2EF in the intended range of use.

II. Accuracy of Ambient Temperature Measuring Devices

- A. Ambient air and water temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to +/-1.5EC, (2.7EF), in the intended range of use.
- B. Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to +/-3EF in the intended range of use.
- C. Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to +/- 1°C, (1.8°F), in the intended range of use.
- D. Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to +/-2°F in the intended range of use.

**196-06 Potentially Hazardous Foods Properly Thawed**

I. Proper thawing

- A. Potentially hazardous food shall be thawed:
  - 1. By keeping it under refrigeration that maintains the food temperature at 5EC, (41EF), or below;
  - 2. By completely submerging it under running water:
    - a. At a water temperature of 21EC, (70EF), or below;
    - b. With sufficient water velocity to agitate and float off loose particles in an overflow;

B. For a period of time that does not allow thawed portions of ready-to-eat food to rise above 5EC, (41EF); and

C. For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified in

196-03, A, 1-4 to be above 5EC, (41EF), for more than 4 hours including:

- 1. The time the food is exposed to the running water; and
- 2. The time needed for preparation for cooking or the time it takes under refrigeration to lower the food temperature to 5EC, (41EF);
- 3. As part of a cooking process if the frozen food is:

- a. Cooked as specified in 196-03, A, 1-4; or
- b. Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or

D. Using any procedure that thaws a portion of frozen ready-to-eat food that is prepared for immediate service in response to an individual consumer=s order.

II. Potentially Hazardous Food, Slacking

- A. Frozen potentially hazardous food that is slacked to moderate the temperature shall be held:
  - 1. Under refrigeration that maintains the food temperature at 5EC, (41EF), or less; or
  - 2. At any temperature if the food remains frozen.

**196-07 Returned Food, Reservice or Sale**

I. Returned Food

- A. Except as specified under B. below, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer shall not be offered as food for human consumption.
- B. Except as specified under 196-07, II, food that is not potentially hazardous, such as crackers and condiments, in an unopened original package maintained in sound condition may be reserved or resold.

II. Reservice, Prohibited for Certain Populations Food, in an unopened original package, shall not be reserved in a food service establishment that serves an especially vulnerable population.

**196-08 Packaged and Unpackaged Food: Separation, Packaging and Segregation**

I. Separation

- A. Food shall be protected from cross contamination by:
  - 1. Separating raw animal foods during storage, preparation, holding, and display from:
    - a. Raw ready-to-eat food including other raw animal food, including but not limited to fish for sushi, molluscan shellfish, or other raw ready-to-eat food such as vegetables; and

- b. Cooked ready-to-eat food;
- 2. Separating types of raw animal foods from each other, including but not limited to beef, fish, lamb, pork, and poultry during storage, preparation, holding and display, except when combined as ingredients, by:
  - a. Using separate equipment for each type of food; or
  - b. Arranging each type of food in equipment so that cross contamination of one type with another is prevented; or
  - c. Preparing each type of food at different times or in separate areas;
- 3. Cleaning and sanitizing equipment and utensils as specified under 196-22;
- 4. Except as specified in B. below, storing the food in packages, containers, or wrappings;
- 5. Cleaning hermetically sealed food containers of visible soil before opening;
- 6. Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;
- 7. Storing damaged, spoiled or recalled food being held in the establishment in designated areas and segregated from other food, equipment, utensils, linens, and single-service and single-use articles; and
- 8. Separating fruits and vegetables, before they are washed as specified under 196-08, X from ready-to-eat food.

3. The requirements of

4. 196-07, A, 4 above shall not apply to:

- 1. Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;
- 2. Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;
- 3. Whole, uncut, processed meats including but not limited to country hams, and smoked or cured sausages that are placed on clean, sanitized racks;
- 4. Food being cooled as specified under 196-03, XI, B, 2; and

5. Shellstock.

**II. Consumer Self-Service Operations**

A. Unpackaged, raw animal food, including but not limited to beef, lamb, pork, poultry, frozen shrimp and fish shall not be offered for consumer self-service, except that this paragraph shall not apply to:

1. Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods, including but not limited to sushi or raw shellfish; or

2. Ready-to-cook individual portions for immediate cooking and consumption on the premises including but not limited to consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue.

B. Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination.

C. Consumer self-service operations including but not limited to buffets and salad bars shall be monitored by employees trained in food safety procedures.

**III. Food Contact with Equipment and Utensils**

A. Food shall not contact:

1. Probe-type price or identification tags; or

2. Surfaces of utensils and equipment that are not cleaned as specified under 196-14 of these rules.

**IV. Preventing Contamination When Tasting Food**

A. A food employee shall not use a utensil more than once to taste food that is to be sold or served.

V. Food Protection From Contamination Food shall be protected from potential contamination, including but not limited to dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation at all times including while being:

- A. Stored;
- B. Prepared;
- C. Displayed;
- D. Served; and
- E. Transported.

VI. Transportation of Food and Food Utensils

- A. During transportation, food and food utensils shall be kept in covered containers or completely wrapped so as to be protected from contamination.
- B. Foods in original individual packages shall not be required to be overwrapped or covered if the original package has not been torn or broken.
- C. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of these rules relating to food protection and food storage.

VII. Food on Display Food on display shall be protected from contamination by the use of:

- A. Packaging; or
- B. Counter, service line or salad bar food guards; or
- C. Enclosed display cases;
- D. Other means which protect food from contamination.

VIII. Using Clean Tableware for Second Portions and Refills

- A. Food employees shall not use tableware and single-service articles soiled by the consumer to provide second portions or refills.
- B. Except as specified in C. below, self-service consumers shall not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment.
- C. Self-service consumers shall be allowed to reuse cups and glasses if refilling is a contamination-free process, as specified under  
196-09 and  
196-10.

IX. Refilling Returnables A take-home food container returned to a food service establishment or retail food store shall not be refilled with a potentially hazardous food.

X. Washing of Raw Fruits and Raw vegetables Except for raw fruits and vegetables that are intended for washing by the consumer before consumption, raw fruits and raw vegetables shall be thoroughly washed in a food preparation sink with potable water before being cooked or served.

XI. Storage of Food and Containers

- A. Containers of food shall be stored either:

1. A minimum of six inches, 15 cm, above the floor in a manner that protects the food from splash and other contamination, and that permits cleaning of the storage area; or
2. On dollies, racks or pallets, provided that equipment can be moved.

B. Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads required by law.

C. Food shall not be stored in toilet rooms, dressing rooms, locker rooms, garbage rooms, in mechanical rooms or vestibules.

XII. Ice as a Cooling Medium Ice shall not be used as food after use as a medium for cooling:

- A. The exterior surfaces of food, including but not limited to melons and fish; or
- B. Packaged foods such as canned beverages; or
- C. Cooling coils and tubes of equipment.

XIII. Storage or Display of Food in Contact with Water or Ice

A. Packaged food shall not be stored in direct contact with ice or water if the food is subject to the entry of water because of:

1. The nature of its packaging, wrapping, or container; or
2. Its positioning in the ice or water.

B. Unpackaged food shall only be stored in direct contact with drained ice, except for immersion of:

1. Whole, raw fruits or vegetables;
2. Cut, raw vegetables, including but not limited to celery, carrot sticks and cut potatoes;
3. Tofu in ice or water; or
4. Raw chicken and raw fish that are received immersed in ice in shipping containers and that remain in that condition while in storage awaiting preparation, display, service or sale.

XXIV. Service of Cream, Half and Half, Non-dairy Creaming or Whitening Agents

Cream, half and half, non-dairy creaming or whitening agents shall be provided in an individual service container, covered pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

XV. Service of Condiments, Sugar, Seasonings and Dressings

- A. Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with 196-08, VII.
- B. Except for catsup and other sauces served in the original container or pour-type dispenser, condiments provided for table or counter service shall be individually portioned.
- C. Sugar for consumer usage shall be provided in individual packages or in pour-type dispensers.

#### **196-9 Handling of Food and Ice Minimized**

- I. Single-Use Gloves, Used for One Purpose and Discarded If used, single-use gloves shall be:
  - A. Worn for only one task, including but not limited to working with ready-to-eat food or with raw animal food, and then discarded;
  - B. Discarded if damaged or soiled, or when interruptions occur in the operation; and
  - C. Used in conjunction with the requirements of 196-12.
- II. Utensils, Consumer Self-Service A food dispensing utensil shall be available for each container displayed at a consumer self-service unit, including but not limited to a buffet or salad bar.
- III. Ice for Consumers Ice for consumer use shall be dispensed by:
  - A. Employees with scoops, tongs, or other ice dispensing utensils; or
  - B. Through automatic self-service, ice dispensing equipment.

#### **196-10 In-Use Utensils, Between-Use Storage.** During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

- A. Except as specified under D, 1. below, in the food with their handles above the top of the food and the container;
- B. On a clean portion of the food preparation table or cooking equipment which is cleaned and sanitized at a frequency specified under 196-22, E;
- C. In running water of sufficient velocity to flush particulates to the drain, if used with moist food including but not limited to ice cream or mashed potatoes; or

D. When the food is not potentially hazardous:

1. With their handles above the top of the food within containers or equipment that can be closed, including but not limited to bins of sugar, flour, or cinnamon; or
2. In a clean, protected location.

### **III. PERSONNEL**

#### **196-11 Responsibility of the Person in Charge to Require Reporting of a Diagnosis or Symptoms Suggestive of Foodborne Illness by Food Employees and Applicants**

##### **I. Person in Charge**

- A. The license holder shall ensure that a person in charge is present at the food service establishment or retail food store during all hours of operation.
- B. The person in charge shall require food employees and food employee applicants to whom a conditional offer of employment is made to report information about their health and activities, as they relate to diseases that are transmissible through food, in a manner that allows the person in charge to prevent the likelihood of foodborne disease transmission if the food employee or food employee applicant:
  1. Is diagnosed with an illness due to:
    - a. *Salmonella* species;
    - b. *Shigella* species;
    - c. *Escherichia coli* 0157:H7,
    - d. Hepatitis A virus infection;
    - e. Amebiasis;
    - f. Campylobacteriosis;
    - g. Cryptosporidiosis; or
    - h. Yersiniosis.
  2. Has a symptom caused by illness, infection, or other source that is:
    - a. Associated with an acute gastrointestinal illness, including but not limited to diarrhea, fever, vomiting, or jaundice,
    - b. Sore throat with fever, or
    - c. A lesion containing pus, including but not limited to a boil or infected wound that is open or draining and is:
      - (1) On the hands or wrists, unless an impermeable cover such as finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;

(2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover; or

(3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

3. Had a past illness from an infectious agent specified in B, 1 above; or

4. Meets one or more of the following high-risk conditions:

a. Is suspected of causing, or being exposed to a confirmed disease outbreak caused by *Salmonella species*, *Shigella species*, *E. coli* 0157 or hepatitis A virus illness including an outbreak at an event including but not limited to a family meal, church supper, or ethnic festival because the food employee or applicant:

(1) Prepared food implicated in the outbreak;

(2) Consumed food implicated in the outbreak; or

(3) Consumed food at the event prepared by a person who is infected or ill with the infectious agent that caused the outbreak or who is suspected of being a shedder of the infectious agent;

b. Lives in the same household as a person who is diagnosed with a disease caused by *Salmonella species*, *Shigella species*, *E. coli* 0157:H7, or hepatitis A virus infection;

c. Lives in the same household as a person who attends or works in a setting where there is a confirmed disease outbreak caused by *Salmonella species*, *Shigella species*, *E. coli* 0157:H7, or hepatitis A virus infection;

d. Traveled out of the United States or to a United States territory within the last 50 calendar days to an area that is identified as having epidemic or endemic disease caused by hepatitis A based on information published by the Centers for Disease Control and Prevention, including but not limited to the document titled Health Information for International Travel; or

e. Traveled out of the United States or to a United States territory within the last seven calendar days to an area that is identified as having epidemic or endemic disease caused by *Salmonella species*, *Shigella species* or *E. coli* 0157:H7.

## II. Exclusions and Restrictions

A. A food employee shall be excluded from a food service establishment or retail food store if diagnosed with an infectious agent specified in 196-11, B, 1 until the provisions of NH He-P 301.05 are met and the person excluded provides to the license holder written medical documentation from a physician licensed to practice medicine that specifies that the excluded person is able to work in an unrestricted

capacity in a food service establishment or retail food store.

B. A food employee shall be restricted from working with exposed food, clean equipment, utensils, and linens, and unwrapped single-service and single-use articles until the food employee is no longer experiencing a symptom specified in 196-11, B, 2 but has a stool specimen that yields a specimen culture that is positive for an infectious agent specified in 196-11, B,1.

**III. Suspected or Confirmed Foodborne Disease Outbreaks**

A. During a suspect or confirmed foodborne disease outbreak, as determined by the department, all food employees in the implicated establishment shall submit biological specimens as required under RSA 141-C:9.

