

ARTICLE VI

FOOD SERVICE ESTABLISHMENTS

6.1.0 - Declaration of Policy

It is hereby declared to be the health policy of the Rockland Health District to assure that owners and operators of food service establishments operate their premises in such a way as to avoid imminent health hazards.

Furthermore, Part 14 of the New York State Sanitary Code is adopted, in its application to Rockland County by reference, as enacted and now or subsequently amended, with the same force and effect as though fully incorporated herein and set forth at length.

6.2.0 - Definitions

6.2.1 **Caterer**

The term "**caterer**" means a person who prepares, furnishes, or prepares and furnishes food intended for individual portion service at the premises of the consumer whether such premises are temporary or permanent. A caterer is considered a food service establishment operator and is required to operate in conformance with this Subsection.

6.2.2 **Commissary**

The term "**commissary**" means a place where food is stored, processed or packaged and prepared in individual portions for service at a food service establishment. A commissary supplying vending machines, mobile food service establishments, or owned and operated by an owner operating the food service establishment exclusively served by the commissary is to be operated under permit and in accordance with this Subsection.

6.2.3 **Contamination**

The term "**contamination**" means exposing food to filth, toxic substances, excessive manual contact during preparation or service, rodent or insect contact or infestation or any condition which permits introduction of pathogenic microorganisms or foreign matter. Potentially hazardous foods held at temperatures between 45°F (7.2°C) and 140°F (60°C) either for a period of time exceeding that reasonably required for preparation or more than two hours, the allowed service time, are considered to be contaminated. Contaminated food is considered adulterated.

6.2.4 **Food**

The term "**food**" means any edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

6.2.5 Food Processing Establishment

The term "**food processing establishment**" means a commercial establishment operated under license, permit, or with the approval of an appropriate regulatory authority where food is manufactured or packaged for human consumption at another establishment or place.

6.2.6 Food Service Establishment

The term "**food service establishment**" means a place where food is prepared and intended for individual portion service and includes the site at which the individual portions are provided whether consumption occurs on or off the premises. The term excludes food processing establishments, retail food stores, private homes where food is prepared or served for family consumption, and food service operations where a distinct group mutually provides, prepares, serves, and consumes the food such as a "covered-dish supper" limited to a congregation, club or fraternal organization.

6.2.7 Hot Water

The term "**hot water** " means water that is at least 110 degrees F.

6.2.8 Imminent Health Hazard

The term "**imminent health hazard**" is any violation, combination of violations, condition, or combination of conditions making it probable that the food or drink served to the public by the establishment or its continued operation can injure the health of the consumer or the public. Imminent health hazards include, but are not limited to the conditions listed in 6.2.7.1 and 6.2.7.2 of this Section.

6.2.8.1 Any of the following five violations are imminent health hazards against the public interest which require the permit issuing official or his designated representative to order the establishment closed and all service of food stopped immediately if not corrected at the time of the inspection while the permit issuing official or representative of the permit issuing official is on the premises:

6.2.8.1.1 Food is present in the establishment from an unapproved or unknown source or which is or may be adulterated, contaminated, or otherwise unfit for human consumption.

6.2.8.1.2 Potentially hazardous food is held for a period longer than that necessary for preparation or service at a temperature greater than 45°F (60°C).

6.2.8.1.3 Potentially hazardous food exposed to consumer or other contamination is served again.

6.2.8.1.4 Toxic items are improperly labeled, stored, or used.

6.2.8.1.5 Persons with disease or infection which can be transmitted by food or drink are not restricted to prevent food contamination within the food service establishment.

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6.2.8.2 Any of the following three conditions are violations constituting imminent health hazards which require the permit issuing official or his designated representative to order the establishment closed and all service of food stopped immediately:

6.2.8.2.1 If the potable water supply within a food service establishment is not in full conformance with the requirements of Part 5 of the New York State Sanitary Code and if it reasonably appears to the permit issuing official or his designated representative it can result in an imminent health hazard, and if the operator does not use single service items and bottled water from an approved source for all potable water uses, the establishment is to be ordered closed and all food service to be stopped immediately.

6.2.8.2.2 Any cross-connection or other fault in the potable water system which may permit contamination of the potable water supply is cause for an order for immediate closure and cessation of food service if it reasonably appears to the permit issuing official or his designated representative it can result in an imminent health hazard. In any case, all such cross-connections to be corrected within a period of time set by the permit issuing official and in no case more than 30 days from the date of the inspection. If uncorrected within that time, the permit shall be suspended and the establishment ordered closed and food service stopped until all violations are corrected.

6.2.8.2.3 If sewage or liquid waste is not disposed of in an approved and sanitary manner, the permit issuing official or his designated representative is to order closure and immediate cessation of all food service operations if such sewage or liquid waste contaminates any food, food storage area, food preparation area, or area frequented by consumers or employees.

6.2.9 **Mobile Food Service Establishment**

The term "**mobile food service establishment**" means a self-contained food service operation, located in a vehicle or movable stand, self or otherwise propelled, used to store, prepare, display or serve food intended for individual portion service.

