

Chapter 81
FOOD SERVICE, FOOD PROCESSING
AND RETAIL FOOD ESTABLISHMENTS

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[HISTORY: Adopted by the Board of Selectmen of the Town of Plaistow 5-1-2000. Amendments noted where applicable.]

§ 81-1. Adoption of state rules.

The Town of Plaistow adopts the New Hampshire Rules for the Sanitary Production and Distribution of Food, He-P 2300, with the exception of He-P 2302, in accordance with RSA 147:1. The Town of Plaistow also adopts all future amendments and revisions to the New Hampshire Rules for the Sanitary Production and Distribution of Food, He-P 2300.

§ 81-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BOARD OF HEALTH — The Plaistow Board of Health, whose membership includes the Plaistow Board of Selectmen and the Health Officer for the Town of Plaistow.

COMPLIANCE AGREEMENT — The form that is signed by the Health Agent and person in charge when critical violations exist. A compliance agreement shall define what violations exist, the date by which they are to be corrected, and the reason why corrections cannot be made at that time.

FOOD PROCESSING ESTABLISHMENT — A commercial establishment in which food is manufactured or packaged for human consumption.

FOOD SERVICE ESTABLISHMENT — Food service establishments as defined in RSA 143-A:3, IV. This statute states that a food service establishment is any fixed or mobile, attended or unattended, restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial feeding establishment; food vending operation; private or public organization or institution, whether profit or nonprofit, which routinely serves food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating and drinking establishment or operation in which potentially hazardous food is served or provided for the public with or without charge.

HEALTH AUTHORITY — The Health Officer of the jurisdiction of the Town of Plaistow whose appointment shall be under the jurisdiction of RSA 128:1.

LICENSE — The document issued by the Health Department which authorizes a license holder to operate a food service establishment, food processing establishment or retail food establishment.

PERSON — Includes an individual, partnership, corporation, association or other legal entity.

PERSON IN CHARGE — 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.

RETAIL FOOD ESTABLISHMENT — Retail food store as defined in RSA 143-A:3, VII. This statute states that a retail food store is any establishment or section of an establishment where food or food products intended for off-premises consumption are offered to the public. The term includes delicatessens which offer prepared food in bulk quantities only. It does not include establishments which handle only prepackaged, non-potentially-hazardous foods; roadside markets or farm stands which sell only fresh fruits and vegetables; food service establishments; or food and beverage vending machines.

SANITARY FOOD CODE — The New Hampshire Rules for the Sanitary Production and Distribution of Food, He-P 2300.

TEMPORARY FOOD SERVICE ESTABLISHMENTS — The definition found in RSA 143-A:3, VII: Temporary food service establishment is any food service establishment which operates at a fixed location for a temporary period of time not exceeding two weeks, in connection with a fair, carnival, circus, public exhibition or similar transitory gathering.

§ 81-3. License.

- A. It shall be unlawful for any person to operate a food service, food processing or retail food establishment within the Town of Plaistow who does not possess a valid license issued to him or her by the Health Authority. Only a person who complies with requirements of this chapter shall be entitled to receive and retain such a license. Licenses shall not be transferable from one person to another person or place. A valid license shall be posted in every food service establishment. Temporary food establishment licenses shall be issued for period of time not to exceed 14 days.
- B. Issuance of licenses and fees. Any person desiring to operate a food service, food processing, temporary food establishment or retail food establishment shall make a written application for a license on forms provided by the Health Authority. Upon receipt of such an application and the designated license fee and after inspection reveals that the applicable requirements of this chapter have been met, a license shall be issued to the applicant by the Health Authority. Licenses are granted for a one-year period and must be renewed annually prior to the given expiration date. The fee shall be made payable to the Town of Plaistow. Completed applications should be recorded at least 30 days prior to the expiration in order to ensure timely renewal. All fees are nonrefundable. There shall be a charge of \$25 for each follow-up inspection. (See PH-2302.1 to 2302.5.)

