

Town Council Ordinance Introduction

May 14, 2018 (redline version)

ART. II-8-4. FOOD SERVICE ESTABLISHMENTS

Sec. 8-150. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adulterated shall mean the condition of food that:

1. ~~Contains any poisonous or deleterious substance in a quantity which renders it injurious to health;~~
2. ~~Contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation or in excess of such tolerance if one has been established;~~
3. ~~Consists in whole or in part of any filthy, putrid or decomposed animal or vegetable substance or if it is otherwise unfit for human consumption;~~
4. ~~Has been processed, prepared, packed or held under unsanitary conditions, whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health;~~
5. ~~Is in whole or in part the product of a diseased animal or an animal which has died otherwise than by slaughter; or~~
6. ~~Its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.~~

Approved shall mean acceptable to the health authority as meeting the requirements of this article and conforming to good public health practices. In interpreting the provisions of this article and defining and determining compliance with its requirements, the health authority shall be guided by the recommendations of the current edition of the United States Public Health Service Food Sanitation Manual and all amendments thereto, a copy of which is on file in the town clerk's office.

Catering - Providing food and drink at a social event or other gathering lasting one week or less.

Closed shall mean fitted together snugly leaving no openings large enough to permit the entrance of vermin.

Contaminated shall mean the presence of human disease-causing organisms or poisonous substances or other indication of the potential presence of disease-causing organisms or poisonous substances on or in a surface, article or substance.

Corrosion-resistant material shall mean a material which maintains its original surface characteristics under prolonged influence of the food-cleaning compounds and sanitizing solutions which may contact it.

Easily cleanable shall mean readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

Employee shall mean any person working in a food service establishment including, but not limited to, the proprietor or manager or any member of his family, who transports food or food containers, who engages in food preparation or service or who comes in contact with any food utensils or equipment.

Equipment shall mean all fixtures, stoves, ranges, hoods, meatblocks, cables, counters, refrigerators, sinks, dishwashing machines, steam tables and similar items other than utensils, used in the operation of a food service establishment.

Food shall mean any raw, cooked or processed edible substance, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

Food contact surface shall mean those surfaces of equipment and utensils with which food normally comes in contact and those surfaces with which food may come in contact and drain back onto surfaces normally in contact with food.

Food processing establishment shall mean a commercial establishment in which food is processed or otherwise prepared and packaged only for sale to food service establishments and other retail outlets.

Food service establishment shall mean any permanent, temporary or mobile establishment where food or drink is prepared, served, kept or stored for consumption on or off the premises within the town, including but not limited to such establishments as a restaurant, caterer, buffet, lunchroom, grill room, lunch counter, tavern, dining room of a hotel or motel, coffeeshop, cafeteria, sandwich shop, soda fountain, in plant feeding establishments, feeding establishments in private clubs, church feeding facilities, school feeding facilities, institutional feeding establishments, tearooms, theater refreshments stand, grocery store, meat market, retail bakery store, dairy produce store, delicatessen or any establishment where food is prepared, served, kept or stored for retail sale.

Handle shall mean the actual collecting, keeping, storing, preparing, cooking, processing, dressing, freezing, distributing and transporting of food.

Health authority shall mean the health officer of the town or his duly authorized representative.

Kitchenware shall mean all multipurpose utensils other than tableware or equipment used in the storage, preparation, conveying or serving of food.

Misbranded shall mean the presence of any written, printed, or graphic matter upon or accompanying food or containers of food, which is false or misleading, or which is violative of any applicable federal, state or local labeling requirements.

Mobile food service base station shall mean a permanent location with an area for the loading and cleaning of mobile units and with a separate area for the preparation and storage of food for use in mobile units.

Mobile food service vendor shall mean an establishment, a motor vehicle, trailer or like conveyance capable of being transported from place to place which is constructed to contain, store, prepare and properly preserve food for sale and/or distribution, consisting of a permanent base station and one (1) or more mobile units.

Mobile food service unit shall mean a motor vehicle, trailer or like conveyance capable of being transported from place to place which is constructed to contain, store and properly preserve food for sale and/or distribution.

Periodic food service establishment shall mean any food service establishment which operates on a periodic or sporadic basis, such as churches, grange halls and fire companies.

Permanent food service establishment shall mean any food service establishment located in a permanent structure which has received all requisite approvals as required by this Code of Ordinances.

~~**Perishable food** shall mean any food of such type or in such condition as may spoil.~~

~~**Poisonous and toxic substance** shall mean any mechanical agent, chemical substance or organism capable of causing poisoning or having an injurious or deadly effect when introduced into the human body by means of breathing, eating or drinking or absorption or penetration through the skin or mucous membrane.~~

~~**Potentially hazardous food** shall mean any perishable food which consists in whole or in part of milk or milk products, eggs, whole or ground meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.~~

~~**Safe temperature, as applied to potentially hazardous food,** shall mean temperatures of forty five (45) degrees Fahrenheit or below and one hundred forty (140) degrees Fahrenheit or above.~~

~~**Sanitize** shall mean bactericidal treatment of clean surfaces of equipment and utensils as far as practicable by a process which has been approved by the health authority as being effective in destroying microorganisms, including pathogens.~~

~~**Sealed** shall mean free of cracks or other openings which permit the entry or passage of moisture.~~

~~**Shellfish** shall mean all fresh or frozen oysters, clams, or mussels, either shucked or in the shell, and any fresh or frozen edible products thereof.~~

~~**Single service articles** shall mean cups, containers, lids or closures, plates, knives, forks, spoons, stirrers, paddles, straws, place mats, napkins, doilies, wrapping materials and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic or other destructible materials, and which are intended for one (1) usage only, then to be discarded.~~

~~**Tableware** shall mean all multiuse eating and drinking utensils including flatware, such as knives, forks and spoons.~~

~~**Temporary food service establishment** shall mean any food service establishment which operates for a temporary period of time, not to exceed two (2) weeks, in connection with a fair, carnival, circus, public exhibition or similar transitory gathering.~~

~~**Utensil** shall mean any tableware and kitchenware used in the storage, preparation, conveying or serving of food.~~

~~**Vermin** shall mean noxious, offensive small animals common of occurrence and difficult to control such as insect larvae, flies, fleas, lice, ants, wasps, beetles, mites, mice and rats.~~

~~**Wholesome** shall mean in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.~~

(Code 1966, Ch. 314, § 1)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 8-151. Enforcement.

