

# **FOOD SERVICE ESTABLISHMENTS**

Includes Amendments  
Effective January 8, 1997

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## **PURPOSE**

**Section 14-1.1 Purpose.** The purpose of this code is to protect the public health. Owners and operators of food service establishments are to operate their premises in such a way as to avoid imminent health hazards. Health hazards in operation, when called to their attention by the representative of the permit-issuing official, are to be corrected immediately. Deficiencies, other than imminent health hazards, such as poor sanitary practices, are to be corrected in accordance with a schedule approved by the permit-issuing official.

## **PUBLIC HEALTH HAZARDS**

### **14-1.10 Definition of imminent health hazard.**

(a) An 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 subdivisions (b) and (c) of this section.

(b) 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:

- (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;
- (2) potentially hazardous food is held for a period longer than that necessary for preparation or service at a temperature greater than 45 degrees Fahrenheit (7.2 degrees Celsius) or less than 140 degrees Fahrenheit (60 degrees Celsius);
- (3) potentially hazardous food exposed to consumer or other contamination is served again;
- (4) toxic items are improperly labeled, stored or used; or
- (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.

(c) 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:

- (1) if the potable water supply within a food service establishment is not in full conformance with the requirements of Part 5 of this Title, and if it reasonably appears to the permit-issuing official or his designated representative that 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;
- (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 that it can result in an imminent health hazard. In any case, all such cross-connections are 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; or

(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.

## **FOOD SERVICE ESTABLISHMENT**

### **14-1.20 Definitions of food service establishment and caterer.**

(a) A food service establishment is 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.

(b) A caterer is 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 Subpart.

### **14-1.21 Definitions of food processing establishment and commissary.**

(a) A food processing establishment is 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.

(b) A commissary is 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 Subpart.

**14-1.22 Definition of person.** A person, as used in this Subpart, is an individual, firm, estate, partnership, company, corporation, trustee, association or any public or private entity.

**14-1.23 Definition of law.** Law means and includes Federal, State and local statutes, ordinances and regulations.

**14-1.24 Definition of frozen desserts.**

(a) "Frozen desserts" are ice cream, frozen custard, French ice cream, French custard ice cream, artificially sweetened ice cream, ice milk, artificially sweetened ice milk, fruit sherbet, non-fruit sherbet, water ices, non-fruit water ices, confection frozen without stirring, dairy confection frozen without stirring, manufactured dessert mix, frozen confection, mellorecream frozen dessert, parevine, frozen yogurt, freezer made shakes, freezer made milk shakes, dietary frozen dessert, whipped cream confection and bisque tortoni, as all such products are commonly known, together with any mix used in making such frozen desserts, and any products which are similar in appearance, odor or taste to such products, or are prepared or frozen as frozen desserts are customarily prepared and frozen, whether made with dairy products or non-dairy products.

Any operation producing chips or flakes of ice made from water with or without additives, served to the customer with or without flavorings added by the operator or consumer, is included as a retail frozen dessert within this definition. This operation is commonly known as a slush operation.

(b) Retail frozen desserts are to be manufactured from ingredients and are to be identified in conformance with the applicable requirements of Part 39 of the rules and regulations of the State Department of Agriculture and Markets (1 NYCRR Part 39).

**14-1.25 Definition of adequate.** Adequate shall mean sufficient to accomplish the purposes for which something is intended, and to such a degree that no unreasonable risk to health or safety is presented. An item installed, maintained, designed and assembled, an activity conducted or act performed, in accordance with generally accepted standards, principles or practices applicable to a particular trade, business, occupation or profession, is adequate within the meaning of this Subpart.

**FOOD SUPPLIES**

**14-1.30 Definition of food.** Food is any edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

**14-1.31 Food;** Definitions of contamination and potentially hazardous food; food sources; hermetically sealed foods.

(a) Food is to be free from adulteration, spoilage, filth or other contamination, and suitable for human consumption.

(b) "Contamination" means exposing food to filth, toxic substances, manual contact during service or preparation if such food will not be subsequently cooked prior to 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 degrees Fahrenheit (7.2 degrees Celsius) and 140 degrees Fahrenheit (60 degrees Celsius) either for a period of time exceeding that reasonably required for preparation or for more than two hours, the allowed service time, are considered to be contaminated. Contaminated food is considered adulterated.