B. During a suspect or confirmed foodborne disease outbreak, as determined by the department, any food employee who has had any of the symptoms specified in 196-11, B, 2 within the previous 2 weeks shall be excluded from work until the appropriate biological specimens requested by the department under RSA 141-C:9 are submitted and found negative.

**IV. Reporting by the Person in Charge** The person in charge shall notify the department=bureau of disease prevention and control of a food employee or a person who applies for a job as a food employee who is diagnosed with, or suspected of having an illness due to any foodborne disease that is reportable under NH He-P 301.02.

**196-12 Personal Cleanliness**

A. Employees shall keep their hands and exposed portions of their arms clean.

B. Employees shall clean their hands and exposed portions of their arms with a cleaning compound in a handwashing sink that is equipped as specified under 196-31 by vigorously rubbing together the surfaces of their lathered hands and arms for a least 20 seconds and thoroughly rinsing with clean water. Employees shall pay particular attention to the areas underneath the fingernails and between the fingers.

C. Employees shall clean their hands and exposed portions of their arms as specified in B. above:

1. Before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles;
2. After touching bare human body parts other than clean hands and clean, exposed portions of arms;
3. After using the toilet room;
4. After caring for or handling support animals or aquatic animals;

5. After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating or drinking;
6. After handling soiled equipment or utensils;
7. During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
8. When switching between working with raw foods and working with ready-to-eat foods; and
9. After engaging in any other activity that contaminates the hands.

D. Employees shall:

1. Clean their hands in a handwashing sink; and
2. Not clean their hands:
  - a. In a sink used for food preparation; or
  - b. In a three-compartment sink used for dishwashing.

E. A hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall not be used in lieu of handwashing, as required by this section.

F. Employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are smooth and cleanable and not rough.

G. While preparing food, employees shall not wear jewelry on their arms and hands except for a plain wedding band.

**VI. Preventing Contamination from Hands**

A. Except when washing fruits and vegetables as specified under 196-08, XX, food employees shall not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils including but not limited to deli tissue, spatulas, tongs, single-use gloves or dispensing equipment.

B. Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

**VII. Hygienic Practices**

A. An employee shall not eat, drink, or use any form of tobacco except in designated areas which are protected against causing contamination of:

1. Exposed food;
2. Clean equipment;
3. Utensils;
4. Linens; or
5. Unwrapped single-service and single-use articles.

B. A food employee may drink from a closed beverage container if the container is handled so as to prevent contamination of:

1. The employee=s hands;
2. The container;
3. Exposed food;
4. Clean equipment;
5. Utensils;
6. Linens; and
7. Unwrapped single-service and single-use articles.

C. Utensil-washing, equipment-washing or food preparation sinks shall not be used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes .

#### **196-13 Clean Clothes; Hair Restraint**

- A. Food employees shall wear clean outer clothing.
- B. When moving from a raw food operation to a ready-to-eat operation, food employees shall wear a clean outer covering or change to clean clothing if their clothing is soiled.
- C. Employees working with exposed food, clean equipment, utensils, linens, or unwrapped single-service and single-use articles shall wear hair restraints, including but not limited to hats or hair nets.
- D. Food employees shall remove aprons when using the restroom.

#### **IV. FOOD EQUIPMENT AND UTENSILS: FOOD CONTACT SURFACES, CONDITION AND USAGE**

##### **196-14 Food Contact Equipment and Surfaces to Meet Standards**

I. All food equipment shall be certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program.

- A. Characteristics of Multiuse Materials Materials used in the construction of utensils and food contact surfaces of equipment shall:
  1. Not allow the migration of deleterious substances;
  2. Not impart colors, odors, or tastes to food; and
  3. Be:
    - a. Safe;

- b. Durable, corrosion-resistant, and nonabsorbent;
- c. Sufficient in weight and thickness to withstand repeated dishwashing;
- d. Finished to have a smooth, easily cleanable surface; and
- e. Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

B. Good Repair and Proper Adjustment

- 1. Equipment shall be maintained in a state of repair and condition that meets the requirements specified in  
196-14 and  
196-15.
- 2. Equipment components, including but not limited to doors, seals, hinges, fasteners and kick plates, shall be kept intact, tight, and adjusted in accordance with manufacturer=s specifications.
- 3. Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

C. Multiuse Food Contact Surfaces Multiuse food-contact surfaces shall be:

- 1. Smooth;
- 2. Free of breaks, open seams; cracks, chips, pits, and similar imperfections;
- 3. Free of sharp internal angles, corners, and crevices;
- 4. Finished to have smooth welds and joints; and
- 5. Accessible for cleaning and inspection by one of the following methods:
  - a. Without being disassembled;
  - b. By disassembling without the use of tools; or
  - c. By easy disassembling with the use of hand-held tools commonly available to maintenance and cleaning personnel, including but not limited to screwdrivers, pliers, open-end wrenches, and allen wrenches.

D. Single-Service Articles Single-service articles shall be made from clean, sanitary, food grade materials.

E. CIP Equipment

- 1. CIP equipment shall meet the characteristics specified under A. above and shall be designed and constructed so that:
  - a. Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces; and
  - b. The system is self-draining or capable of being completely drained of

cleaning and sanitizing solutions.

2. CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to assure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

**F. New or Remodeled Walk-in Refrigerators and Freezers**

1. New or remodeled walk-in refrigerators and freezers shall not contain interior wood surfaces.
2. Upon change of ownership, all existing walk-in refrigerators and freezers shall not contain interior wood surfaces.

**G. Limitation on Use of Wood**

1. Except for the following which shall be hard maple or an equivalently hard, close-grained, nonabsorbent wood, wood and wood wicker shall not be used as a food-contact surface:
  - a. Cutting boards;
  - b. Cutting blocks;
  - c. Bakers= tables;
  - d. Utensils including but not limited to rolling pins, doughnut dowels, salad bowls, and chopsticks; and
  - e. Paddles used in confectionery operations for pressure kettles when manually preparing confections at a temperature of 110°C, (230°F) or above.
2. Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received until used.

**H. Limitation on Use of Cast Iron** Cast iron shall not be used for utensils or food-contact surfaces of equipment except as:

1. A surface for cooking; or
2. In utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

**I. Limitation on Use of Lead in Solder and Flux** Solder and flux containing lead in excess of 0.2% shall not be used on surfaces that contact food.

**J. Limitation on Use of Lead in Ceramic, China, and Crystal Utensils** Ceramic, china, crystal utensils, and decorative utensils, including but not limited to hand painted ceramic or china that are used in contact with food, shall be lead-free or contain levels of lead not exceeding the limits of the utensil categories specified in Table 2.6.1, below:

Table 2.6.1 Maximum Lead Limits Allowed in Certain Utensil Categories

<u>Utensil Category</u>	<u>Description</u>	<u>Maximum Lead (mg/L)</u>
Hot Beverage Mugs	Coffee Mugs	0.5
Large Hollowware	Bowls>1.1L (1.16 QT)	1
Small Hollowware	Bowls<1.1L (1.16 QT)	2.0
Flat Utensils	Plates, Saucers	3.0

K. Limitation on Use of Copper, Copper Alloys and Brass Copper, copper alloys, and brass shall not be used:

1. In contact with a food that has a pH below 6, including but not limited to vinegar, fruit juice or wine; or
2. For a fitting or tubing installed between a backflow prevention device and a carbonator.

L. Limitation on Use of Galvanized Metal Galvanized metal shall not be used for utensils or food-contact surfaces of equipment used in contact with an acidic foods, including but not limited to vinegar, fruit juice, or wine.

M. Limitation on Use of Linens, Napkins, and Sponges

1. Linens and napkins shall not be used in contact with food except:
  - a. To line containers used for the service of foods if the linens and napkins are replaced with clean ones each time the container is refilled for a new customer; and
  - b. When cloth gloves are used in direct contact with food that is subsequently cooked.
2. Sponges shall not be used in contact with cleaned and sanitized or in-use food- contact surfaces.

N. Limitation on Use of Lead in Pewter Alloys Pewter alloys containing lead in excess of 0.05% shall not be used as a food-contact surface.

O. Use of Mollusk and Crustacea Shells Mollusk and crustacea shells shall be used only once as a serving container.

P. Molluscan Shellfish Tanks Molluscan shellfish life support system display tanks shall:

1. Only be used to display shellfish that are not offered for human consumption; and
2. Be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

Q. Fixed Equipment Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.

R. Location of Equipment Equipment, including but not limited to ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination, except for automatic fire protection sprinkler heads required by law.

S. Slash-Resistant Gloves, Use Limitation Slash-resistant gloves used to protect hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified in 196-03, including but not limited to frozen food and prime cuts of meat.

T. Limitation on Use of AV" Threads AV" type threads in connectors on equipment shall not be used on food-contact surfaces, except for hot oil cooking or filtering equipment.

U. Hot Oil Filtering Equipment Hot oil filtering equipment shall:

1. Meet the characteristics specified under 196-14, B and 196-14, D and;
2. Be readily accessible for filter replacement and cleaning of the filter.

V. Can Openers Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

W. Food Temperature Measuring Devices Except for thermometers with glass sensors or stems encased in a shatterproof coating, including but not limited to a candy thermometer, food temperature measuring devices shall not have sensors or stems constructed of glass.

X. Equipment Containing Bearings and Gears Equipment containing bearings and gears requiring other than food grade lubricants shall be designed and constructed so that the lubricant cannot leak, drip or be forced into food or onto food-contact surfaces. Only food grade lubricants shall be used on equipment designed to receive

lubrication of        bearings and    gears on or within food-contact surfaces.

Y. Beverage Tubing, Separation Beverage tubing and cold-plate beverage cooling devices shall not be installed in contact with stored ice which is to be used for consumption.

Z. Ice Units, Separation of Drains Liquid waste drain lines shall not pass through an ice machine or ice storage bin.

AA. Dispensing Equipment, Protection of Equipment and Food In equipment that dispenses or vends liquid food or ice in unpackaged form:

1. The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed so that drips from condensation and splash are diverted from the opening of the container receiving the food;
2. The delivery tube, chute, and orifice shall be protected from manual contact by being recessed or by some equally effective design approved by the department;
3. The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:
  - a. Located in an area outside the confines of a licensed food service establishment or retail food store which otherwise afford protection against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or
  - b. Available for self-service during hours when it is not under the full-time supervision of an employee; and
4. The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

BB. Can Openers on Vending Machines Cutting or piercing parts of can openers on vending machines shall be protected from manual contact, dust, insects, rodents, and other contamination.

CC. Exceptions to Equipment Requirements

1. Equipment installed in a given food service establishment or retail food store as of the effective date of these rules which does not meet fully all of the design and

fabrication requirements of these rules shall be deemed acceptable in that same establishment as long as:

- a. There is no change of ownership;
- b. The equipment is in good repair;
- c. The equipment is able to be maintained in a sanitary condition; and
- d. The food-contact surfaces are non-toxic.

2. Upon change of ownership of any food service establishment or retail food store governed by 196-14, CC, 1 above, all equipment shall meet the requirements of these rules.

3. If 196-14, CC, b, c or d above cannot be complied with, the license holder shall immediately remedy the non-compliance, or enter into a compliance agreement under 196-58 which shall state when the non-compliance will be remedied.

4. All equipment installed after the effective date of these rules shall meet the provisions of this section. (March 26, 1998)

## **V. FOOD EQUIPMENT AND UTENSILS: NON-FOOD CONTACT SURFACES**

### **196-15 Non-Food Contact Surfaces and Equipment to Meet Standards**

A. Non-Food Contact Surfaces Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be:

1. Designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning; and
2. Constructed of such material and in such repair as to be easily maintained in a clean and sanitary condition.

B. Fixed Equipment, Spacing or Sealing

1. A unit of equipment that is fixed because it is not easily movable shall be installed so that it is:
  - a. Spaced to allow access for cleaning along the sides, behind, and above the unit; or
  - b. Spaced from adjoining equipment, walls, and ceilings a distance of not

more than 1 millimeter or one thirty-second inch; or

- c. Sealed to adjoining equipment or walls, if the unit is exposed to spillage or seepage.

2. Table-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:
  - a. Sealed to the table; or
  - b. Elevated on legs as specified under 196-15, B, 2

C. Fixed Equipment, Elevation or Sealing

1. Except as specified in 2. and 3. below, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least 15 centimeters (6 inches) clearance between the floor and the equipment.
2. If no part of the floor under the floor-mounted equipment is more than 15 centimeters (6 inches) from the point of cleaning access, the clearance space shall be not less than 10 centimeters (4 inches).
3. This section shall not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained in a clean condition.

D. Table-mounted equipment that is not easily movable shall be elevated on legs that provide at least 10 centimeters (4 inches) clearance between the table and equipment, except that:

1. It shall be acceptable for the clearance space between the table and table-mounted equipment to be not less than 7.5 centimeters (3 inches) if the horizontal distance of the table top under the equipment is no more than 50 centimeters (20 inches) from the point of access for cleaning; and
2. It shall be acceptable for the clearance space between the table and table-mounted equipment to be not less than 5 centimeters (2 inches) if the horizontal distance of the table top under the equipment is no more than 7.5 centimeters (3 inches) from the point of access for cleaning.