This article shall be enforced by the health code enforcement officer ~~in accordance with the recommendations of the current edition and all amendments thereto of the United States Public Health Service Food Sanitation Service Manual, a certified copy of which shall be on file at the town clerk's office.~~

(Code 1966, Ch. 314, § 23)

Sec. 8-152. Penalty.

Any person violating any of the provisions of this article or obstructing the code enforcement health officer in the performance of his required duties or failing, neglecting or refusing to comply with the provisions of this article or operating a food service establishment without a license or after a license shall have been suspended or revoked shall be subject to a fine of not more than one hundred dollars (\$100.00) and each day's violation shall be considered to be a separate offense.

(Code 1966, Ch. 314, § 24)

Sec. 8-153. Approval and License required.

~~It shall be unlawful for any person to operate a food service establishment within the town who does not possess a license. Permanent food service establishments and mobile food vendors shall not operate without a license and granted by the town council and issued by the code enforcement officer town clerk.~~ The following application procedures shall apply. Persons are exempt from this license for business conducted as part of a licensed farmers' market under ART. II-8-14.

A. General.

1. No license shall be issued unless the applicant has presented to the town, has submitted a copy of a current State of Maine Department of Health and Human Services license to the code enforcement officer. No license shall be valid if such state license has expired.
2. The town and state ~~Such~~ licenses shall be posted in a conspicuous place.
3. No license shall be approved, either new or renewal, without a public hearing by the town council. Such hearing shall be noticed no later than 7 days prior to the hearing date by publication in a local newspaper.
4. Licenses shall be valid for a one year period, commencing July 1 and ending June 30. Any license issued after July 1 shall expire on June 30 of the following year.

B. Application. A complete application on a form from the Community Development Department shall be submitted with the necessary fee and a completed checklist of submittal items. The code enforcement officer shall have the authority to develop an application form and submittal checklist to assure that the necessary information is submitted.

C. Renewals. License holders may submit an application for renewal provided that there have been no substantive changes to the location, nature of the operation or any other change as determined by the code enforcement officer. Request for license renewals shall be submitted to the code enforcement officer on or before April 30 of each year. Any renewal request after this date will be considered a new application.

D. Review. Upon such time as the Code Enforcement Officer or their designee deems the application complete it shall be circulated to the Police, Fire, Public Works, and Community Development for a review. Departments shall submit their review to the code enforcement officer no later than 8 business days from receipt. The code enforcement officer shall forward the review to the applicant. They shall also forward the reviews and application with any recommendations from staff to the Town Manager for placement on the next regularly

scheduled Council meeting unless the applicant requests additional time to modify or add to the application based on staff review.

- E. Approval. The town council shall have the sole authority to approve a food service establishment or mobile food vendor license.
- F. Issuance. Should the town council approve such license, the code enforcement officer shall issue a license containing the conditions and restrictions as imposed by the town council.
- G. Posting. The license holder shall post the license in a conspicuous place at the approved location.

{Code 1966, Ch. 314, § 2.1}

Sec. 8-154. Reserved. License requirements for food service establishments other than local.

~~No food prepared outside the town shall be sold or brought into the town by a food service establishment unless it is prepared and handled in accordance with the requirements of this article. In determining such compliance, the health officer may inspect the location at which such food is prepared or may accept reports from responsible authorities in such jurisdiction that such location complies with the provisions of this article.~~

{Code 1966, Ch. 314, § 2.2}

Sec. 8-155. Fees.

License fees shall be as approved by the town council and on file in the ~~town clerk's~~ Community Development Department office.

{Code 1966, Ch. 314, § 2.3}

Sec. 8-156. Suspension and revocation of license.

~~Such~~ A food service license may be ~~temporarily~~ suspended by the health code enforcement officer upon failure of the licensee to comply with any of the terms or conditions of ~~this article to the immediate detriment of the health and welfare of the public~~ the license. ~~The license may be or~~ revoked by the town council upon serious or repeated violations of any of the terms of this article after investigation and hearing, a notice of such hearing shall be served upon the licensee or left at the licensed premises at least three (3) days before the time set for the hearing.

{Code 1966, Ch. 314, § 2.4}

Sec. 8-157. Reinstatement of license suspended.

The licensee may at any time after suspension by the ~~code enforcement health~~ officer, make application in writing for reinstatement of the license to the ~~code enforcement health~~ officer representing that the condition for which the suspension was imposed has been corrected. The ~~health-code enforcement~~ officer shall within three (3) ~~business~~ days after receipt of the application make a reinspection of the premises. If he finds that the licensee is complying with the terms of this article, the license shall be reinstated. If the ~~code enforcement health~~ officer finds the condition not corrected according to the requirements of this article, he/~~she~~ may make reinspections at such future times as ~~he/she~~ may deem reasonable. If the licensee fails to satisfactorily comply with the requirements of the ~~code enforcement health~~ officer after such inspection or reinspection, the ~~code enforcement health~~ officer shall refer the violation to the town council for hearing in the manner provided in Sec. 8-156, who may thereafter revoke, continue the suspension, or reinstate the license. The aggrieved licensee shall have the right to appeal to the Cumberland County Superior Court. Repeated incidents of such suspension by the ~~code enforcement health~~ officer involving the same licensee shall be considered to be a valid reason for revocation of the license by the town council after investigation and hearing as provided in Sec. 8-156.

(Code 1966, Ch. 314, §§ 2.5, 2.6)

Sec. 8-158. Inspection.

The health or ~~code enforcement~~ officer, after proper identification, shall be permitted to enter with the permission of the licensee or the person in charge at any reasonable time, any food service establishment within the town for the purpose of making inspections to determine compliance with this article. ~~They He~~ shall be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchased, received or used and persons employed.