6.2.10 **Potentially Hazardous Food**

The term "**potentially hazardous food**" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustaceans or other ingredients, including synthetic ingredients, in a form capable of support rapid and progressive growth of infectious or toxigenic micro-organisms. The term does not include clean, whole, uncracked, odor-free shell eggs.

6.2.11 **Plumbing Code** (*Added 7/18/12.)

The term "**Plumbing Code**" shall refer to the Plumbing Code of New York State.

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6.2.12 **Plumbing Fixture** (*Added 7/18/12.)

The term “**Plumbing Fixture**” shall refer to a toilet or urinal.

6.2.13 **Seasonal Dining** (*Added 7/18/12.)

The term “**Seasonal Dining**” shall refer to the seats offered outside of a food service establishment in an unenclosed area without a source of heat.

6.3.0 - Washing and Sanitizing Equipment

6.3.1 Notwithstanding any other provisions of this Article or Part 14 of the New York State Sanitary Code to the contrary, every food service establishment constructed after June 1, 1987, or any food service establishment that completely renovates the food preparation areas after June 1, 1987, shall have an approved stainless steel three compartment sink with drainboards. The sinks must be sized so as to submerge the largest piece of cooking equipment.

6.3.2 Every equipment and utensil washing sink and every hand washing facility is to be provided with running hot and cold potable water.

6.4.0 - Pest Control in Food Service Establishments

Notwithstanding any other provisions of this Article, a food service establishment owner shall comply with the following:

6.4.1 The owner, operator or manager of a food service establishment, or catering hall, as defined by the New York State Sanitary Code, shall have the food service establishment or catering hall inspected every thirty (30) days by a certified Pest Control Operator or his representative and shall have said Pest Control Operator or his representative exterminate any infestation found.

6.4.2 Such application shall be made only by a person possessing certification from the New York State Department of Environmental Conservation or his employee.

6.4.3 After each application of pesticides, the certified Pesticide Control Operator or his representative, shall record on a form prescribed by the Commissioner, the name of the applicator, the date of application, the time of application, the type and amount of pesticide used, and the areas that were treated with the pesticide. This chart is to be conspicuously posted in the food service establishment or catering hall office or kitchen.

6.5.0 - Mobile Food Service Establishment

Notwithstanding any other provisions of this Article, a mobile food service establishment shall comply with the following provisions:

6.5.1 **Handwashing Facilities**

Mobile food service establishments are to have adequate hand-washing facilities to be provided and maintained in food preparation areas. Sinks not in use for food

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storage, preparation or processing or not in use for utensil or dishwashing may be used for handwashing.

6.5.1.1 Each handwashing facility is to be provided with running hot and cold potable water.

6.5.1.2 Each handwashing facility is to be provided with hand cleaning soap or detergent with a sanitary storage receptacle. Individual single service towels are to be provided. Common towels are prohibited.

6.5.1.3 Handwashing facilities, soap or detergent receptacles, handwashing devices and related facilities are to be kept clean and in good repair.

6.5.2 Water Supply

6.5.2.1 Water supplied a mobile food service establishment is to be obtained from a supply complying with the requirements of Part 5 of the New York State Sanitary Code. The water storage tank, fill piping and distribution piping are to be installed and maintained to protect the water from contamination. The entire system is to be constructed to be drained by gravity.

6.5.2.2 A water system with a storage tank of at least forty gallons is to be provided in a mobile food service establishment unless all food served is prepackaged and wrapped at a commissary or food processing establishment.

6.5.2.3 Bottled and packaged potable water is to be obtained from a source approved by the State Commissioner of Health and handled and stored in a way that protects it from contamination. Bottled and packaged potable water is to be dispensed from the original container.

6.5.3 Liquid Wastes and Sewage

Sewage and liquid wastes are to be stored in a permanently installed holding tank that has at least 15% greater capacity than the water supply tank in a manner which protects the premises, personnel and contents within the establishment and surroundings from contamination. All plumbing is to be constructed and maintained to prevent contamination of the potable water supply, food, equipment, utensils, the premises, contents, employees and patrons. All sewage, including liquid waste, is to be disposed of in a public sewer system or by a sewage disposal system constructed and operated in a manner acceptable to the permit issuing official.

6.5.4 Equipment and Utensil Cleaning

Mobile Food Service Establishments are to have two compartment sinks with drainboards for adequate utensil and equipment cleaning.

6.5.4.1 Equipment and utensil washing sinks must be provided with hot and cold running potable water.

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6.5.5 Nothing herein shall be construed to limit the application of all other provisions of the Rockland County Sanitary Code and/or the New York State Sanitary Code as it pertains to the issuance of a Food Service Establishment Permit.