E. Aisles and Working Spaces

1. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact.

2. All easily movable storage equipment, including but not limited to pallets, racks and dollies, shall be positioned to provide accessibility to working areas.

F. **Kick Plates, Removable** Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning.

G. **Vending Machines, Vending Stage Closure** The dispensing compartment of vending machines that serve potentially hazardous food shall be equipped with a self-closing door or cover if the machines are:

1. Located in an area that is outside the confines of a licensed food establishment or retail food store which otherwise afford protection against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or
2. Available for self-service during hours when it is not under the full-time supervision of a food employee.

H. **Vending Machines, Liquid Waste Products**

1. Vending machines designed to store beverages which are potentially hazardous food packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.
2. Vending machines that dispense liquid potentially hazardous food in bulk shall be:
  - a. Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and
  - b. Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.
3. Shutoff devices specified in 196-14, H, 2, b above, shall prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

I. **Vending Machine Doors and Openings**

1. Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than 1.5 millimeters or one-sixteenth inch.
2. Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or one-sixteenth inch.

J. Equipment Compartments, Drainage Equipment compartments that are subject to conditions inviting accumulation of moisture, including but not limited to condensation, food or beverage drip, or water from melting ice, shall be sloped to an outlet that allows complete draining.

K. Sinks and Drain Boards Self-Draining Sinks and drain boards shall be self-draining.

## VI. DISHWASHING EQUIPMENT REQUIREMENTS

### 196-16 Manual Dishwashing, Sink Compartment Requirements

A. A sink with at least 3 compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.

B. Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils.

C. If equipment or utensils are too large for the dishwashing sink, a dishwashing machine or the following alternative manual dishwashing equipment shall be used:

1. High-pressure detergent sprayers;
2. Low- pressure or line-pressure spray detergent foamers;
3. Other task-specific cleaning equipment;
4. Brushes or other implements

D. Manual Dishwashing Equipment: Wash Solution Temperature The temperature of the wash solution used in manual dishwashing equipment shall be maintained at not less than 43EC (110EF), unless a different temperature is specified on the cleaning agent manufacturer=s label instructions.

E. Manual Dishwashing; Washing, Rinsing and Sanitizing Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

1. Sinks shall be cleaned prior to use;
2. Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean;
3. Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and
4. Equipment and utensils shall be sanitized in the third compartment.

F. Dishwashing Sinks, Alternative Uses Food service establishments and retail food stores that use only single-service equipment and utensils and that use the sanitizing sink

of the three compartment dishwashing sink to wash produce or thaw food shall clean and sanitize the sink and the adjacent drainboard before and after each time it is used to wash produce or thaw food, provided that the sink compartment is plumbed as required by 196-30.

**G. Dishwashing Machines**

1. Equipment and utensils shall be cleaned and sanitized by:
  - a. Spray-type or immersion dishwashing machines; or
  - b. By any other type of machine or device that thoroughly cleans and sanitizes.
2. Dishwashing machines and devices shall be properly installed and maintained in good repair.
3. Dishwashing machines and devices shall:
  - a. Be operated in accordance with manufacturers instructions; and
  - b. Utensils and equipment placed in the machine or device shall be exposed to all dishwashing cycles.
4. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors shall be properly installed and maintained.

**H. Dishwashing Machine, Data Plate Operating Specifications** A dishwashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine=s design and operating specifications including the:

1. Temperatures required for washing, rinsing, and sanitizing;
2. Pressure required for the fresh water sanitizing rinse, unless the machine is designed to use only a pumped sanitizing rinse; and
3. Conveyor speed and timing for conveyor machines or cycle time for stationary rack machines.

**I. Conveyors** Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers specifications.

**J. Rinse Water Tanks** Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water.

**K. Mechanical Dishwashing Equipment, Sanitization Pressure**

1. The flow pressure of the fresh hot water sanitizing rinse in a dishwashing machine shall be not less than 100 kilopascals (15 pounds per square inch) or more than 170 kilopascals (25 pounds per square inch) as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve.
2. A 1/4 inch, Iron Pipe Size (IPS) valve shall be provided immediately upstream from the final rinse control valve on all spray-type dishwashing machines to permit checking the flow pressure of the final rinse water.

L. Field Conversion Kits Field conversion kits to change a dishwashing machine from a hot water sanitizer to a chemical sanitizer shall be installed in accordance with the manufacturer's directions.

M. Drainboards

1. Drainboards shall be provided in kitchens of food service establishments and retail food stores.
2. Each drainboard shall be:
  - a. Equivalent in size to the length and width of one compartment of the three compartment sink and used for holding soiled utensils prior to washing and air-drying cleaned utensils following sanitization; and
  - b. Located, one on each side of the three-compartment sink and constructed so as not to interfere with the use of the dishwashing facilities.
3. The use of easily moveable dish tables for the storage of soiled utensils or clean utensils following sanitization shall be permitted.

N. Manual Dishwashing Equipment, Heaters and Baskets If hot water is used for sanitization in manual dishwashing operations, the sanitizing compartment of the sink shall be:

1. Designed with an integral heating device capable of maintaining water at a temperature not less than 77EC, (171EF); and
2. Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

O. Temperature Measuring Devices in Dishwashing

1. Machine or water line mounted numerically scaled indicating thermometers, accurate to +/-1.5EC, (2.7EF), shall be provided for all mechanical dishwashers to

indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

2. In manual dishwashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

**196-17 Chemical Sanitization** When chemicals are used for sanitization:

- A. The licensee shall have available and use a test kit or other device that accurately measures the parts per million concentration of the sanitizing agent; and
- B. The concentration shall not exceed that permitted under 196-22, A, 2-4, unless specified in the manufacturer=s specifications.

**VI. SINGLE SERVICE ARTICLES**

**196-18 Single-Service Articles Stored and Dispensed**

- A. Single-service articles shall be:
  1. Stored at least 6 inches (15 cm) above the floor in closed cartons or containers which protect them from splash, dust or other contamination; an
  2. Not placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads.
- B. Single-service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which might come in contact with food or with the mouth of the user.
- C. Single-service knives, forks and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his hands immediately prior to sorting or wrapping the utensils, except as provided in D. below.
- D. If single-service knives, forks and spoons are not pre-wrapped or pre-packaged, holders which present the handle of the utensil to the consumer shall be provided.

**196-19 Single Service Articles, Usage** Single service articles shall not be reused.

**VII. CLEANLINESS OF FOOD EQUIPMENT AND UTENSILS**

#### **196-20 Equipment and Utensils Pre-Flushed and Scraped**

- A. If the dishwashing machine operation does not include a pre-wash cycle, equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove food debris prior to being washed.
- B. Equipment and utensils shall be placed in racks, trays, baskets, or on conveyors which permit free draining so that food contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters.

#### **196-21 Food Equipment and Utensils Wash and Rinse Water**

- A. Food equipment and utensil wash water and rinse water shall be kept clean.
- B. Food equipment and utensil wash water and rinse water shall meet the temperature requirements of  
196-22, B. and C.
- C. Concentrations of washing detergent shall be maintained in the wash water according to the manufacturer's recommendations.

#### **196-22 Sanitization Rinse**

- A. Manual sanitizing of all equipment and utensils shall be performed in the third sink compartment by one of the following methods:
  1. Immersion for at least one-half minute in clean, hot water at a temperature of at least 77°C, (171°F) using:
    - a. An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water temperature of at least 77°C, (171°F);
    - b. A numerically scaled indicating thermometer, accurate to +/-1.5EC, (2.7EF), convenient to the sink for frequent checks of water temperature; and
    - c. Dish baskets of a size and design which permits complete immersion of the tableware, kitchenware and equipment in the hot water.
  2. Immersion for at least ten seconds in a clean solution containing 50 parts per million of available chlorine as a hypochlorite which is maintained at not less than 24°C, (75°F); or

3. Immersion for at least 30 seconds in a clean solution containing 12.5 parts per million of available iodine having a pH range which the manufacturer has demonstrated to be certified or classified for sanitization by an ANSI accredited certification program and which maintained not less than 24EC, (75EF);
4. Immersion for at least 30 seconds in a clean solution containing 200 parts per million of a quaternary ammonium compound which is maintained at not less than at least 24°C, (75°F), or the concentration specified in the manufacturer=s recommendations.

B. If commercial machines using hot water for sanitizing are used, wash water and pumped rinse water shall be:

1. Kept clean;
2. Maintained at not less than the following temperatures:
  - a. A single-tank, stationary-rack, dual-temperature machine shall have a wash temperature of not less that 66EC, (150EF), and a final rinse temperature of not less than 82°C, (180°F);
  - b. A single-tank, stationary-rack, single-temperature machine shall have a wash temperature not less than 74°C, (165°F), and a final rinse temperature of not less than 74EC, (165EF).
  - c. A single-tank, conveyor machine shall have a wash temperature of not less than 71°C (160°F) and a final rinse temperature of not less than 82°C, (180°F); and
  - d. A multi-tank, conveyor machine shall have a wash temperature of not less than 66EC (150°F), a pumped rinse temperature of not less than 71°C, (160°F), and a final rinse temperature of not less than 82°C, (180°F); and
3. A single-tank, pot, pan, and utensil washer (either stationary or moving-rack) shall have a wash temperature of not less than 60°C, (140°F), and a final rinse temperature of not less than 82EC, (180EF).

C. If machines, including but not limited to single-tank, stationary-rack, door-type machines and spray-type glass washers using chemicals for sanitization are used:

1. The temperature of the wash water shall not be less than 49°C, (120°F);
2. The wash water shall be kept clean;
3. Chemicals added for sanitization purposes shall be automatically dispensed;
4. There shall be a visual and audible alarm to indicate the lack of sanitizer;
5. Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with the manufacturer  
s specifications for time and concentration;
6. The chemical sanitizing rinse water temperature shall be not be less than the temperature

specified by the machine=s manufacturer; and

7. Chemical sanitizers used shall meet the concentration requirements of A, 2, 3 or 4. above.

temperature of the utensil surface in hot water mechanical operations in B, 2 above shall achieve 71°C, (160°F), as measured by an irreversible registering temperature indicator.

E. Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be washed, rinsed, and sanitized:

1. Each time there is a change in processing between types of raw animal products, including but not limited to beef, fish, lamb, pork and poultry;
2. Each time there is a change from raw to ready-to-eat foods;
  3. Between uses with raw fruits or vegetables and with potentially hazardous food;
4. After any interruption of operations in which contamination may have occurred; and
5. After final use each working day.

F. Before using or storing a food temperature measuring device, it shall be washed, rinsed and sanitized.

quipment food-contact surfaces and utensils shall be clean to sight and touch.

food service establishment without facilities specified under

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cleaning and sanitizing kitchenware and tableware shall provide only single- use kitchenware, single-service articles, and single-use articles for use by food employees and single- service articles for use by consumers.

- I. Air Drying Equipment and Utensils After Sanitization After sanitization all equipment and utensils shall be air dried.

### **196-23 Wiping Cloths**

A. Cloths that are in use for wiping food spills shall be used for no other purpose.

B. Cloths used for wiping food spills shall be:

1. Dry and used for wiping food spills from tableware and carry-out containers; or
2. Moist and cleaned before being used with a fresh solution of cleanser or sanitizer, stored in a chemical sanitizer, and used for wiping spills from food-contact and nonfood-contact surfaces of equipment.

C. Dry or moist cloths used with raw animal foods shall be:

1. Kept separate from cloths used for other purposes; and

2. Kept in a separate sanitizing solution.

#### **196-24 Cleaning Food Contact Surfaces**

- A. To prevent cross-contamination, kitchenware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use and following any interruption of operations during which contamination may have occurred.
- B. The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day, except that this shall not apply to hot oil cooking equipment and hot oil filtering systems.
- C. The food-contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.
- D. Tableware shall be washed, rinsed, and sanitized after each use.

#### **196-25 Cleaning Non-Food Contact Surfaces**

- A. Non-food contact surfaces of equipment shall be kept cleaned so they are free of accumulations of dust, dirt, food particles, and other debris.
- B. All dishwashing machines shall be thoroughly cleaned at least once a day.

#### **196-26 Storage and Handling of Clean Equipment and Utensils**

- A. Except for items that are kept in closed packages less than 15 cm (6 inches) above the floor on dollies, pallets, racks, and skids, cleaned equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:
  1. In a clean, dry location;
  2. Where they are not exposed to splash, dust, or other contamination; and
  3. At least 15 cm (6 inches) above the floor.
- B. Clean equipment and utensils shall be stored as specified under A. above and:
  1. In a self-draining position that allows air drying; and
  2. Covered or inverted.
- C. Single-service and single-use articles shall be:
  1. Stored as specified under A. above; and
  2. Kept in the original protective package or stored by using other means affording protection from contamination until used.