(Code 1966, Ch. 314, § 3)

Sec. 8-159. ~~Floors.~~ Standards

~~The floor surfaces in kitchens, in all other rooms and areas in which food is stored or prepared and in which utensils are washed and in walk-in refrigerators, dressing or locker rooms and toilet rooms shall be of smooth, nonabsorbent materials and constructed so as to be easily cleanable. Suitable materials may be concrete, terrazzo, ceramic tile, tightly laid tongue and groove lumber wood covered with a composition flooring or other suitable material as approved by the health authority. All floors shall be kept clean and in good repair. Floor drains shall be provided in all rooms where floors are subjected to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor. All areas where food is served shall be kept clean and dry and surfaces in such areas shall be finished so as to facilitate cleaning and minimize dust. All concrete, terrazzo, tile or ceramic floors installed in preparation, food storage and utensil washing rooms and in walk-in refrigerators, dressing or locker rooms and toilet rooms shall provide a covered juncture between the floor and wall. In all cases, the juncture between the floor and wall shall be closed.~~

~~(Code 1966, Ch. 314, § 4)~~

- ~~A. Catering. Food service establishments and mobile food vendors providing catering services, either public or private, are exempt from a license under this section, but shall submit license applications required by the state for review by the code enforcement officer. A fee as established by the town council shall be submitted with the the state license application. The state license as issued by the State of Maine shall be submitted to the code enforcement officer prior to catering in the town.~~
- ~~B. Mobile Food Vendor~~

1. The following standards shall be iterated in the license approval and by approved by the town council.
 - a. Dates approved for use. The town council shall approve the dates for use but in no event can the dates be longer than six months if the vendor is requesting approval for a static location.
 - b. Location(s). Vendors may apply for multiple static locations in the same application and be approved as one license.
 - c. Hours of Operation. Licenses shall include the hours of operation.
 2. Vehicles shall be removed from the site daily at the close of business.
 3. Suitability of the site. The location of the vendor shall not interfere with vehicle or pedestrian circulation of permanent uses of the property on which it is located. If parking spaces are utilized to locate vendors, the permanent use must still meet the minimum number of parking spaces required. In the instance of non-conforming uses due to parking, the non-conformity may not be increased.
 4. Self-contained. The vendor unit shall be self-contained except that utilization of electric service from a building may be permitted provided it meets all applicable code requirements. Amenities such as tents, table and chairs are prohibited.
 5. Signage. Signage shall either be on the vehicle or as permitted elsewhere in this Code of Ordinances.
 6. Public Health. No license shall be issued without documentation that the vendor is properly licensed by the State of Maine Department of Health and Human Services.
 7. Vehicle Registration. No license shall be issued or be valid without appropriate state registration of the vehicle or trailer.
- C. Periodic and Permanent Food Service Establishments. Periodic or permanent food service establishments shall be located in buildings or structures that meet the requirements of the Zoning and Site Plan Review Ordinance.

Sec. 8-160. Walls and ceilings.

~~The walls and ceilings of all rooms shall be kept clean and in good repair. All walls of rooms or areas in which food is prepared or utensils or hands are washed shall be easily cleanable, smooth and light colored and shall have washable surfaces up to the highest level reached by splash or spray. Brick, cement blocks, slag blocks and cinder blocks are acceptable if plastered or filled so as to provide a smooth, easily cleanable surface and if painted, where necessary, a light color. Acoustical ceiling materials shall be acceptable where effective ventilation prevents the possibility of grease accumulation and absorption.~~

~~(Code 1966, Ch. 314, § 5)~~

Sec. 8-161. Shelves, tables and counters.

~~All shelves, tables and counters shall be smooth and easily cleanable, shall be kept clean and shall not be covered with paper, oil cloth or other similar material.~~

~~(Code 1966, Ch. 314, § 6)~~

Sec. 8-162. Lighting.

~~At least seventy (70) footcandles of light shall be provided on all working surfaces in food preparation, utensil washing and handwashing areas. Sources of artificial light shall be provided and used to the extent necessary to provide the required amounts of light on these surfaces when in use and when being cleaned. At least ten (10) footcandles of light at a distance of thirty (30) inches from the floor shall be provided in all food storage areas, toilet rooms and dining areas during cleaning operations.~~

~~(Code 1966, Ch. 314, § 7)~~

~~Sec. 8-163. Ventilation.~~

~~All rooms in which food is prepared or served or utensils are washed, dressing or locker rooms, toilet rooms and garbage and rubbish storage areas shall be well ventilated, sufficient to prevent objectionable odors and vapors, condensation and the accumulation of grease and smoke on walls, ceilings or fixtures. Ventilation hoods or devices shall be designed to prevent grease or condensate from dripping into food or onto food contact surfaces. Filters shall be required when deep fat frying, broiling or grilling operations are used and shall be readily removable for cleaning or replacement. Ventilation systems shall discharge in such manner as required by all codes and ordinances of the town.~~

~~(Code 1966, Ch. 314, § 8)~~

~~Sec. 8-164. Toilet facilities.~~

~~Each food service establishment shall be provided with adequate, conveniently located toilet facilities for its employees within the same building housing the establishment. Toilet fixtures shall be of sanitary design and readily cleanable. Toilet facilities, including rooms and fixtures, shall be kept in a clean condition and in good repair. The doors of all toilet rooms shall be self-closing. Toilet tissue shall be provided. Easily cleanable receptacles shall be provided for waste materials and such receptacles in toilet rooms for women shall be covered. Toilet rooms shall be completely enclosed from floor to ceiling and shall be vented to the exterior. Toilet facilities shall be provided for the employees of the food service establishments on the premises as follows:~~

Number of employees	Number of toilets
1—15	1
16—35	2

~~and thereafter at the rate of one (1) toilet for each additional thirty (30) persons. When eight (8) or more persons are employed at any one (1) time, separate toilets shall be provided for each sex. Where alcoholic beverages are served, there shall be provided at least one (1) separate toilet for each sex for use of patrons. When toilet facilities are provided for patrons, such facilities shall meet the requirements of this section, shall be so located as not to require the patrons to pass through any food preparation area and shall be posted as to location and identity.~~