- C. Suspension of licenses. Licenses may be suspended temporarily by the Health Authority for failure of the license holder to comply with the requirements of this chapter.
- (1) Notwithstanding the other provisions of this chapter, whenever the Health Authority finds unsanitary or other conditions in the operation of a food service, food processing or retail food establishment which, in his or her judgment, constitute a substantial hazard to the public health, a written notice may be issued to the license holder or operator citing such conditions, and the corrective actions to be taken, and may also specify the time period within which such actions shall be taken. These cited items shall be recorded on the compliance agreement of the Town of Plaistow.
 - (2) If it is deemed necessary, the Health Authority may order that the license is immediately suspended and all food operations will be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith but, upon written petition to the Health Authority, shall be afforded a hearing within five days after the written petition has been received by the Health Authority.
- D. Reinstatement of suspended licenses. A license holder whose license has been suspended may, at any time, make application for reinspection for the purpose of reinstatement of the license. Within five days following receipt of a written request, including a statement signed by the applicant that the conditions causing the suspension of the license have been corrected, the Health Authority shall make a reinspection. If the applicant is complying with the requirements of this chapter, the license shall be reinstated.
- E. Revocation of licenses. For serious or repeated violations of any of the requirements of this chapter, or for interference with the Health Authority in the performance of duties, the license may be permanently revoked after an opportunity for a hearing has been provided by the Health Authority. Prior to such action, the Health Authority shall notify the license holder in writing and state the reasons for which the license is subject to revocation and advising that the license shall be permanently revoked at the end of five days following service of such notice unless a written petition for a hearing is delivered to the Health Authority by the license holder or operator within such five-day period. A license may be suspended for cause pending its revocation or a hearing relative thereto.
- F. The hearing provided for in this section shall be conducted by the Plaistow Board of Health at the time and place designated by the Board. Based upon the record of such hearing, the Plaistow Board of Health shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the license holder and/or operator by the Plaistow Board of Health.

§ 81-4. Inspections.

At least two times per year, the Plaistow Health Authority or Health Agent designated by the Health Authority shall inspect each food service, food processing and retail food establishment located in the Town of Plaistow, New Hampshire. Additional inspections and reinspections may be made to assure compliance with the Sanitary Food Code. There is a fee for such reinspections. The fee for reinspection is \$25 per visit.

- A. Access to establishments. The Health Authority or Health Agent designated by the Health Authority, after proper identification, shall be permitted to enter, at any reasonable time, any food service, food processing or retail food establishment within the Town of Plaistow, New Hampshire, for the purpose of making inspection to determine compliance with this chapter. The Health Authority or Health Agent shall be permitted to examine the records of the establishment in order to obtain information pertaining to food supplies purchased, received, or used and persons employed. The employees' rights will not be invaded.
- B. Inspection records.
- (1) Whenever the Health Authority or Health Agent makes an inspection of a food service, food processing, or retail food establishment, the findings shall be recorded on an inspection report form provided for this purpose, and a copy of the original of such inspection report form shall be furnished to the license holder or operator. Such form shall summarize the requirements of the Sanitary Food Code. A license shall be in effect if the sanitary inspection shows a minimum score of 70 with no critical violations. A compliance agreement shall be filed listing the critical violations to be corrected.
 - (2) If noncritical violations persist after six months, then these violations shall then be corrected within a time specified in writing by the Health Authority or Health Agent. If these violations are not corrected in the specified time period assigned by the Health Authority or Agent, then the license shall be suspended until corrections are made to ensure a safe environment and verified by the Health Agent by an on-site inspection.
- C. Issuance of notices. Whenever a food service, food processing or retail food establishment does not meet the requirements of the Sanitary Food Code as listed on the inspection report form, the license holder or operator shall be notified of such violations by means of a copy of the inspection report form, or other written notice. In such notification, the Health Authority or Agent shall:
- (1) Set forth the specific violations found together with the demerit score of the establishment.
 - (2) Establish a specific and reasonable period of time for the correction of the critical violations found. In each case of temporary food service establishments critical violations must be corrected within a specified period of time not to exceed 24 hours. Failure to comply with such notice shall result in immediate suspension of the temporary license.
- D. Service of notices. Notices provided for under this section shall be deemed to have been properly served when a copy of the original inspection report form or other notice has been delivered personally to the holder or person in charge or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the license holder. A copy of such notice shall be filed with the records of the Health Authority. Nothing herein shall preclude a suspension of license and temporary closing of violators as set forth in § 81-3C of these regulations.

§ 81-5. Food from establishments outside town jurisdiction.

Food from food service establishments outside the jurisdiction of the health authority of the Town of Plaistow may be sold within the Town of Plaistow if such food service establishments conform to the provisions of this chapter or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the Health Authority may accept reports from responsible authorities in other jurisdictions where such food service establishments are located.

§ 81-6. Violations and penalties.

Any violators of the provisions of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine of not more than \$100. Each day upon which such a violation occurs shall constitute a separate violation.

§ 81-7. When effective; repealer.

This chapter shall be in full force and effect upon its adoption and publication by law, and, at that time, all ordinances and parts of ordinances in conflict with this chapter are hereby repealed.

§ 81-8. Severability.

Should any section, paragraph, sentence, clause, or phrase of this chapter be declared unconstitutional or invalid for any reason, the remainder of said chapter shall not be affected thereby.