### **196-26A Storage of Clean Kitchenware and Tableware**

- A. Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented.
- B. If consumer self-service is provided, knives, forks and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers.
- C. Single-service articles not intended for food or lip contact shall be furnished for consumer self-service:
  - 1. With the original individual wrapper intact; or
  - 2. From an approved dispenser.
- D. Cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles shall not be stored:
  - 1. In toilet rooms;
  - 2. In garbage rooms;
  - 3. In mechanical rooms;
  - 4. Under sewer lines that are not shielded to intercept potential drips;
  - 5. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
  - 6. Under open stairwells; or
  - 7. In locker rooms, except for laundered linens and single-service and single-use articles packaged or stored in a cabinet.
- E. Soiled Tableware Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.
- F. Preset Tableware If tableware is preset, it shall be:
  - 1. Protected from contamination by being wrapped, covered, or inverted; or
  - 2. If exposed and unused, settings shall be:
    - a. Removed when a consumer is seated; or
    - b. If not removed when a consumer is seated, cleaned and sanitized before further use.

## **VII. WATER SYSTEM**

### **196-27 Potable Water**

A. Food service establishments and retail food stores shall have access to enough potable water to meet their needs at all times.

B. In all food preparation areas license holders shall assure that:

1. Hot and cold water is available at all times; and
2. Water pressure meets the requirements of NH Plu 701 of the state plumbing code.

C. Food service establishments and retail food stores served by a public or private water source shall assure that the bacteria level in their water does not exceed the acceptable bacteria levels for drinking water prescribed by NH Department of Environmental Services Rule Env-Ws 315.01 (e).

D. If the water serving a food service establishment or retail food store is found to be bacteriologically contaminated, the person in charge shall:

1. Notify the state regulatory authority and the local health officer within 12 hours;
2. Boil all water used for drinking purposes or to reconstitute frozen juices, until:
  - a. Notified by the public water supply that it is safe to discontinue boiling, if the license holder is served by a public water supply;
  - b. The license holder receives results from water samples taken on two consecutive days which show results which comply with C. above, if served by other than a public water supply;
3. Disconnect coffee and juice machines connected directly to the water supply;
4. Disconnect the ice machine if it is connected directly to the water supply and discard the ice contained in the machine;
5. Use only boiled water or bottled water pursuant to 196-08 to wash fresh fruits and vegetables which are eaten raw;
6. Clean and sanitize equipment in 3. and 4. above prior to reuse; and
7. Use only single-service and single-use articles for food service.

E. All potable water not provided directly by pipe to the food service establishment or retail food store from the source shall:

1. Be transported in a water transport system designed to carry potable water;
2. Be delivered in a closed water system; and
3. Have a minimum free available chlorine residual of 0.2 mg/L.

F. Steam used in contact with food or food-contact surfaces shall be free from any toxic materials or additives.

G. Bottled and packaged potable water shall be:

1. Obtained from a source licensed by the NH Department of Environmental Service in accordance with NH RSA 143:11 or registered under NH RSA 143:11
2. Handled and stored in a manner which protects it from contamination; and.
3. Dispensed from the original container.

H. System Flushing and Disinfection All parts of the drinking water system controlled by a license holder shall be flushed and disinfected before being placed into service:

1. After any construction, repair, or modification connected with the food service establishment or retail food store which could disturb that system; and
2. After an emergency situation connected with the food service establishment or retail food store which could disturb that system, including but not limited to floods and other natural disasters.

I. Water Reservoir of Fogging Devices, Cleaning A reservoir used to supply water to a mechanical device, including but not limited to a produce fogger, shall be:

1. Maintained in accordance with manufacturer=s specifications; and
2. Cleaned in accordance with manufacturer=s specifications.

J. Alternative Water Supply Water meeting the requirements specified in 196-27, A-H shall be made available for mobile food units and for a food service establishment or retail food store with a temporary interruption of its water supply through:

1. A supply of containers of commercially bottled drinking water licensed under NH RSA 143:11 or registered under NH RSA 143:12; or
2. One or more closed portable water containers; or
3. An enclosed vehicular water tank designed to carry potable water; or
4. An on-premises water storage tank.

K. Conditioning Device, Design A water filter, screen, and other water conditioning device installed on water lines shall be:

1. Designed to facilitate disassembly for periodic servicing and cleaning; and
2. Provided with a replaceable water filter element.

### **VIII. SEWAGE DISPOSAL**

#### **196-28 Sewage and Waste Disposal**

A. All sewage shall be disposed of through a wastewater system which meets all the current requirements of the NH Department of Environmental Services and the town of Salem.

- B. Existing wastewater systems shall not create a public health hazard.
- C. No increase in seating capacity in an existing food service establishment which has a private wastewater system, as referred to in 196-28A, shall be approved prior to the health department receiving written documentation from the Salem Engineering Department and the NH Department of Environmental Services that such increase complies with NH Department of Environmental Services Rules Env-Ws 1000.

## IX. PLUMBING

### **196-29 Installation and Maintenance of Plumbing**

- A. Plumbing shall be sized, installed, and maintained according to the provisions of NH Plu 700, the state plumbing code.
- B. In new or remodeled food service establishments or retail food stores at least one utility sink or curbed cleaning facility with a floor drain shall be provided and shall be the only drain used for:
  1. Cleaning mops or similar wet floor cleaning tools; and
  2. Disposing of mop water or similar liquid wastes.
- C. Utility sinks or curbed cleaning facilities shall be installed on the main food preparation level.

### **196-30 Backflow and Back Siphonage Prevention**

- I. All plumbing shall be installed and maintained as follows:
  - A. Devices shall be installed to protect against backflow and back siphonage at all fixtures and equipment where an air gap at least twice the diameter of the water supply inlet, but not less than 25 mm (1 inch), is not provided between the less than 25mm (1 inch), is not provided, between the water supply inlet and the fixture s flood level rim;
  - B. A back siphonage device shall be installed on all faucets to which hoses are attached;
  - C. There shall be no direct connection between the wastewater system and:
    1. Any drains originating from refrigerator coils, walk-in freezers, ice boxes, ice making machines, coffee urns or similar types of enclosed equipment; or
    2. Food preparation sinks;
  - D. Each waste pipe from the equipment listed in C. above shall discharge into an open,

accessible, individual waste sink, floor drain or other fixture which is trapped and vented; and

E. Each waste pipe from the equipment listed in C. above shall contain an air gap in the fixture waste line which is at least twice the effective diameter of the drain served.

II. Use of Non-potable Water Nonpotable water shall be allowed for appropriate uses including but not limited to air conditioning and fire protection provided that:

A. The system is installed according to the provisions of Plu 1507, the state plumbing code;

B. Nonpotable water does not come into contact with food or utensils; and

C. The piping of the water system is durably identified so that it is readily distinguishable from piping that carries potable water.

## **X. TOILET AND HANDWASHING FACILITIES**

### **196-31 Toilet Facilities, Design and Installation**

I. Design and Installation

A. Toilet facilities shall be:

1. Installed according to the provisions of Plu 1202, the state plumbing code
2. Conveniently located and accessible to employees and patrons at all times;
3. Designed to be easily cleanable; and
4. Located so patrons do not have to pass through food preparation areas to gain access to them.

B. At least one toilet room for each sex, for every 75 seats, shall be provided in all food service establishments or retail food stores that have any seating capacity.

C. In new or extensively remodeled establishments, handicapped bathrooms must be provided for each sex. State and local plumbing codes shall be met in all changes of ownership.

II. Handwashing Facilities, design and Installation

A. Handwashing sinks shall be:

1. Designed and installed in food preparation, display and dispensing areas so as to protect food and food contact surfaces from splash;
2. Equipped to provide water at a temperature of at least 43EC, (110EF) through a mixing valve or combination faucet;
3. Provided in all areas where there is hand to food contact by employees;

4. Provided in or immediately adjacent to toilet room or vestibules; and
5. Accessible to employees at all times.

B. Self-closing, slow-closing or metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

### **196-32 Toilet Facilities, Cleaning and Waste Receptacles**

#### **I. Toilet Facilities**

- A. Toilet facilities shall be:
  1. Completely enclosed and provided with a tight fitting and self-closing door;
  2. Kept clean and in good repair; and
  3. Provided with a supply of toilet tissue at all times.
- B. At least one easily cleanable and covered waste receptacle shall be provided in each toilet room, and those used by female patrons shall have one covered waste receptacle in each stall.
- C. Waste receptacles in toilet rooms shall be emptied at least once a day and more frequently when necessary to prevent overflow of waste material to the floor.

#### **II. Handwashing Facilities, Supplies and Cleaning**

- A. A supply of hand cleansing soap or detergent shall be available at each handwashing sink.
- B. A supply of paper towels or a hand-drying device providing heated air shall be conveniently located near each hand washing sink.
- C. Common towels shall not be used.
- D. A sign requiring handwashing after using the restroom shall be placed at each handwashing sink where it can be readily seen and read by employees.
- E. Waste receptacles near hand washing sinks shall be emptied at least once a day and more frequently when necessary to prevent overflow of waste material to the floor.
- F. Handwashing sinks, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

## **XI. SOLID WASTE DISPOSAL**

### **196-33 Solid Waste Containers**

A. Solid waste shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers which:

1. Do not leak;
2. Do not absorb liquids; and
3. Are lined with plastic bags or wet-strength paper bags.

B. Solid waste containers used in food preparation and utensil washing areas shall be kept covered after they are filled.

C. Solid waste containers stored outside the establishment, dumpsters, compactors and compactor systems shall be:

1. Easily cleanable; and
2. Provided with tight-fitting lids, doors or covers which shall be kept closed.

D. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

E. There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

F. Solid waste shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

G. Suitable facilities, including hot water and detergent or steam, shall be provided and used for washing containers, including:

1. Cleaning soiled containers frequently enough to prevent insect and rodent attraction;
2. Thoroughly cleaning each container on the inside and outside in a way that does not contaminate food equipment, utensils, or food-preparation areas.

H. Refuse receptacles shall not be located within a vending machine, except for receptacles for beverage bottle crown closures.

#### **196-34 Solid Waste Storage**

A. Solid waste stored on the premises shall be inaccessible to insects and rodents.

B. Unprotected plastic bags or wet-strength paper bags or baled units containing solid waste shall not be stored outside.

C. Cardboard or other packaging material not containing food wastes shall not be required to be stored in covered containers.

D. Solid waste storage rooms, if used, shall be:

1. Constructed of easily cleanable, nonabsorbent, washable materials;
2. Kept clean;
3. Insect-proof and rodent-proof ; and
4. Large enough to store the solid waste containers that accumulate.

E. Outside storage areas or enclosures shall be:

1. Large enough to store the solid waste containers that accumulate; and
2. Kept clean.

F. Solid waste containers, dumpsters and compactor systems located outside shall be stored on or above a smooth surface of nonabsorbent material, including but not limited to concrete or machine-laid asphalt, which is:

1. Kept clean;
2. Maintained in good repair; and
3. Curbed, graded and designed so that liquid waste that results from the refuse and from cleaning the area and waste receptacle is not released into the environment.

## **XII. INSECT, RODENT AND ANIMAL CONTROL**

### **196-35 Measures to Minimize Infestation with Insects, Rodents, and Animals**

I. The Premises

A. The premises of food service establishments and retail food stores shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

B. Measures intended to minimize the presence of rodents, flies, cockroaches, and others insects on the premises, including but not limited to extermination by a pesticide applicator licensed under NH RSA 430, shall be utilized.

C. Only pesticide applicators authorized under NH RSA 430 shall be allowed to apply poisons for rodent or cockroach control in the food storage, food preparation or food service area of a license holder.

D. Openings to the outdoors shall be protected against the entry of insects and rodents by:

1. Filling or closing holes and other gaps along floors, walls and ceilings;
2. Installing closed, tight-fitting windows and solid self-closing, tight-fitting doors; or
3. Installing:

- a. 16 mesh to 25.4 mm (16 mesh to 1 inch) screens; or
- b. Properly designed air curtains.

E. Screen doors shall be self-closing.

F. Screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting, free of breaks and use screening material not less than 16 mesh to 25.4 mm (16 mesh to 1 inch).

G. Insect control devices used to electrocute or stun flying insects shall be designed to retain the insect within the device.

H. Any insect control devices used shall be installed so that:

- 1. The devices are not located over a food contact surface or food preparation area; and
- 2. Dead insects and insect fragments are prevented from being impelled onto or falling on:
  - a. Exposed food;
  - b. Clean equipment, utensils, and linens; and
  - c. Unwrapped single-service and single-use articles.

## **II. Prohibiting Animals**

- A. Live animals shall not be allowed in dining, kitchen or storage areas of food service establishments or retail food stores except for:
  - 1. Edible fish or decorative fish in aquariums;
  - 2. Shellfish or crustacea on ice or under refrigeration;
  - 3. Shellfish and crustacea in display tanks;
  - 4. Patrol dogs accompanying police or security officers in dining, and storage areas; and
  - 5. Sentry dogs running loose in outside fenced areas.
- B. Support animals, including but not limited to guide dogs, trained to assist an employee or patron who is handicapped shall be allowed in areas of a food service establishment or retail food store not used for food preparation, including but not limited to dining areas, provided they are:
  - 1. Controlled by the handicapped employee or person; and
  - 2. Kept off seats or tables.