~~(Code 1966, Ch. 314, § 9)~~

~~Sec. 8-165. Water supply.~~

~~The water supply shall be adequate and of a safe, sanitary quality and from an approved public or private water supply system which is constructed, protected, operated and maintained in conformance with applicable state and local laws, ordinances and regulations. Hot and cold running water under pressure shall be provided in all areas where food is prepared and where equipment, utensils or containers are washed.~~

~~(Code 1966, Ch. 314, § 10)~~

~~Sec. 8-166. Ice.~~

~~Ice which is to be used for any food purpose or in connection with the chilling and serving of salads, vegetables or cocktails shall be manufactured from a water supply meeting the requirements in Sec. 8-165, and shall be stored and handled in a sanitary manner. Ice grinders, pans, buckets and scoops used in the preparation and dispensing of chipped or cracked ice shall be protected from contamination. All block ice shall be washed before preparation and serving. Ice shall be dispensed by the use of a scoop, spoon, or other approved method.~~

~~(Code 1966, Ch. 314, § 11)~~

~~Sec. 8-167. Lavatory facilities.~~

~~Hand-washing sinks with hot and cold running water shall be provided in or convenient to toilet rooms and in no instance more than ten (10) feet outside the toilet room. Soap and sanitary towels or other approved drying facilities in suitable holders or dispensers shall be provided. Common towels are prohibited. No person shall resume work after using the toilet room without first washing his hands. If such handwashing sink is not located within ten (10) feet of the entrance to all food preparation rooms or areas, additional handwashing sinks with hot and cold running water, soap and sanitary towels shall be provided in or within ten (10) feet of such food preparation rooms or areas. Durable, legible signs shall be posted conspicuously at each handwashing facility used by employees directing them to wash their hands before returning to work. Dishwashing vats, vegetable sinks and pot sinks shall not be approved as handwashing facilities for employees.~~

~~(Code 1966, Ch. 314, § 12)~~

~~Sec. 8-168. Waste disposal—Liquid waste.~~

~~All sewage shall be disposed of in a public sewerage system or, in the absence thereof, in a sewage disposal system constructed and operated in conformance with applicable state and local laws, ordinances and regulations. Plumbing shall be sized, installed and maintained in conformity with applicable state and local codes, ordinances and regulations.~~

~~(Code 1966, Ch. 314, § 13.1)~~

~~Sec. 8-169. Same—Solid waste.~~

All garbage and rubbish containing food wastes shall, prior to disposal, be kept in leakproof, nonabsorbent containers which shall be kept covered with tight-fitting lids when filled or stored, or not in continuous use. Such containers need not be covered when stored in a special verminproofed room or enclosure or in a good waste refrigerator. All other rubbish shall be stored in containers, rooms or areas in an approved manner. The rooms, enclosures, areas and containers used shall be adequate for the storage of all food waste and rubbish accumulating on the premises. Each container, room or area shall be thoroughly cleaned after the emptying or removal of garbage and rubbish. Food waste grinders, if used, shall be installed in compliance with state and local laws and ordinances. All garbage and rubbish or other material shall be removed from the premises at frequent intervals which shall in no case exceed four (4) days and shall be so handled as to prevent the attraction to and/or breeding therein of insects, rodents and other animals.

{Code 1966, Ch. 314, § 13.2}

Sec. 8-170. Construction of equipment and utensils.

- a. ~~All equipment and utensils shall be so designed and of such material and workmanship as to be smooth, easily cleanable and durable and shall be in good repair. The food contact surfaces of such equipment and utensils shall be accessible for cleaning and they shall be nontoxic, corrosion-resistant and relatively nonabsorbent. All equipment shall be so installed and maintained as to facilitate the cleaning thereof and of all adjacent areas. Single service articles shall be made from nontoxic materials.~~
- b. ~~All equipment and utensils shall be capable of withstanding repeated scrubbing, scouring and the corrosive action of cleaning and sanitizing agents and food with which they come in contact. No enamelware shall be used in the preparation, storage or serving of food.~~
- c. ~~Materials used as food contact surfaces of equipment and utensils shall, under use conditions, be corrosion-resistant, relatively nonabsorbent and nontoxic; provided that corrosion-resistant requirements shall not preclude the use of cast iron as a food contact surface material.~~
- d. ~~Food contact surfaces of equipment and utensils shall be free of difficulty to clean internal corners and crevices. Threads which routinely contact food shall be of a sanitary design and no V-type threads shall be used in such a situation.~~
- e. ~~Lubricated bearings and gears of equipment shall be so constructed that lubricants cannot get into the food or onto food contact surfaces.~~
- f. ~~Surfaces of equipment not intended for contact with food, but which are exposed to splash, food debris or otherwise require frequent cleaning, shall be smooth, washable, free of unnecessary ledges, projections or crevices, accessible for cleaning and of such material and in such repair as to be maintained in a clean and sanitary manner.~~
- g. ~~Cutting blocks and boards and bakers' tables may be of hard maple, hard rubber composition or other hard woods which are nontoxic, smooth and free of cracks, crevices and open seams. Cutting boards shall be removable.~~

{Code 1966, Ch. 314, § 14}

Sec. 8-171. Equipment installation.

- a. ~~Equipment which is placed on tables or counters, unless designed to be movable, shall be sealed thereto or mounted on legs or feet at least four (4) inches high. Floor-mounted equipment, unless designed to be movable, shall be sealed to the floor or shall be installed on raised platforms of concrete or other smooth masonry in such a manner as to prevent liquids or debris from seeping or settling underneath, between or behind such equipment in spaces which are~~

~~not fully open for cleaning and inspection or such equipment shall be elevated at least six (6) inches above the floor. The space between adjoining units and between a unit and the adjacent wall shall be closed unless exposed to seepage, in which event it shall be sealed or sufficient space shall be provided to facilitate easy cleaning between, behind and beside all such equipment.~~