6.6.0 - Food Service Training Certificate

- 6.6.1 Notwithstanding any other provision of this Article or Part 14 of the New York State Sanitary Code, a food service establishment, issued a Permit by the Commissioner, shall employ at least one on-site person-in-charge who possesses a valid Food Service Training Certificate issued by the Commissioner. The Certificate shall be issued upon successful completion of a Food Safety Course conducted by the Health Department, or equivalent as appropriate. A Food Service Training Certificate shall be valid for up to three years.
- 6.6.2 It shall be the responsibility of any owner, operator or person-in-charge of a Food Service Establishment to attend and successfully complete the Food Safety Course, whenever it is deemed necessary and notification has been made by the Commissioner.
- 6.6.3 A Food Service Training Certificate may be revoked after notice and an opportunity for a hearing has been provided by the Commissioner upon serious, repeated or persistent violations of this Code or Part 14 of the New York State Sanitary Code.
- 6.6.4 If a facility has repeated critical violations documented during two consecutive inspections, the owner, operator or person-in-charge of a Food Service Establishment and a second staff person must attend and successfully complete the next Food Safety Course offered by the Department.

6.7.0 - Permit

- 6.7.1 Only persons who comply with the requirements of Part 14 of the New York State Sanitary Code shall be entitled to receive and retain such permit.
- 6.7.2 It shall be unlawful for any person to operate a food service establishment in Rockland County unless such person possess a valid permit issued by the Commissioner, pursuant to this Article, to operate such food service establishment.
- 6.7.3 This permit will be issued annually, and will expire one year from the date of issuance, except as otherwise stipulated on the permit.
- 6.7.4 Application shall be made at least 21 days before the first day of intended operation on a form prescribed by the Commissioner.
- 6.7.5 Application for renewal of permits shall be made at least twenty-one (21) days prior to expiration of the current permit on a form prescribed by the Commissioner.
- 6.7.6 A permit may be suspended by the Commissioner without notice upon violation by the permit holder of any of the requirements of Part 14 of the State Sanitary Code, when in his opinion there exists an imminent hazard to health.

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6.7.7 A permit may be revoked after notice and an opportunity for a hearing has been provided by the Commissioner upon serious, repeated or persistent violations of this Code or Part 14 of the New York State Sanitary Code.

6.8.0 – Toilet and Lavatory Facilities (*Revised 7/18/12.)

6.8.1 Food service establishments must provide adequate toilet and lavatory facilities for their employees and patrons as defined in this section. This section shall apply to all new or extensively remodeled (more than 50%) establishments. Establishments in operation prior to May 1, 2008 may not add additional seats unless compliance with this section is met. Facilities must be located within 300 feet of all work areas within the establishment and must be accessible without going outdoors. (*Amended 7/18/12.)

6.8.2 Public facilities must be provided in all establishments that provide seats at tables or counters for onsite consumption of food. Patrons may not pass through food preparation or storage areas to access facilities. (*Revised 7/18/12.)

6.8.3 A food service establishment shall meet the minimum requirements of the Plumbing Code of New York State, except that when the number of dining seats exceeds 50, additional provisions as specified in Table A shall apply: (*Revised 7/18/12.)

6.8.3.1 The number of fixtures for females shall be 50% greater than the minimum number required for males. (*Revised 7/18/12.)

6.8.3.2 Where more than 75 seats are present, a separate toilet facility for employees or additional fixtures as specified in Table A shall be provided. (*Added 7/18/12.)

Seating capacity for this section is defined as the total number of seats present inside and outside the establishment. (*Revised 7/18/12.)

Table A

(*Added 7/18/12.)

Number of Seats	Number of Fixtures
1-14	1 unisex
15-50	1 male, 1 female
51-75	1 male, 2 female
76-150	1 male, 2 female plus 1 employee or 2 male, 3 female
151-300	2 male, 3 female plus 2 employee (1 male, 1 female) or 3 male, 5 female

6.8.4 An establishment with approved patron facilities may add seasonal dining seats up to 20% above the permitted number of seats without adding fixtures. Where no patron facilities are provided up to eight (8) seasonal dining seats may be added. (*Amended 7/18/12.)

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- 6.8.5 At least one lavatory with hot and cold water tempered by means of a mixing valve or combination faucet shall be provided for each two fixtures. (*Amended 7/18/12.)
- 6.8.6 Privacy compartments shall be installed in all toilet rooms with more than one water closet or urinal. (*Added 7/18/12.)
- 6.8.7 In each toilet room designated for male occupants, urinals shall not be substituted for more than 67 percent of the number of fixtures required by this code. (*Added 7/18/12.)

6.9.0 – Use of Liquid Nitrogen (*Added 9/12/18)

The use of liquid nitrogen in the preparation and/or service of food and drink in food service establishments, temporary food service establishments, mobile food service establishments and vending machines is prohibited. Conditional waiver requests may be submitted to the Rockland County Commissioner of Health or his/her designee and may be granted only if the proposed plans and procedures are determined to be adequately protective of the health and safety of the operator's employees and patrons.

6.10.0 - Fee

A fee will be charged for each food service establishment permit issued. This fee shall be paid by cash, check or money order made payable to the Commissioner of Finance of Rockland County. Payment shall accompany the application for the permit.

6.11.0 – Effective Date:

The effective date of this Article is November 18, 1987. Revised February 1992. Revised August 1997. Revised April 16, 2008. Added to, amended and revised July 18, 2012. Added to, amended and revised September 12, 2018.