## **III. Storage of Fish Bait** When live or dead fish bait is stored in retail food stores, contamination of food; clean equipment; utensils, linens; and unwrapped single-service and single-use articles shall not result.

## **XIII. FLOORS, WALLS AND CEILINGS**

**196-36 Floors, Construction and Maintenance**

A. Floors and floor coverings in food service establishments and retail food stores, except for those in dining areas, shall be:

1. Constructed of smooth durable material including but not limited to sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or wood impregnated with plastic; and
2. Maintained in good repair.

B. Carpeting shall be prohibited in:

1. Food preparation, equipment-washing and utensil-washing areas;
2. Food storage areas; and
3. Toilet room areas where urinals or toilet fixtures are located.

C. Carpeting, if used as a floor covering, shall be:

1. Of closely woven construction;
2. Properly installed;
3. Easily cleanable; and
4. Maintained in good repair.

D. Sawdust, wood shavings, peanut hulls, or similar material shall not be used as a floor covering.

E. Floors that are water flushed for cleaning, receive discharges of water or other fluid waste from equipment, or are located in areas where pressure spray methods for cleaning equipment are used shall be:

1. Constructed only of sealed concrete, terrazzo, ceramic tile or similar material;
2. Graded so as to drain; and
3. Provided with properly installed, trapped floor drains.

F. Mats and slatted wooden floorings shall be:

1. Constructed of nonabsorbent, grease resistant material;
2. Sized, designed, and constructed to facilitate easy cleaning.

G. In all new or remodeled food service establishments or retail food stores in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than 1 mm (one thirty-second inch).

H. The floors in all new or remodeled food service establishments or retail food stores in which water flush cleaning methods are used shall be:

1. Provided with drains;
2. Graded so as to drain; and
3. Provided with coved and sealed floor and wall junctures.

I. Exposed utility service lines and pipes shall be installed so as not to obstruct or prevent cleaning of the floor.

J. Exposed horizontal utility service lines and pipes shall not be installed on the floor of new or remodeled food service establishments and retail food stores.

K. Floors, mats, and slatted wooden flooring shall be:

1. Kept clean;
2. Cleaned with dustless methods of cleaning, including but not limited to vacuum cleaning, wet cleaning, or the use of dust-arresting compounds with brooms; and
3. Except for emergency cleaning, cleaned during periods when the least amount of food is exposed, including but not limited to after closing or between meal

L. Notwithstanding the provisions of this section, anti-slip floor covering shall be allowed in areas where its use is necessary for safety reasons.

#### **196-37 Walls and Ceilings, Construction and Maintenance**

A. Walls and ceilings in food service establishments and retail food stores, including doors, windows, skylights and similar closures, shall be:

1. Maintained in good repair; and
2. Kept clean.

B. The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, equipment-washing and utensil-washing areas, toilet rooms and vestibules shall be:

1. Light-colored, smooth, nonabsorbent, and easily cleanable; and
2. If constructed of concrete or pumice blocks, finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

C. Studs, joists, and rafters shall not be exposed in:

1. Walk-in refrigerator and freezer units; or
2. Food preparation areas; or
3. Equipment and utensil washing areas; or
4. Toilet rooms and vestibules.

D. Utility service lines and pipes shall:

1. Not be unnecessarily exposed on walls or ceilings in:
  - a. Walk-in refrigerator and freezer units; or
  - b. Food preparation areas; or
  - c. Equipment and utensil washing areas; or
  - d. Toilet rooms and vestibules;
2. If exposed, be installed so as not to obstruct or prevent cleaning of the walls and ceilings.

E. Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be:

1. Easily cleanable;
2. Maintained in good repair; and
3. Kept clean.

F. Wall and ceiling covering materials shall be attached and sealed in a manner which renders them easily cleanable.

G. Walls, ceilings, attached equipment, and decorative materials shall be:

1. Kept clean;
2. Cleaned with dustless methods of cleaning, including but not limited to vacuum cleaning or wet cleaning; and
3. Except for emergency cleaning, cleaning during periods when the least amount of food is exposed, including but not limited to after closing or between meals.

H. In new or remodeled establishments all construction of walls and ceilings in the vicinity of high heat and/or steam producing equipment, including but not limited to grills and hot water sanitizing dishwashers, shall be constructed of materials resistant to such heat and/or steam.

I. Concrete or pumice blocks used for interior wall construction in food preparation areas, equipment and utensil washing areas, toilet rooms and vestibules shall be finished and sealed to provide a smooth and easily cleanable surface.

J. Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces.

K. Filters or other grease extracting equipment shall be installed and readily removable for cleaning and replacement if not designed to be cleaned in place.

#### **XIV. LIGHTING**

## **196-38 Lighting**

### **I. Lighting Intensity**

- A. The light intensity in food service establishments and retail food stores shall be:**
  1. At least 110 lux, 10 foot candles, at a distance of 75 cm, 30 inches, above the floor at all times in walk-in refrigeration units and dry food storage areas, and in other areas and rooms during periods of cleaning;
  2. At least 220 lux, 20 foot candles,:
    - a. At a surface where food is provided for consumer self-service, including but not limited to buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;
    - b. Inside equipment, including but not limited to reach-in and under-counter refrigerators; and
    - c. At a distance of 75 cm, 30 inches, above the floor in areas used for handwashing, dishwashing, equipment and utensil storage, and in toilet rooms; and
  3. At least 540 lux, 50 foot candles, at a surface where a food employee is working with food or working with utensils or equipment, including but not limited to knives, slicers, grinders, or saws, where employee safety is a factor.

**B. Light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is:**

1. Exposed food;
2. Clean equipment, utensils, and linens;
3. Unwrapped single-service and single-use articles; and
4. Food stored in unopened packages, except when:
  - a. The integrity of the packages can not be affected by broken glass falling onto them; and
  - b. The packages are capable of being cleaned of debris from broken bulbs before being opened.

**C. Infra-red or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.**

## **XV. VENTILATION**

## **196-39 Adequate Ventilation**

- A. All rooms in food service establishments or retail food stores shall have sufficient ventilation to keep them free of steam, condensation, vapors, obnoxious odors, smoke and fumes.
- B. Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.
- C. In new or remodeled food service establishments or retail food stores, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside.

## **XVI. DRESSING ROOMS**

### **196-40 Provision and Use of Dressing Rooms**

- A. If employees routinely change clothes within the establishment:
  - 1. Rooms or areas shall be designated as dressing rooms and used for that purpose; and
  - 2. These designated rooms or areas shall not be used for food preparation, food service, utensil-washing or storage, or for food storage, except as provided in B.1 below.
- B. Lockers or other suitable facilities shall be:
  - 1. Located in the designated dressing rooms, or in food storage rooms or areas containing only completely packaged food or packaged single-service articles; and
  - 2. Provided and used for the orderly storage of employee clothing and other belongings.

## **XVII. TOXICS**

### **196-41 Toxic Materials**

- I. Toxic Materials Stored
  - A. No toxic materials shall be kept in food service establishments or retail food stores except those:
    - 1. Offered for retail sale; or
    - 2. Necessary to maintain the premises, clean and sanitize equipment and utensils, and control insects and rodents.

- B. Containers of toxic materials used in food service establishments or retail food stores shall be prominently and distinctly labeled for easy identification of contents.
- C. All toxic materials shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose.
- D. Toxic materials shall not be stored above food, food equipment, utensils, or single-service articles, except that this requirement shall not prohibit the convenient availability of detergent or sanitizers at utensil or dishwashing stations.
- E. Bactericides, cleaning compounds or other compounds intended for use on food-contact surfaces shall not be used so as to leave a toxic residue on such surfaces, nor in a way which constitutes a hazard to employees or other persons.
- F. Toxic materials shall be used:
  - 1. In full compliance with the manufacturer's labeling;
  - 2. In a manner which precludes contaminating food, equipment, or utensils; and
  - 3. In a manner which protects against hazards to employees or other persons.
- G. Personal medications shall not be stored in food storage, preparation or service areas.
- H. First- aid supplies shall be stored so as to prevent them from contaminating food and food-contact surfaces.

## II. Prohibitions

- A. Prohibition Against Use of Food Containers for Storage of Toxic Materials. Food containers shall not be used to store, transport, or dispense poisonous or toxic materials.
- B. Prohibition Against Use of Poisonous or Toxic Material Containers. Containers previously used to store poisonous or toxic materials shall not be used to store, transport, or dispense food.

## 196-42 Maintaining Premises

- A. Litter Food service establishments and retail food stores and all parts of the property used in connection with operation of them shall be kept free of litter.
- B. Walking and Driving Surfaces
  - 1. The walking and driving surfaces of all exterior areas of food service

establishments and retail food stores shall be surfaced with:

- a. Concrete; or
- b. Asphalt; or
- c. Gravel; or
- d. Similar material effectively treated to facilitate maintenance and minimize dust.

2. These surfaces shall be graded to prevent pooling of water.

C. Storage on the Premises Only articles necessary to the operation and maintenance of the food service establishment or retail food store shall be stored on the premises.

D. Traffic in Food-Preparation and Utensil Washing Areas The traffic of unnecessary persons through the food-preparation and utensil-washing areas shall be prohibited.

E. Storage and Maintenance of Tools and Cleaning Equipment Tools and cleaning equipment including but not limited to brooms, mops, and vacuum cleaners, shall be:

1. Maintained and stored so as to prevent contamination of food, utensils, equipment or linens; and
2. Stored in an orderly manner which facilitates the cleaning of the storage location.

## **XIX. LIVING QUARTERS**

### **196-43 Living Quarters**

A. Food service establishment or retail food store operations shall:

1. Not be conducted in any room used as living or sleeping quarters; and
2. Be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

B. Use of Laundry Facilities

1. Laundry facilities in food service establishments or retail food stores shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation.
2. If the items included under 1. above are laundered on the premises, an electric or gas dryer shall be provided and used.

C. If only wiping cloths are laundered on the premises, B. above shall not apply.

D. Location of Laundry Facilities

1. Laundry facilities shall be located in rooms separate from the food preparation area, or

2. In storage rooms containing only packaged foods or packaged single-service articles.

## **XX LINENS AND CLOTHING**

### **196-44 Clean Clothes and Linens**

- A. Clean clothes and linens shall be stored in a clean place and protected from contamination until used.
- B. Soiled Clothes and Linens Soiled clothes and linens shall be stored in non-absorbent containers or washable laundry bags until removed for laundering.

## **XXI MOBILE FOOD UNITS AND PUSHCARTS**

### **196-45 Mobile Food and Pushcart Requirements**

- A. Requirements Based on Type of Food Served
  1. Mobile food units shall display their department license numbers, in numerals no less than two inches in height, on the drivers side door no lower than two inches above the bottom of the door.
  2. Mobile food units and pushcarts licensed prior to January 1, 1998 shall meet the requirements of 196-45 no later than December 31, 1998.
- B. Mobile food units shall be required to meet only the following requirements, based on the type of food served.
  1. Mobile food units serving unwrapped, potentially hazardous food shall:
    - a. Comply with 196-2 thru 5 , 196-15, 36, 37 and 46 and
    - b. Provide:
      - (1) Water which complies with 196-27, if from a private source;
      - (2) Hot and cold water under pressure;
      - (3) Protection against contamination, as required by 196-8, A
      - (4) A handwash sink which complies with 196-31, II

- (5) A three-compartment sink or a licensed commissary at which utensils can be washed daily ; and
- (6) Protection for all outer openings against the entrance of insects, as required by

196-35, D.

2. Mobile food units serving unwrapped, non-potentially hazardous food shall:

- a. Comply with  
196-02, 03, 04, 05,  
196-36,  
196-46 ,  
196-49 and  
196-45, B.

3. Mobile food units serving only wrapped, potentially hazardous food shall:

- a. Meet the temperature requirements of  
193-03, II; and
- b. Comply with  
196-14,  
196-15, and  
196-36.

4. Mobile food units serving only steamed hot dogs and wrapped, potentially hazardous food shall:

- a. Meet the temperature requirements of  
196-03, II; and
- b. Comply with  
196-11; 196-12;  
196-14;  
196-15;  
196-36;  
196-48;  
196-49 and

196-45, B 2, a, b and d.

5. Mobile food units and pushcarts shall provide only single-service articles for use by the consumer.

6. Registered mobile food units and pushcarts shall provide the following:

- a. Vehicle identification number; and
- b. The registration number from the state in which it is registered.

## **196-46 Commissary Requirement**

A. Mobile food units and pushcarts that do not have the sink requirements of 196-45, B, 2, d and e shall:

1. Operate from a licensed commissary or other fixed food service establishment; and
2. Report at least daily to such location for all supplies and for all cleaning and servicing operations.

B. The commissary or other fixed food service establishment used as a base of operation for mobile food units shall be constructed and operated in compliance with the requirements of these rules or shall be licensed by the jurisdiction in which it is located.