- ~~b. Aisles or working spaces between equipment and between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform readily their duties without contamination of food or food contact surfaces by clothing or through personal contact.~~
- ~~c. Equipment installed prior to the effective date of this Code may be continued in use, although not complying with the provisions of this Code, so long as it is in good repair, is capable of being maintained in a sanitary condition and the food contact surfaces are nontoxic, and whose performance is acceptable to the town's health officer.~~
- ~~d. New equipment installed in food service establishments, where applicable, shall bear the National Sanitation Foundation Seal of Approval or be of design and construction equivalent to the minimum standards of the National Sanitation Foundation or the minimum standards contained in the current edition of the United States Public Health Service Food Service Sanitation Manual.~~

~~{Code 1966, Ch. 314, § 15}~~

~~**Sec. 8-172. Cleaning, sanitizing, storage and handling of equipment and utensils.**~~

~~All eating and drinking utensils shall be thoroughly cleaned and sanitized after each usage. All kitchenware and food contact surfaces of equipment and all food storage utensils shall be thoroughly cleaned after each use. Cooking surfaces of equipment shall be thoroughly cleaned at least once a day or as often as necessary. All utensils and food contact surfaces of equipment used in the preparation, service, display, or storage of potentially hazardous food shall be thoroughly cleaned and sanitized prior to such use. Nonfood contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition.~~

~~{Code 1966, Ch. 314, § 16.1}~~

~~**Sec. 8-173. Cleaning and sanitizing methods and facilities.**~~

~~All cleaning and sanitizing shall be done by an approved method. Approved methods shall be manual washing pursuant to Sec. 8-174, manual dishwashing pursuant to Sec. 8-175 or mechanical dishwashing pursuant to Sec. 8-176.~~

~~{Code 1966, Ch. 314, § 16.2}~~

~~**Sec. 8-174. Manual dishwashing.**~~

- ~~a. A manual cleaning and sanitizing process shall consist of thoroughly removing gross food particles and other foreign solids, washing in a detergent solution of at least one hundred thirty (130) degrees Fahrenheit, rinsing free of such solution and sanitizing by an approved bactericidal process. Approved bactericidal processes for sanitizing shall include:
 - ~~1. Immersion in hot water at a minimum temperature of one hundred seventy (170) degrees Fahrenheit for thirty (30) seconds in the final rinse section of manual dishwashers, with adequate baskets provided for dipping utensils;~~
 - ~~2. Immersion in a solution at a minimum temperature of seventy five (75) degrees Fahrenheit containing hypochlorite compounds or chlorine compounds of equal efficiency of two~~~~

hundred (200) ppm available concentration for no less than one (1) minute. At no time during the sanitizing process shall the concentration of the available chlorine be reduced below fifty (50) ppm and a test kit for chlorine concentration level shall be available and used.

- b. ~~Any other chemical sanitizing agent may be used which has been demonstrated to the satisfaction of the health authority to be effective and nontoxic under use conditions and accepted by the current edition of the United States Public Health Service Food Service Sanitation Manual and for which a test is available. The original container in which the chemical sanitizer currently employed was received from the distributor shall be kept available on the premises of the food establishment.~~

(Code 1966, Ch. 314, § 16.2a)

Sec. 8-175. Manual dishwashing equipment.

- a. ~~A three-compartment sink shall be provided for such manual cleaning. Each compartment shall be equipped with hot and cold running water and large enough to permit complete immersion of the largest utensil in use, except that a two-compartment sink may be used where a mechanical dishwasher is in use for the washing of all utensils except pots, pans and trays or when the only utensils to be washed are limited to spatulas, tongs and similar devices.~~
- b. ~~All sinks shall be provided with drainboards on each side, each of which must be at least two (2) feet square, constructed of corrosion-resistant material and sloped to the sink to facilitate draining. Stationary or mechanical glass washing brushes shall be required for manual dishwashing of glasses.~~
- c. ~~When hot water is used as a sanitizing agent, thermometers accurate to two (2) degrees Fahrenheit shall be installed or available to permit frequent checks of the water temperature.~~

(Code 1966, Ch. 314, § 16.2b)

Sec. 8-176. Mechanical dishwashing.

- a. ~~Mechanical dishwashing shall be done in equipment whose standards have been properly set. The wash water shall be at least one hundred forty (140) degrees Fahrenheit and in single tank conveyor machines shall be at least one hundred sixty (160) degrees Fahrenheit. When hot water is relied upon for sanitation, the final rinse water shall be at least one hundred eighty (180) degrees Fahrenheit. When chemicals are relied upon for sanitation, they shall be of a type approved by the health officer, and accepted by the current edition of the United States Public Health Service Food Sanitation Manual and shall be applied in such concentration and for such periods of time as to provide effective bactericidal treatment of the equipment and utensils. Thermometers accurate to two (2) degrees Fahrenheit shall be installed to measure the temperature of the wash water and the final rinse water in the machine.~~
- b. ~~Jets, nozzles and all other parts of each machine shall be maintained free of chemical deposits, debris and other material. Automatic detergent dispenser, if used, shall be kept in proper operating condition. When an immersion-type dishwashing machine is employed for equipment and utensil washing and sanitizing, applicable requirements pertaining to manual dishwashing shall be met.~~
- c. ~~Mechanical glass and dishwashing equipment shall be required when found necessary because of ineffective results with other facilities. Dishwashing and glass washing equipment shall be National Sanitation Foundation approved or equivalent or meet the minimum requirements contained in the current edition of the United States Public Health Service Sanitation Manual.~~

- ~~d. When spray-type dishwashing machines are used, the flow pressure shall not be less than fifteen (15) or more than twenty-five (25) pounds per square inch on the waterline at the machine and not less than ten (10) pounds per square inch at the rinse nozzles. A suitable gauge cock shall be provided immediately upstream from the final rinse sprays to permit checking of the flow pressure of the final rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturer specifications.~~

{Code 1966, Ch. 314, § 16.2c}

Sec. 8-177. Storage and handling of cleaned equipment and utensils.

- ~~a. Food contact surfaces of cleaned and sanitized equipment and utensils shall be stored and handled in a manner to be protected from contamination as follows:~~
- ~~1. Cleaned and sanitized portable equipment and utensils shall be stored above the floor in a clean, dry location. Space and facilities shall be provided to protect against splash, dust and other contamination;~~
 - ~~2. Utensils shall be air dried before being stored or shall be stored in a self-draining position on hook or racks constructed of corrosion-resistant material designed for this purpose;~~
 - ~~3. Whenever practicable, stored utensils and containers shall be covered or inverted;~~
 - ~~4. Facilities for the storage of flatware such as knives, forks and spoons shall be provided and shall be designed and maintained to present the handle to the employee or customer;~~
 - ~~5. Cleaned flatware shall be picked up and touched only by their handles;~~
 - ~~6. Clean cups, glasses, bowls and dishes shall be handled so that fingers and thumbs do not contact inside surfaces or lip contact surfaces;~~
 - ~~7. Food contact surfaces of fixed equipment shall also be protected from splash, dust and other contamination by closing lids or doors by covering.~~
- ~~b. Food service establishments which do not have adequate and effective facilities for cleaning and sanitizing utensils as set forth herein shall use single service articles. All single service articles shall be stored, handled and dispensed in a sanitary manner and shall be used only once. Single service utensils shall be stored in a clean, dry place in the original carton or in a suitable dispenser designed for this particular purpose at all times prior to use. Straws for drinking liquids shall be individually wrapped or dispensed from a sanitary dispenser in such manner that the possibility of contamination is minimized.~~

{Code 1966, Ch. 314, § 16.4}

Sec. 8-178. Food protection.

~~All food in food service establishments shall be from sources complying with all applicable federal, state and local laws and shall be clean, wholesome, free from spoilage, free from adulteration and misbranding and safe for human consumption. No hermetically sealed, nonacid and low acid food, such as canned vegetables, which have been processed in a place other than a commercial food processing establishment shall be used.~~

{Code 1966, Ch. 314, § 17.1}

State law reference— Sale or possession of unwholesome food or drink, 17 M.R.S.A. § 3451 et seq.

Sec. 8-179. Shellfish.

- a. ~~All oysters, clams and mussels shall be from sources approved by the state department of marine resources, provided that if the source is outside the state, it shall be one which is certified by the state of origin or the department of health, education and welfare.~~
- b. ~~Shell stock shall be identified with an official tag giving the name and certificate number of the original shell stock shipper and the kind and quantity of shell stock. Fresh and frozen shucked oysters, clams and mussels shall be packed and kept until used in nonreturnable containers identified with the name and address of the packer or repacker or distributor, and the certificate number of the packer or repacker preceded by the abbreviated name of the state.~~

~~{Code 1966, Ch. 314, §§ 17.2, 17.3}~~

Sec. 8-180. Milk and milk products.

- a. ~~All milk and milk products, including fluid milk, other fluid dairy products and manufactured milk products shall meet the standards of quality established for such products by applicable state and local laws and regulations.~~
- b. ~~Only pasteurized milk and milk products shall be used or served. Dry milk and milk products may be reconstituted in the establishment if used for cooking purposes only or in medical and health institutions where dietary considerations require its use.~~
- c. ~~All milk and fluid milk products for drinking purposes shall be purchased and served in the original, individual container in which they were packaged in the milk plant or shall be served from a bulk milk dispenser approved in accordance with the provisions of Sec. 8-171(c) and Sec. 8-171(d), provided that cream, whipped cream or half and half, which is to be consumed on the premises, may be served from the original container of not more than one-half gallon capacity or from a dispenser approved by the health authority for such service. For mixed drinks requiring less than one-half pint of milk, milk may be poured from one (1) quart or one-half gallon containers packaged at a milk plant.~~

~~{Code 1966, Ch. 314, § 17.4}~~

Sec. 8-181. Frozen desserts.

~~All frozen desserts such as ice cream, soft frozen desserts, ice milk, sherbet and mix shall meet the standards of quality established for such products by applicable state and local laws and regulations.~~

~~{Code 1966, Ch. 314, § 17.5}~~

Sec. 8-182. Meat and meat products.

~~All meat and meat products shall have been inspected for wholesomeness under a federal, state or local regulatory program.~~

~~{Code 1966, Ch. 314, § 17.6}~~

Sec. 8-183. Poultry and poultry meat products.

~~All poultry and poultry meat products shall have been inspected for wholesomeness under a federal, state or local regulatory program.~~

~~{Code 1966, Ch. 314, § 17.7}~~

Sec. 8-184. Bakery products.

All bakery products shall have been prepared in the food service establishment or in food processing establishments which are in compliance with applicable federal, state and local laws and regulations. All cream-filled and custard-filled pastries shall have been prepared and handled in accordance with the requirements of Sec. 8-186(g).

{Code 1966, Ch. 314, § 17.8}

Sec. 8-185. Prepackaged foods.

- a. ~~All prepackaged foods prepared off the premises for sale in a food service establishment such as sandwiches and containers of food such as shellfish, meat dishes and salads shall be packaged in containers clearly labeled with the name of the product and the name and address of the establishment where the product was prepared, processed or manufactured.~~
- b. ~~Food may be examined or sampled by the health officer as often as may be necessary to determine compliance with this article. The health officer may place a hold order on any food which he determines or has probable cause to believe to be unwholesome, adulterated, or misbranded. Food under such hold order may be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice or tag and neither such food nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of or destroyed without permission of the health officer. After prompt and suitable investigation, the health officer may withdraw the hold order or may direct that such food be brought into compliance with the provisions of this article or destroyed. The aggrieved licensee shall have the right of appeal directly to town council and then to the Superior Court of the County of Cumberland.~~
- c. ~~All food while being stored, prepared, displayed, served or sold at food service establishments or during transportation between such establishments shall be protected from contamination in a manner consistent with the hazards present in the environment. All perishable food shall be maintained at safe temperatures (forty five (45) degrees Fahrenheit or below or one hundred forty (140) degrees Fahrenheit or above) except during necessary periods of preparation and service. Adequate thermometers accurate to two (2) degrees Fahrenheit shall be installed in each refrigerated storage unit and readily available wherever else food temperatures must be maintained.~~

{Code 1966, Ch. 314, § 17.9}

Sec. 8-186. Preparation.