## **196-47 Mobile Unit Servicing Area**

A. Except as noted in C. below, servicing areas for mobile food units and pushcarts shall:

1. Be provided at the commissary or other fixed food service establishment location;
2. Have a surface which is:
  - a. Constructed of a smooth nonabsorbent material, including but not limited to concrete or machine-laid asphalt; and
  - b. Maintained in good repair, kept clean, and graded so as to drain
3. Include at least overhead protection for any supplying, cleaning, or servicing operation.

B. Within the servicing area required under A. above, there shall be a location provided for the flushing and drainage of liquid wastes which is separate from the location provided for water servicing and loading and unloading of food and related supplies.

C. Potable water servicing equipment shall be installed, stored and handled so as to protect the water and equipment from contamination.

D. If a mobile food unit uses a liquid waste retention tank, it shall be thoroughly flushed and drained during the servicing operation.

E. A servicing area shall not be required if:

1. Only packaged food is placed on the mobile food unit or pushcart; or
2. A mobile food unit does not contain waste retention tanks.

## **196-48 Mobile Food Unit Water Systems**

**A.** Water systems, including water tanks and their appurtenances, used in mobile food units shall:

1. Be constructed of materials which meet the requirements of 196-14, B, 1., a., b. and d;
2. Be enclosed from the filling inlet to the discharge outlet;
3. Be sloped to an outlet which allows complete drainage of the tank; and
4. If designed with an access port for inspection and cleaning, have an opening in the top of the tank which is:

- a. Flanged upward at least 13 mm (one-half inch); and
- b. Equipped with a port cover assembly which is:
  - (1). Provided with a gasket and a device for securing the cover in place; and
  - (2). Flanged to overlap the opening and sloped to drain.

**B.** A fitting with  $Av''$  type threads on a water tank inlet or outlet shall be used only when a hose is permanently attached.

**C.** If provided, a water tank vent shall terminate in a downward direction and be covered with:

1. 16 mesh to 25.4 mm (16 mesh to 1 inch) screen or equivalent, when the vent is in a protected area; or
2. A protective filter, when the vent is in an area that is not protected from windblown dirt and debris.

**D.** A water tank and its inlet and outlet shall be sloped to drain.

**E.** A water tank inlet shall be positioned so that it is protected from contaminants, including but not limited to waste discharges, road dust, oil, or grease.

**F.** Hoses used for conveying drinking water from a water tank shall be:

1. Composed of food-grade material, durable, corrosion-resistant and nonabsorbent;
2. Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
3. Have a smooth interior surface; and
4. If not permanently attached, be clearly and durably identified as to their use.

G. When compressed air is used to pressurize the water tank system, a filter which does not pass oil or oil vapors shall be installed in the air supply line between the compressor and the drinking water system.

H. A cap and keeper chain, closed cabinet, closed storage tube, or other protective cover or device shall be provided for a water tank=s inlet, outlet, and hose.

I. A mobile food unit=s water tank inlet shall:

1. Have an inner diameter of 19.1 mm (three-fourths inch) or less; and
2. Be provided with a hose connection of a size and type which will prevent its use for any other service.

J. Water tanks, pumps, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification and periods of nonuse longer than 24 hours.

K. Water tanks, pumps, and hoses shall be operated to prevent backflow and other contamination of the water supply.

L. If not in use, water tanks and hose inlet and outlet fittings shall be protected as specified under H. above.

M. Except as specified in N. below, water tanks, pumps, and hoses used for conveying drinking water shall be used for no other purpose.

N. Water tanks, pumps, and hoses approved for liquid foods shall be used for conveying drinking water only if they are cleaned and sanitized after each use.

#### **196-49 Mobile Food Unit Wastewater Systems**

I. Wastewater systems in mobile food units shall comply with the following:

A. Wastewater holding tanks in mobile food units shall:

1. Have a capacity which is 15 percent larger than the water supply tank capacity;
2. Be sloped to a drain which is 25 mm (one inch) or larger in inner diameter and equipped with a shut-off valve.

B. Wastewater shall be disposed of by assuring that:

1. It is removed from mobile food units without spillage and in a manner which prevents creating a public health hazard or nuisance; and
2. It is conveyed to either:

- a. A public or private wastewater system which holds either a valid state

surface water discharge permit or groundwater discharge permit issued by the NH Department of Environmental Services under RSA 485-A; or

b. A sewage or waste disposal system holding a valid permit from the NH Department of Environmental Services under RSA 485-A:29 and Env-Ws 1000.

C. Whenever tanks for liquid waste retention are serviced they shall be thoroughly flushed and drained in a sanitary manner.

## **XXII. COMMERCIAL FOOD PROCESSING**

### **196-50 Processing Authorities**

I. Whenever a commercially produced or processed food requires a food processing authority, the information shall be sent to one of the food processing authorities listed below:

#### **FOOD PROCESSING AUTHORITIES**

<b>CORNELL UNIVERSITY</b>				
Types of Testing:	Process reviews for processed fish, acidified foods, tomato-based products.		Charges:	\$75.
Contact Person:	Olga Padilla-Zakour, PhD Geneva Experiment Station Campus NYS Food Venture Center Food Science & Technology NYSAES, Cornell University Geneva, New York 14456		Telephone:	(315)-787-2259
<b>RUTGERS UNIVERSITY, CENTER FOR ADVANCED FOOD TECHNOLOGY</b>				
Types of Testing:	Process reviews.		Charges:	Varies.
Contact Person:	Jack L. Rossen, PhD Center for Advanced Food Technology Food Manufacturing Technology Facility Rutgers University 120 New England Avenue Piscataway, New Jersey 08854		Telephone:	(732)-445-6133
<b>TEXAS A&amp;M UNIVERSITY</b>				
Types of Testing:	Process reviews for acidified foods only.		Charges:	\$250 for first product; \$200 for each additional product from same company.
Contact Person:	Al Wagner, PhD Texas A&M University 225 Horticulture Department College Station, Texas 77843		Telephone:	(409)-845-7341
<b>UNIVERSITY OF ARIZONA</b>				

Types of Testing:	Process reviews for acidified foods.	Charges:	\$50-\$200 per product depending on complexity.
Contact Person:	Ralph Price, PhD University of Arizona 332 Shantz Tucson, Arizona 85721	Telephone:	(520)-621-1728
<b>UNIVERSITY OF MAINE, FOOD SCIENCE AND HUMAN NUTRITION</b>			
Types of Testing:	Process reviews.	Charges:	No charge.
Contact Person:	Alfred Bushway, PhD Food Science 5736 Homes Hall Orono, Maine 04469	Telephone:	(207)-581-1636
<b>UNIVERSITY OF MINNESOTA, DEPARTMENT OF FOOD SCIENCE AND NUTRITION</b>			
Types of Testing:	Process reviews for acid, acidified and others.	Charges:	Charges differ based on complexity/nature of request and time required.
	Dr. Bill Schafer (Acidified foods.) Department of Food Science and Nutrition 1334 Eckles Ave. St. Paul, MN 55108	Telephone:	(612)-624-4793
<b>UNIVERSITY OF MISSOURI</b>			
Types of Testing:	Process reviews for acidified foods. Recommend low acid products go to NFPA.	Charges:	\$150.
Contact Person:	Doug Holt Extension Specialist for Food Safety University of Missouri 122 Eckles Hall Columbia, Missouri 65211	Telephone:	(573)-882-0593

## **196-51 Special Requirements for Food Service Establishments Processing Food in a Commercial Kitchen**

I. Basic Requirements Food service establishments commercially processing food shall comply with:

- A. All of the requirements of 196-01 through 196-44.
- B. All of the requirements of 196-50 through 196-59.

II. Products Approved for Processing in a Commercial Kitchen Only the following food products shall be produced in food service establishments commercially processing food:

- A. Acidified foods, including but not limited to pickles, "pickled" products, relishes, salsas and sauces;
- B. Potentially hazardous foods;
- C. Foods processed under reduced oxygen packaging methods;
- D. Foods which undergo aseptic processing and packaging; and
- E. Jams and Jellies
- F. Baked goods, pies, candy dry products such as spices and herbs.

III. Processing Requirements Food service establishments processing food in a commercial kitchen shall comply with the following:

- A. Develop and implement HACCP plans containing the information required under 196-51, XI and 196-51, XII.
- B. A review of a scheduled process shall be conducted by a food processing authority on each product listed in 196-51, II, A, C and D above prior to its being produced by the license holder. If the food processing authority declares, in writing, that there are no biological concerns with the food after evaluating the scheduled process, the food shall be allowed to be produced.
- C. In order for the review required under B. above to be conducted, the following shall be submitted to the food processing authority:
  - 1. Recipe(s) with all the ingredients and quantities listed;
  - 2. Processing times and procedures; and
  - 3. Sample(s) of prepared and processed product as ready for sale and distribution;
- D. The natural pH and equilibrium pH shall be recorded for each batch of product produced;
- E. License holders shall keep records of all pH=s on file and available for review by the regulatory authority upon request;
- F. Another scheduled process review shall be conducted for a product that has been previously tested if the ingredients are altered or the process changes; and
- G. License holders shall keep all scheduled process review information on file and available for review by the regulatory authority upon request.
- H. License applicants shall submit process review information with license applications pursuant to

196-52.

#### IV. Labeling

A. Labeling of all Packaged Foods. All packaged food, unless exempt under 2. below, shall bear a label showing:

1. The common or usual name of the product;
2. The name and address of the manufacturer=s, packer=s, or distributor=s business which shall:
  - a. In the case of an individual, partnership, or association be the name under which the business is conducted; or
  - b. In the case of a corporation, be the name of the parent corporation; or
  - c. Where the food is not processed by the person whose name appears on the label, the name on the label shall be qualified by a phrase which reveals the connection such a person has with the food; including but not limited to "Manufactured for \_\_\_\_\_", ADistributed by \_\_\_\_\_", or any other wording which expresses the facts;
3. The ingredients in descending order of predominance by weight;
4. The net weight or numerical count in both US customary and metric; and
5. A product code which includes date of manufacture, container size, and product lot or batch number to aid in a recall of product in case of a public health hazard.

#### V. Production and Process Controls

A. License holders shall ensure that finished foods do not present a health hazard.

B Food service establishments commercially processing foods shall process such foods in accordance with the scheduled process evaluated under  
196-51 above.

C. Acidified foods shall be manufactured , processed, and packaged so that a finished equilibrium pH value of 4.6 or lower is achieved within the time designated in the scheduled process and maintained in all finished foods, by imposing controls, including but not limited to frequent testing and recording of results, to ensure that the finished equilibrium pH values for acidified foods are not higher than 4.6.

D. If the finished equilibrium pH of the food is above 4.0, the measurement of the finished equilibrium pH shall be performed by a potentiometric method, and the in-process measurements by titration or colorimetry shall be related to the finished equilibrium pH; or if the finished equilibrium pH is 4.0 or below, then the measurement of acidity of the final product shall be permitted to be made by any suitable method.

E. Acidified foods shall be thermally processed to an extent that is sufficient to destroy vegetative cells of microorganisms of public health significance and those of nonhealth significance capable of reproducing in food under the conditions in which the food is stored, distributed, retailed and held by the user.

F. Containers of acidified foods shall be tested and examined often to ensure that the container suitably protects the food from leakage or contamination.

G. Each hermetically sealed container of acidified food shall be marked with an identifying code visible to the naked eye which shall:

1. Specify in code the establishment where packed, the product contained therein, and the year, day, and period during which it was packed; and
2. Be changed with sufficient frequency to enable ready identification of lots during their sale and distribution.

VI. Deviations from Scheduled Processes Whenever any process operation deviates from the scheduled process for any acidified food and/or the equilibrium pH of the finished product is higher than 4.6, the commercial processor of the acidified food shall either:

- A. Fully reprocess that portion of the food; or
- B. Discard that portion of the food.

VII. Methodology for Determining pH or Acidity One of the following methods shall be used to determine pH or acidity for acidified food:

- A. Potentiometric by the use of a pH meter; or
- B. Colorimetric by the use of:
  1. Indicator solutions; or
  2. Indicator papers; or
  3. Titratable acidity.

VIII. Records Required for Food Service Establishments Processing Food

A. License holders shall maintain written, dated records of the entire food processing operation including:

1. Examinations of raw materials, packaging materials and finished products;
2. Processing and production records showing adherence to scheduled processes, including records of pH measurements and other critical factors, including but not limited to temperature, intended to ensure a safe product;

3. Information, including but not limited to product code, date, container size, and product, to permit a public health hazard evaluation of the processes applied to each lot, batch, or other portion of production;
4. Whenever there is a deviation under 196-51, VI, the details shall be recorded and kept in a separate file delineating the deviation, the action taken to rectify it, and the disposition of the product involved; and
5. Identification of the initial distribution of the finished product to facilitate, when necessary, the segregation of specific food lots that may have become contaminated or otherwise unfit for their intended use.

B. Copies of all records, except those required under A1. above, shall be retained at the processing facility or other reasonably accessible location for a period of 3 years from the date of manufacture.

#### IX. Special Requirements for Reduced Oxygen Packaging

A. Food service establishments that package food using a reduced oxygen packaging method shall have a HACCP plan that:

1. Contains the information specified under 196-51, XI and 196-51, XII and;
2. Identifies the food to be packaged;
3. Limits the food packaged, to a food that does not support the growth of *Clostridium botulinum* because it:
  - a. Has an  $a_w$  of 0.91 or less; or
  - b. Has a pH of 4.6 or less; or
  - c. Is a meat product cured at a processing plant regulated by the US Department of Agriculture using a combination of nitrites, nitrates, and salt that at the time of processing consists of 120 mg/L or higher concentration of sodium nitrite and a brine concentration of at least 3.50% and is received in an intact package; or
  - d. Is a food with a high level of competing organisms such as raw meat or raw poultry;
4. Specifies methods for maintaining food at 5EC, (41EF), or below;
5. Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
  - a. Maintain the food at 5EC, (41EF), or below; or
  - b. Discard the food if, within 14 calendar days of its packaging, it is not served for on-premises consumption, or consumed if served or sold for off-premises

consumption;

6. Limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer=s Asell by" or Ause by" date, whichever occurs first;
7. Includes operational procedures that:
  - a. Prohibit contacting food with bare hands; and
  - b. Identify a designated area and the method by which:
    - (1) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination; and
    - (2) Access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation.
  - c. Delineate cleaning and sanitization procedures for food contact surfaces.
8. Describes the training program that assures that the individual responsible for the reduced oxygen packaging operation understands the:
  - a. Concepts required for a safe operation;
  - b. Equipment and facilities; and
  - c. Operational procedures stated above and HACCP plan information as stated in 196-51, XI and XII.

B. Except for fish that is frozen before, during, and after packaging, a processor shall not package fish using a reduced oxygen packaging method.

C. Food service establishments that commercially process food shall meet all the requirements of this section regarding reduced oxygen packaging, including the following:

1. Only unopened packages of food products obtained from approved sources relating to food safety shall be used to package at retail in a reduced oxygen atmosphere; and
2. If it is necessary to stop packaging for a period in excess of one-half hour, the remainder of the product shall be diverted for another use in the food service establishment.

X. Processed Fish and Smoked Fish. Processed fish, smoked fish and caviar shall not be packaged in reduced oxygen packaging unless establishments are approved for the activity and inspected by the regulatory authority.

XI. Hazard Analysis Critical Control Point (HACCP) Plans.

- A. Food service establishments processing food in a commercial kitchen shall:
  1. Develop and follow a HACCP plan; and
  2. Keep the plan on file at the processing site for review by the regulatory authority.
- B. The HACCP plan and specifications shall indicate:
  1. The specific foods to be produced;
  2. A flow diagram of specific food identifying critical control points and providing information on the following:
    - a. Ingredients, materials, and equipment used in the preparation of that food; and
    - b. Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
  3. A statement of standard operating procedures for the plan under consideration including clearly identifying:
    - a. Each critical control point;
    - b. The critical limits for each critical control point;
    - c. The method and frequency for monitoring and controlling each critical control point;
    - d. The method and frequency to routinely verify that the standard operating procedures and monitoring of the critical control points are being followed;
    - e. Action to be taken if the critical limits for each of the critical control points are not met; and
    - f. Records to be maintained to demonstrate that the HACCP plan is properly operated and managed; and
  4. Additional scientific data or other information, supporting the determination that food safety is not compromised by the proposal.

## XII. Special HACCP Requirements for Reduced Oxygen Packaging

- A. All license holders who use reduced oxygen packaging shall develop a HACCP plan in accordance with 196-51 XI, including:
  1. A complete description of the processing, packaging, and storage procedures designated as critical control points, with attendant critical limits, corrective action plans, monitoring and verification schemes, and records required;
  2. A list of equipment and food-contact packaging supplies used, including compliance standards meeting ANSI certification requirements;

3. A description of the lot identification system;
4. A description of the employee training program;
5. A listing and proportion of food-grade gasses used; and
6. A standard operating procedure for method and frequency of cleaning and sanitizing food-contact surfaces in the designated processing area.

## **XXIII. APPLICATION AND LICENSING PROCEDURE**

### **196-52 Licensing Procedure**

#### **I. Licensing**

A. Pre-licensure requirements As required under NH RSA 143-A, no person shall operate a food service establishment or retail food store in New Hampshire without obtaining a license from the NH Department of Health and Services or in the case of self-inspecting municipalities such as Salem, from the local health department.

B. Soup Kitchens Exempt from Licensure In accordance with NH RSA 143-A:5-a, soup kitchens shall be exempt from licensure by the department provided they do not charge for meals and provided they submit to the department a written notice which shall:

1. Identify the name and address of the natural person or other person operating the soup kitchen;
2. Identify the clientele served by the soup kitchen;
3. List the hours the soup kitchen will operate; and
4. Provide a description of the food to be served.

#### **II. Application Requirements**

A. In order to operate a food service establishment or retail food store pursuant to NH RSA 143-A, a person shall obtain from the Salem Health Department, the application form entitled "Food Service License Application".

B. An applicant for a new license or renewal of an existing license shall submit to the department:

1. A completed application form and the items required in 196-52, II, B;
2. A check, cash or money order for the applicable fees;
3. If the application involves a new or remodeled food service establishment or retail food

store, plans and specifications as required by  
196-53;

4. If the application is for a food service establishment which commercially processes food scheduled process pursuant to  
196-51; and
5. If the application is for a mobile food unit which uses a commissary, the identification of the commissary and a copy of the commissary license.

C. License holders shall submit the applicable items required under B. above at least 7 days prior to the expected opening date for their application to be considered timely.

### **III. Application Submission**

A. All information entered on the application form shall be typewritten or legibly printed in ink.

B. An applicant shall totally complete the application form required.

### **IV. Water System Requirements**

A. Food service establishments or retail food stores which operate their own public water systems, as defined by NH RSA 485:1-a, which are considered transient non-community water systems, as defined by NH Env-Ws 302.02 (bt), shall submit as part of their application for a license the United States Environmental Protection Agency (EPA) identification number of the system which has been assigned by the New Hampshire Department of Environmental Services.

B. Food service establishments or retail food stores which purchase their water from other public water systems, as defined by RSA 485:1-a, and therefore do not fall under A. above, shall submit as part of their application for a license a written statement identifying the name of the public water system regulated by the New Hampshire Department of Environmental Services. which provides their water.

C. Food service establishments or retail food stores which do not fall under A. above, because of their small size, or do not fall under B. above, and are instead served by a water source other than a public water system, shall submit:

1. If applying for a new license, the written results of a laboratory analysis of the water intended for use which tests the level of the following:
  - a. Bacteria;
  - b. Nitrates; and
  - c. Nitrite; or
2. If applying to renew a license, the written results of an analysis of the water intended for use which tests the level of the following:
  - a. Bacteria; and
  - b. Nitrates

D. The analysis required by C. above shall be conducted not more than 90 days prior to the date of the application by a laboratory certified by the NH Department of Environmental Services to perform such tests in accordance with NH Env-C 300.

E. In order for an application to be approved:

1. If it is an application for a new license, the results of:
  - a. The bacteria test required under C1. above shall not exceed the acceptable limits for drinking water prescribed by NH Env-Ws 315; and
  - b. The nitrate and nitrite test required under C1. above shall not exceed the acceptable limits for drinking water prescribed by NH Env-Ws 316 for those two contaminants; or
2. If it is an application for license renewal, the results of:
  - a. The bacteria test required by C. 2. above shall not exceed the acceptable limits for drinking water prescribed by NH Env-Ws 315; and
  - b. The nitrate test required by C. 2. above shall not exceed the acceptable limits for drinking water prescribed by NH Env-Ws 316.

#### **V. Wastewater System Requirements**

A. Food service establishments or retail food stores which discharge their wastewater to either public or private wastewater systems which hold either a state surface water discharge permit or a groundwater discharge permit issued by the New Hampshire Department of Environmental Services, shall submit as part of their application a written statement identifying the name of the municipality, private entity or state agency operating the wastewater treatment facility which holds the permit.

B. Food service establishments or retail food stores which do not meet the requirements of A. above shall submit, as part of their application, one of the following:

1. Both:
  - a. A copy of the construction approval and operational approval for the sewage or waste disposal system serving the subject food service establishment or retail food store issued by the New Hampshire Department of Environmental Services in accordance with NH RSA 485-A:29 and Env-Ws 1000; and
  - b. A written statement signed by the applicant containing the following language: I certify that there has been no increase in the loading on my system which would cause an exceedance of the capacity of the system approved by the NH Department of Environmental Services under the provisions of NH Env-Ws 1000; or

2. A written statement signed by the applicant containing the following language: "I certify that the private sewage or waste disposal system serving my food service establishment or retail food store was constructed prior to 1971 and is presently not in failure. I further certify that I have not been notified by either the NH Department of Environmental Services or the local health officer that the system serving my food service establishment or retail food store is in violation of any state or local statute, administrative rule, ordinance or bylaw."

#### **VI. Processing of Applications**

A. If an application does not contain all the items required by 196-52 the Health Department shall:

1. Not process that application; and
2. Notify the applicant of which incomplete required items must be submitted before the application can be processed.

B. If all the items required by 196-52 are received, the application shall be deemed to be complete.

C. If an inspection of a food service establishment or retail food store conducted in accordance with NH RSA 147 and 143-A determine compliance with RSA 147, RSA 143, RSA 143-A and Salem

196- Sanitary Production and Distribution of Food, a license shall be issued.

D. If an inspection of a mobile food unit or other vehicle used for the retail sale of food determines compliance with RSA 147, RSA 143, RSA 143-A and this ordinance, a license shall be issued.

#### **VII. License Transfers**

- A. All licenses shall be non-transferable.
- B. All licenses shall be issued for a specific license classification.

#### **VIII. Expiration of Licenses**

A. All licenses issued shall be valid for up to one year beginning on April 1<sup>st</sup> of each year.

B. All licenses shall expire on March 31<sup>st</sup> of each year.

C. All licensees shall be sent an invoice for their license fees approximately one month prior to the expiration date.

D. If a license holder fails to timely submit a complete application for renewal as required the food service establishment or retail food store shall cease operation the day after the license expires, and shall not operate until a license is obtained.

E Any food service establishment or retail food store whose license has been expired in excess of 90 days shall be treated as an applicant for a new license.

**IX. Change in Food Service Establishment or Retail Food Store Ownership**

A. When there is a change of ownership of a food service establishment or retail food store, the new owner shall submit the following to the Health Department prior to the change of ownership:

1. A written request for a new license which shall contain the following:
  - a. The reason for requesting the license;
  - b. The name of the food service establishment or retail food store as it appears on the current license;
  - c. The name of the legal owner of the food service establishment or retail food store which will appear on the new license; and
  - d. The date upon which the change of ownership will take effect;
2. A copy of any certificate of amendment of organizational filings issued by the NH secretary of state, if applicable;
3. The items required for license renewal applicants 196-52, II, and
4. A letter from the most recent owner containing the following shall be submitted with the application:
  - a. An acknowledgment of the impending transfer of ownership; and
  - b. An identification of the date when the change of ownership will become final.

B. The owner of the previously licensed food establishment or retail food store shall return the previous license to the health department within 10 days of the date the license is issued to the new owner.

**X. Change in Name of Food Service Establishment or Retail Food Store**

A. When a license holder intends to change the name of a food service establishment or retail food store, that license holder shall submit a written request to the department for a new license at least 30 days prior to the intended date of change in name.

B. The written request shall include:

1. The reason for requesting a new license;
2. The name of the food service establishment or retail food store as it appears on the existing license;

3. The name of the food service establishment or retail food store as the license holder requests it to appear on the new license; and
4. An identification of the date when the change in name is intended to occur.

C. Following receipt of the items required in B. above, the Health Officer shall issue a revised license reflecting the change in name. The license number and expiration date shall remain the same as it was on the immediately preceding license.

D. The license holder shall return the previous license to the department within 10 days of issuance of the revised license.

**XI. Change in License Class**

- A. A license holder wishing to request an upgrade to a higher level class of license shall:
  1. Be treated as an applicant for a new license;
  2. Apply for a new license; and
  3. Upon approval of the application under A, 2 above and after an inspection in accordance with this ordinance, shall be issued a new license.
- B. A license holder wishing to request a downgrade to a lower level class of license shall submit a written request for downgrade to the department which shall include:
  1. The reason for requesting a downgrade; and
  2. An identification of the date when the downgrade is requested to take effect.
- C. Following receipt of the request in B. above, the health officer shall issue a revised license reflecting the downgrade in class of license. The license number and expiration date shall remain the same as it was on the immediately preceding license.
- D. The license holder shall return the previous license to the department within 10 days of issuance of the revised license.