- a. ~~Convenient and suitable utensils such as forks, knives, tongs, spoons or scoops shall be provided and used to minimize manual handling of food. Scoops, paddles or dippers used to dispense ice cream shall be immersed in a running water dipper well or washed and sanitized after each use. The dipper well or washing facility shall be within ten (10) feet of the place where the ice cream is dispensed.~~
- b. ~~Stuffings, poultry, stuffed meats, shellfish and vegetables shall be heated throughout to minimum temperatures of one hundred sixty five (165) degrees Fahrenheit with no interruption of initial cooking process. All pork or pork products shall be heated to an internal temperature of one hundred eighty five (185) degrees Fahrenheit unless the pork or pork product has been subjected to a prior treatment at the time of manufacture or by a subsequent heating, drying, freezing or other treatment as to render it free from trichinae organisms.~~

- c. ~~Hot prepared foods intended to be cooled shall be cooled through the temperature range of one hundred forty (140) degrees Fahrenheit to below forty five (45) degrees Fahrenheit within a period not to exceed two (2) hours.~~
- d. ~~Frozen food shall be kept at such temperature as to remain frozen except when being thawed for preparation or use. Frozen food shall be thawed at refrigerator temperatures of forty five (45) degrees Fahrenheit or below or as part of the cooking process.~~
- e. ~~Raw fruits and vegetables shall be washed before use.~~
- f. ~~Following preparation, hollandaise and other sauces which, pending service, must be held in the temperature of forty five (45) degrees Fahrenheit to one hundred forty (140) degrees Fahrenheit may be exempt from the temperature requirements above if they are prepared from fresh ingredients and are discarded as waste within two (2) hours after preparation. Where such sauces require eggs as an ingredient, only shell eggs shall be used.~~
- g. ~~Custards, cream fillings or similar products which are prepared by hot and cold processes and which are used as pudding or pastry fillings shall be kept at safe temperatures except during necessary periods of preparation and service and shall meet the following requirements as applicable:~~
 - 1. ~~Pastry fillings shall be placed in shells, crust or other baked goods either while hot (not less than one hundred forty (140) degrees Fahrenheit) or immediately following preparation, if a cold process is used;~~
 - 2. ~~Such fillings and puddings shall be refrigerated at forty five (45) degrees Fahrenheit or below in shallow pans immediately after cooking or preparation, and held thereat until combined into pastries or served;~~
 - 3. ~~All completed custard filled and cream filled pastries shall, unless served immediately following filling, be refrigerated at or below forty five (45) degrees Fahrenheit promptly after preparation and held thereat pending service.~~

~~(Code 1966, Ch. 314, § 17.10)~~

~~Sec. 8-187. Storage.~~

- a. ~~Food not subject to washing or further cooking before serving shall be stored in such a manner as to be protected against contamination from food requiring washing or cooking. Wet storage of packaged food shall be prohibited. Perishable foods shall be stored in refrigerators and freezers so as to be protected against all potential contamination.~~
- b. ~~Stored food shall be stored on platforms at least eight (8) inches above the floor level so as to prevent contamination and allow for adequate cleaning except that food in waterproof, rodentproof packaging or containers need not be elevated.~~

~~(Code 1966, Ch. 314, § 17.11)~~

~~Sec. 8-188. Transportation.~~

~~All potentially hazardous food transported from a food service establishment to another location for service or catering operation shall be kept at or below forty five (45) degrees Fahrenheit or at or above one hundred forty (140) degrees Fahrenheit during transportation. During such transportation, all food shall be in covered containers or completely wrapped or packaged so as to be protected from any potential contamination.~~

~~(Code 1966, Ch. 314, § 17.12)~~

~~Sec. 8-189. Display and service.~~

- ~~a. Where unwrapped food is placed on display in all types of food service operations, including smorgasbords, buffets and cafeterias, it shall be protected against contamination from customers and other sources by effective, easily cleanable, counter protector devices, cabinets, display cases, containers or other similar types of protective equipment. Self-service openings in counter guards shall be designed and arranged so as to protect food against contamination by coughing and sneezing.~~
- ~~b. When food is served buffet or smorgasbord style:
 - ~~1. Potentially hazardous food shall be discarded hourly;~~
 - ~~2. Management shall not permit customers to handle food on display;~~
 - ~~3. Long handled serving spoons and trays shall be provided and used.~~~~
- ~~c. In the case of the drive-in restaurants, all food shall be covered or wrapped before delivery to patrons to exclude flies, dust and other contamination.~~
- ~~d. All potentially hazardous food when placed on display for service should be kept hot or cold as required as follows:
 - ~~1. If served hot, the temperature of such food shall be kept at one hundred forty (140) degrees Fahrenheit or above;~~
 - ~~2. If served cold, such food shall be displayed in or on a refrigerated facility which can reduce or maintain the product temperature of forty five (45) degrees Fahrenheit or below or prechilled to a temperature of forty five (45) degrees Fahrenheit or below and when placed on display for service, the interior food temperature shall at no time during the display period exceed fifty (50) degrees Fahrenheit.~~~~
- ~~e. Individual portions of food once served to a customer shall not be served again except that wrapped food other than potentially hazardous food which is still wholesome and has not been unwrapped may be reserved.~~
- ~~f. Sugar, salt, spices, mustard and ketchup shall be served only in covered dispensers or in containers or wrapped packages for individual service. Such containers shall be designed so that a spoon cannot be inserted for the dispensing of these materials.~~
- ~~g. Poisonous and toxic materials shall be identified and used and stored only in such manner and under such conditions as will not contaminate food or constitute a hazard to employees or customers. Such substances shall not be stored in any room where food or drink is stored, served or prepared except in a separate cabinet not used for any food purposes. Insecticides shall be any color other than white. No polish or other substances containing any poisonous material shall be used for the cleaning or polishing of equipment or kitchenware.~~

~~(Code 1966, Ch. 314, § 17.13)~~

~~Sec. 8-190. Requirements for employees.~~

- ~~a. All employees shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to hygienic practices while on duty. They shall wash their hands thoroughly in an approved hand-washing facility before starting work and as often as may be necessary to remove soil and contamination. No employee shall resume work after visiting the toilet room without first washing his hands. Employees shall not use tobacco in any form while engaged in food preparation or service or while in equipment and utensil washing or food preparation areas except in areas designated for such purpose by the health officer. All employees who~~