**196-53 Submission of Plans and Specifications for New or Remodeled Food Service Establishments or Retail Food Stores**

- A. A license applicant or license holder shall submit in a timely manner, plans and specifications to the health department for review and approval prior to:
  1. Constructing a new food service establishment or retail food store;
  2. Converting an existing structure for use as a food service establishment or retail food store;
  3. Remodeling a food service establishment or retail food store; or
  4. Relocating a food service establishment or retail food store.

B. Plans and specifications shall:

1. Be submitted in duplicate to the Health Officer, 33 Geremonty Drive, Salem, NH 03079;
2. Be drawn to scale using a scale of less than or equal to 1/4 inch equals one foot ;
3. Show all areas of the food service establishment or retail food store including food preparation areas and restrooms;
4. Designate all fixed and non-fixed equipment with numbers and a legend which states what each number represents;
5. Indicate a "No smoking" area on the plan if the indoor seating capacity is greater than 50 seats; and
6. Contain the following information printed on the drawing:
  - a. The name of the food service establishment or retail food store;
  - b. The physical address, and the mailing address if different; and
  - c. The name and telephone number of the primary contact person with knowledge of the contents of the plans and specifications.

C. The following items, type written or legibly written in ink, shall be submitted with the plans and specifications:

1. A copy of the intended menu;
2. A detailed explanation of the method(s) by which potentially hazardous foods will be cooled and maintained at a temperature below 5BC, (41BF), or lower and how hot temperatures will be maintained above 60BC, (140BF);
3. An explanation of the anticipated volume of food to be stored, prepared, and sold or served daily;
4. Proposed layout, mechanical schematics, construction materials and finish schedules;
5. A list of proposed equipment including manufacturer, model number, location, dimension, performance capacity, and installation specifications;
6. A detailed description of all special operations, including but not limited to salad bars, catering or vacuum packaging; and
7. A list of names, mailing addresses, and phone numbers of all persons accountable for design and construction of the establishment.

## **196-54 Denial of License Applications**

- A. The department shall deny applications for any license if:
  1. The applicant has failed to pay any fees imposed or administrative fines imposed.
  2. There remain missing or incomplete items, or items that do not meet the requirements of 196-52, and the applicant has been notified of and given an opportunity to supply such items;
  3. A food service establishment or retail food store applying for a new license does not meet all of the following:
    - a. A minimum inspection score of 70;
    - b. No violation of any critical items as defined in 196-0; and
    - c. No violation of any construction items as defined in 196-0;
  4. A food service establishment or retail food store that has a change of ownership does not meet all of the following:
    - a. A minimum inspection score of 70;
    - b. No violation of any critical items as defined in 196-0; and
    - c. No violation of any construction items as defined in 196-0;
  5. A food service establishment or retail food store which has had its previous license revoked does not meet the following upon re-application:
    - a. A minimum inspection score of 70;
    - b. No violation of any critical items as defined in 196-0; and
    - c. No violation of any construction items as defined in 196-0;
  6. A food service establishment or retail food store applying for a renewal license does not meet all of the following:
    - a. A minimum inspection score of 70; and
    - b. No violation of any critical items as defined in 196-0;

7. The applicant prevents the department from conducting an inspection;
8. The applicant has failed to comply with a compliance agreement under 196-58; or
9. The applicant is found to be in violation of RSA 143-A or this chapter;

B. Any applicant aggrieved by the denial of an application may request the right to be heard to the Board of Health.

#### **196-55 Revocation of License; Reinstatement**

##### **I. Revocation**

- A. Licenses shall be revoked in accordance with NH RSA 147:1
  1. Pursuant to NH RSA 147:1, if any establishment is found to be in violation of the sanitary and health code, it may be closed, without a hearing for a ten day period or until the violation is corrected and the sanitary condition is approved by the health officer. Suspended licenses shall be reinstated once the establishment is brought into compliance with all issues cited. The establishment may close voluntarily prior to the issuance of the closure order. Applicable administrative fines shall remain in effect.
  2. If the sanitary or health violations are not corrected within the 10 day period, the health officer may, pursuant to NH RSA 147:1 revoke the license to operate the restaurant or other food service establishment after notice and hearing before the Board of Health. The establishment may close voluntarily prior to the hearing. Applicable administrative fines shall remain in effect.
- B. Any person who has had a license revoked shall be prohibited from applying to renew their license while it remains revoked.
- C. If a revoked license expires without having been reinstated, the former license holder shall apply for a new license in accordance with 196-52 before again operating a food service establishment or retail store in Salem.
- D. As of September 19, 1988, any failed health inspection of any food service establishment shall result in a published notice of violation of Salem Chapter 196 and the applicable administrative fine.

##### **II. Effect of Denial of Application, Revocation of License or Expired License**

- A. Any applicant who has been denied a license shall not operate that food service establishment or retail food store.
- B. If a license has been revoked or has expired without timely application for renewal

having been made, operation of that food service establishment or retail food store shall be discontinued immediately.

#### **196-56 Food Service Establishment or Retail Food Store Inspection**

- A. Comprehensive inspections of food service establishments or retail food stores, including mobile food units and vehicles used for the retail sale of food, shall be conducted a minimum of twice per year.
- B. Upon completion of an inspection, the health department shall provide the person-in-charge of the food service establishment or retail food store at the time of the inspection with a written inspection report including:
  1. The name and address of the food service establishment or retail food store;
  2. The date of the inspection;
  3. The name of the person(s) conducting the inspection;
  4. The results of the inspection according to C. below; and
  5. The signature of the person in charge of the food service establishment or retail food store during the inspection, or a notation by the person conducting the inspection indicating any refusal to sign.

#### **C. Documentation of Inspections**

1. The inspection report required by A. above shall include an inspection checklist containing 44 items with debit points which are subtracted from 100 to arrive at the score of the inspection.
2. The point values of the check list items shall be noted on the inspection report form.
  - a. Critical items shall be worth four or five points as indicated on the inspection report form. Critical items are denoted by asterisk.
  - b. Noncritical items shall be worth one to three points as indicated on the inspection report form.
3. A minimum score of 70 is required as a passing score.

#### **196-57 Administrative Fines**

##### **I. Procedure for Administrative Fines**

- A. Whenever the department determines that a violation of the provisions of this chapter has occurred, the license holder shall be provided with a written notice:

1. Identifying each violation;

2. Informing the license holder of the amount of the proposed fine under 196-57; and
3. Inform the license holder of the right to be heard before the Board of Health prior to the imposition of the fine, except that:
  - a. The license holder shall also be provided notice of the opportunity to waive the right to a hearing by paying the fine within 10 days of receipt of the department notice of the proposed administrative fine; and
  - b. If the license holder fails to respond to the department notice of proposed administrative fine within 10 days of receipt of notice, the health officer shall schedule a hearing before the Board of Health after providing the license holder with reasonable notice.
  - c. If the license holder fails to comply with the Board of Health=s decision, the town may enforce that decision through judicial proceedings.

**II. Schedule of Administrative Fines.** The health officer or his/her designee shall impose administrative fines in the specified amounts for the following violations:

- A. For willful submission of false or fraudulent information on or with an application, in violation of 196-52, the fine shall be \$500.
- B. For failure to operate a food service establishment or retail food store only in the manner in which it is licensed to do so, in violation of 196-52, the fine shall be \$500.
- C. For failure to cooperate during an inspection of a food service establishment, retail food store, mobile unit or vehicle used to sell retail food, including but not limited to failing to allow department representatives or inspectors to inspect food service establishment or retail food store premises and vehicles at all times, in violation of 196-52, the fine shall be \$1000.
- D. For failure to notify the department by telephone within 24 hours of any fire or other disaster that jeopardizes the safety or sanitation of food provided in food service establishments or retail food stores, in violation of 196-52, the fine shall be \$100.
- E. For failure to notify the department pursuant to change of food service establishment ownership, pursuant to 196-52, the fine shall be \$100.
- F. For failure to notify the department prior to moving the location of a food service establishment or retail food store pursuant to

196-52, the fine shall be \$100.

G. For failure to submit a plan for review as required in 196-53, the fine shall be \$200.

H. For failure to discard food as required under 196-01, and in the manner instructed to do so by the department, the fine shall be \$250.

I. For failure to cease operation upon notification by the department to do so, the fine shall be \$500. Each day that a license holder fails to cease operation shall be considered a separate offense subject to an additional \$500 fine;

J. For failure to cease operation after a license has expired, when an application has been denied, or when a license has been revoked, the fine shall be \$500. Each day that a license holder fails to cease operation shall be considered a separate offense subject to an additional \$500 fine.

K. For a violation of the same critical violation as defined in 196-0 for more than two consecutive inspections, the fine shall be \$500;

L. For failure to pay an administrative fine within 30 days of its imposition, or the completion of any appeal of the administrative fine, the fine shall be \$100 per day for the duration of the license.

M. For failure of a health inspection with a score of 69 or lower, the fine shall be one half the annual food service license fee in addition to A-M above, if applicable.

III. Form of Payment of Fees and Administrative Fines Whenever an applicant or license holder makes a payment to the department in satisfaction of a fee or administrative fine, the following shall apply:

A. Payment shall be made in the form of cash, check or money order for the exact amount due; made payable to the town of Salem.

B. Cash, money order, or certified check shall be required when an applicant or license holder has issued payment to the department by check, and such check was returned for insufficient funds;

#### **196-58 Compliance Agreement**

A. If critical violations are found and can not be corrected immediately in the presence of the inspector, the applicant or licensee shall complete a Compliance Agreement in the presence of the inspector.

B. If construction items are found during an inspection for a new or change of ownership

license, and can not be corrected immediately in the presence of the inspector, the applicant or licensee shall complete a Compliance Agreement in the presence of the inspector.

C. The compliance agreement shall be completed on the "Compliance Agreement" form provided by the inspector.

D. The following shall be provided on the Compliance Agreement:

1. The date of the agreement;
2. The name of the establishment;
3. The address of the establishment;
4. The name of the person in charge of the establishment at the time of the inspection;
5. The telephone number of the person in charge;
6. Attestment to the agreement to make repairs, corrections, and/or changes that are necessary to bring the establishment into compliance with Chapter 196;
7. A list of each repair/correction or change to be made including the date of intended completion and an explanation as to why the correction can not be made immediately;
8. The signature of the person in charge;
9. Title of the signee;
10. Date;
11. Signature of the inspector; and
12. Establishment license number.

E. Failure to make the necessary corrections according to the specified date shall result in the licensee being required to attend a compliance meeting with the department.

### **196-59 License Categories**

I. For the purpose of licensure, food service establishments and retail food stores shall be divided in the following categories:

A. Class A which shall include:

1. Food service establishments which commercially process >100,000 units of food per year;
2. Food service establishments with more than 199 seats.

B. Class B which shall include:

1. Retail food stores with more than 2 food preparation areas;
2. Food service establishments with 100-199 seats;
3. Commercial fish processors.

C. Class C which shall include:

1. Retail food stores with 1-2 food preparation areas;
2. Caterers serving off site food;
3. Food service establishments with 25-99 seats;
4. Bars and lounges that serve alcohol with a food preparation area;
5. Food service establishments which commercially process <100,000 units of food per year;
6. Packagers of potentially hazardous foods.

D. Class D which shall include:

1. Food service establishments with 0-24 seats;
2. Packagers of nonpotentially hazardous bulk food;
3. Food service establishment which process food at home in a commercial kitchen;
4. Fraternities and sororities except those whose members prepare their own food.

E. Class E which shall include:

1. Bed and breakfast and other lodging facilities serving only continental breakfast;
2. Mobile food units which cook food;
3. Vehicles used for retail sale of food including but not limited to shrimp and fish;

F. Class F which shall include:

1. Home delivery services of packaged potentially hazardous foods including but not limited to pizza, ice cream, meat and poultry;
2. Mobile food units including but not limited to those serving pre-packaged food and non-potentially hazardous unwrapped foods only;
3. Retail food stores with no food preparation areas only;
4. Wholesaler/distributor of food;

5. On site vending machines which serve potentially hazardous foods;
6. Sellers of prepackaged frozen meat or poultry.

G. Class G which shall include:

1. Canobie Lake Park
2. Rockingham Park

H. Class H which shall include:

1. Temporary events

**196-60 Licensing Fees**

- A. Food Service Licensing fees shall be as adopted by the Salem Board of Selectmen.
- B. Salem Food Service Licensing Fees shall be outlined in the Appendix.

**196-61 Severability Clause**

The provisions of this chapter shall be severable, and if any phrase, clause, sentence or provision shall for any reason be held invalid or unconstitutional, the validity of the remainder of this chapter shall not be affected thereby.

**APPENDIX**

**Food Service Licensing Fees**

Effective January 1, 1999

Class A	\$500
Class B	\$250
Class C	\$200
Class D	\$125
Class E	\$100
Class F	\$75
Class G	-
	- Canobie Lake Park \$780
	- Rockingham Park
	Grandstand \$625
	Track Kitchen \$280
	Jockey Room \$125
Class H	\$25/Day (Max \$125)