~~handle or serve unwrapped or uncovered food shall at all times wear suitable head coverings such as caps, hair nets or spray nets.~~

- ~~b. No person while affected with any disease in a communicable form or while a carrier of such disease or while afflicted with boils, infected wounds, sores or an acute respiratory infection shall work in any area of a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other individuals. No person known or suspected of being affected with any such disease or condition shall be employed in such an area or capacity. If the manager or person in charge of the establishment has reason to suspect that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the health officer immediately.~~
- ~~c. When the health officer has reasonable cause to suspect possibility of disease transmission from any food service establishment employee or when he has received notification from the manager or person in charge as above provided, he may take any or all of the following actions:
 - ~~1. The immediate exclusion of the employee from all food service establishments;~~
 - ~~2. The immediate closure of the food service establishment concerned;~~
 - ~~3. Restriction of the employee's service to some area of the establishment where there would be no danger of transmitting disease; and~~
 - ~~4. Require adequate medical and laboratory examination of the employee and other employees and of his and their body discharges.~~~~

~~{Code 1966, Ch. 314, § 18.3}~~

~~Sec. 8-191. Dressing rooms and lockers.~~

~~Facilities shall be provided for the storage of employees' clothing and personal belongings. Where employees routinely change clothes within the establishment, one (1) or more dressing rooms or designated areas shall be provided for this purpose. Such designated areas shall be located outside of the food preparation, serving areas and the utensil washing areas. Dressing rooms and storage facilities shall be kept clean.~~

~~{Code 1966, Ch. 314, § 19.1}~~

~~Sec. 8-192. Housekeeping.~~

~~All parts of the establishment and its premises shall be kept clean and free of litter and rubbish. Cleaning operations shall be conducted in such a manner as to minimize contamination of food and food contact surfaces. None of the operations connected with a food service establishment shall be conducted in any room used as living or sleeping quarters. Soiled linens, coats and aprons shall be kept in containers until removed for laundering. No live birds or animals shall be allowed in an area used in the conduct of food service establishment operations except that guide dogs accompanying blind persons may be permitted in dining areas.~~

~~{Code 1966, Ch. 314, § 19.2}~~

~~Sec. 8-193. Vermin control.~~

~~Effective measures shall be taken to protect against the entrance into the food service establishment and the breeding or presence on the premises of vermin. All openings to the outer air shall be effectively protected against the entrance of flies and other flying insects by self-closing doors, closed windows, screening, controlled air currents or other effective means from May first through November first of each year. All openings to the outside shall be effectively protected against the entrance of rodents.~~

~~{Code 1966, Ch. 314, § 19.3}~~

~~Sec. 8-194. Temporary or periodic food service establishments.~~

~~A temporary or periodic food service establishment shall comply with all of the provisions of this article, except that when in the opinion of the health officer no imminent hazard to the public health will result if certain relaxations are permitted. Temporary or periodic food service establishments, which do not fully meet the requirements of this article may be permitted to operate when food preparation and service are conducted in a manner prescribed by the health officer.~~

~~{Code 1966, Ch. 314, § 20.1}~~

~~Sec. 8-195. Mobile food service establishments—Requirements.~~

~~All mobile food service units shall be operated from a permanent base station which shall be considered part of the food service establishment for purposes of determining compliance with this article. The mobile unit and base station shall comply with all of the requirements of this Code except Sec. 8-164 regarding toilet facilities and the additional requirements herein set forth except as herein prescribed.~~

~~{Code 1966, Ch. 314, § 21.1}~~

~~**State law reference**— Lunch wagons, 30-A M.R.S.A. § 3931.~~

~~Sec. 8-196. Same—Base station.~~

~~The base station shall be separated into two (2) areas, a mobile unit loading and cleaning area and a food storage and preparation area. The loading area shall be completely enclosed and of sufficient size to completely house a mobile unit while loading, unloading and cleaning and shall have a sanitary wastewater drain to an approved sewage disposal system.~~

~~{Code 1966, Ch. 314, § 21.2}~~

~~Sec. 8-197. Same—Driver's compartment.~~

~~Mobile units shall have a driver's compartment separate from all food preparation, service or storage areas by a complete partition or adequate screening. No food, food containers or utensils shall be kept in the driver's compartment.~~

~~{Code 1966, Ch. 314, § 21.3}~~

~~Sec. 8-198. Same—Water supply.~~

~~Mobile units shall be equipped with a storage tank containing a sufficient supply of fresh potable water and having a capacity of not less than twenty (20) gallons. Facilities for heating water shall be sufficient to supply at least ten (10) gallons of hot running water at a temperature of at least one hundred thirty (130) degrees Fahrenheit at all times.~~

{Code 1966, Ch. 314, § 21.4}

~~Sec. 8-199. Same—Waste disposal.~~

~~Mobile units shall have a liquid waste collection tank capacity equal to the total capacity of potable hot and cold storage tanks. Sufficient rubbish containers shall be provided at each site on the exterior of the unit for discards by customers.~~

{Code 1966, Ch. 314, § 21.5}

~~Sec. 8-200. Same—Exception.~~

~~Mobile units handling only prewrapped or prepackaged foods and which do not require handling by the mobile unit service operator need not comply with the foregoing provisions requiring a water supply and liquid waste disposal.~~

{Code 1966, Ch. 314, § 21.6}

~~Sec. 8-201. Plan review of future construction.~~

~~When a food service establishment is constructed or extensively remodeled or when an existing structure is converted for use as a food service establishment, properly prepared plans and specifications for such construction, remodeling or alteration showing layout, arrangement and construction materials of work areas and the location, size and type of fixed equipment and facilities shall be submitted to the health officer, building inspector and all other town departments concerned for review before such work is begun.~~

{Code 1966, Ch. 314, § 22}

Secs. 8-202—8-249. Reserved.

FOOTNOTE(S):

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Cross reference— Division of health, § 2-300.

State Law reference— Food and drugs, 22 M.R.S.A. § 2151 et seq.