



**Town of Plaistow, New Hampshire**  
**Public Health Regulations**  
**PH 143-A FOOD SEERVICE LICENSURE**

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### **Section 143-A:1 - Citation.**

This chapter shall be known and may be cited as the "Plaistow Food Service Licensure Regulation."

### **Section 143-A:2 - Purpose.**

The purpose of this chapter is to ensure that the health of the public is protected from the consumption of food contaminated by food service establishments or retail food stores during storage, preparation, service, or display, and to ensure that food service establishments and retail food stores have adequate facilities for the storage, preparation, service, or display of food.

### **Section 143-A:3 - Definitions.**

- I) "Plaistow Health Department" means the Plaistow Board of Health, Plaistow Health Department, Plaistow Health Officer or its inspectors, or special agents, designated for that purpose.
- II) "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
- III) "Food service establishment" means 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 processing plants; 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.
  - IV-a. "Food processing plant" means a type of food service establishment that is a commercial operation that processes food for human consumption and provides processed food for sale and distribution to other business entities such as other food establishments. The term does not include an operation that processes food under the oversight of the department of agriculture in accordance with RSA 426, RSA 427, RSA 428, RSA 429, and RSA 434.
  - IV-b. "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury or illness.
- IV) "Occasional food service establishment" means any food service establishment where food is served or provided for the public on the premises of the establishment, whether or not there is a charge for such food, no more than 4 days during a 30-day period. Any part of a day shall be considered one full day for the purposes of this definition.
  - V-a. "Occasional food service events" means events which are not regularly scheduled where food is provided to participants such as extracurricular school events, non-profit sporting events, and periodic events sponsored by religious or nonprofit organizations.
- V) "Person" means an individual, partnership, corporation, association, or other legal entity.
- VI) "Retail food store" means any establishment or section of an establishment where food or food products intended for off-premise consumption are offered to the public. The term includes delicatessens which offer prepared food in bulk quantities only. It does not include roadside markets or farm stands; food service establishments; or food and beverage vending machines.



- VII) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a temporary period of time not exceeding 2 weeks, in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering.

#### **Section 143-A:4 - License Required.**

- I) It shall be unlawful for any person, unless exempted under PH 143-A:5, to operate a food service establishment or retail food store within the Town of Plaistow without having obtained a food service license to be issued by the Plaistow Health Department. The commissioner shall not refuse to issue a food service license to any person who has complied with the requirements of this chapter.
- II) The license shall at all times be conspicuously displayed in the food service establishment or retail food store and shall not be transferable.

#### **Section 143-A:5 - Exemptions.**

The following establishments and events shall be exempt from licensure under this chapter:

- I) Temporary food service establishments and occasional food service establishments and occasional food service events which are not under the jurisdiction of city or town health officers under RSA 147:1 and RSA 47:17.
- II) Recreation camps inspected and licensed under RSA 149.
- III) Health care facilities inspected and licensed under RSA 151.
- IV) Child care facilities inspected and licensed under RSA 170-E.
- V) A farm owned or operated by a federally exempt poultry producer, as defined in RSA 143-A:14, I, and the direct sale of such poultry to the consumer from the producer's farm, at the producer's farm stand, and by the producer at a farmers market, or when sold to a licensed restaurant in accordance with RSA 143-A:14 through RSA 143-A:17.

#### **Section 143-A:5-a - Soup Kitchens.**

The Plaistow Health Department may exempt from licensure under this chapter soup kitchens operated for the poor.

#### **Section 143-A:6 - Application; Issue; Fee.**

- I) Upon receipt of an application in writing from a new food service establishment or retail food store, or a food service establishment or retail food store which has changed ownership, or a food service establishment or retail food store which has had its previous license revoked, the Plaistow Health Department may issue a provisional license, valid for up to 90 days, if the commissioner determines that the applicant's plan for operation and facilities are sufficient under rules adopted under PH 143-A:9. Any individual denied a full license at the end of the 90-day period shall immediately shut down his or her establishment, unless otherwise ordered by a court of competent jurisdiction.
- II) Within 45 days of issuance of a provisional license issued under this section or PH 143-A:8, the Plaistow Health Department shall conduct an inspection. If following such inspection the Plaistow Health Department determines that the applicant's operation and facilities are sufficient under rules adopted under PH 143-A:9, the Plaistow Health Department shall issue to the applicant a license valid for a time period of one year following the date of issuance of the provisional license. Any individual denied a full license at the end of the 90-day period shall immediately shut down his or her establishment, unless otherwise ordered by a court of competent jurisdiction.



- III) Upon receipt of an application for renewal of a license from an existing food service establishment or retail food store, the Plaistow Health Department may conduct an inspection. If the commissioner determines that the applicant's operation and facilities are sufficient under rules adopted under PH 143-A:9, the Plaistow Health Department shall issue to the applicant a new license valid for one year.
- IV) Licenses and provisional licenses are not transferable.
- V) The Plaistow Health Department shall charge a fee for each license application processed, for each plan review conducted, and for each inspection performed; provided that the Plaistow Health Department shall charge only one fee for the provisional license and the license.

### **Section 143-A:7 - Revocation of License.**

- I) If any food service establishment or retail food store licensed under this chapter repeatedly violates any legally adopted rule of the Plaistow Health Department, or any provision of PH 143 or PH 143-A, or if the operation of the licensed establishment creates an imminent health hazard, the commissioner may revoke the license.
- II) The notice of revocation shall:
  - (a) Be in writing;
  - (b) Enumerate the reason or reasons for revocation;
  - (c) Outline the corrective action necessary to correct the violations cited in the revocation; and
  - (d) Inform the owner or his or her agent of his or her rights and options for redress of grievances

### **Section 143-A:8 - Reinstatement.**

Any person whose license has been revoked may at any time make a written request to the Plaistow Health Department for a re-inspection. Re-inspection shall occur within 10 days of receipt of the request. If the Plaistow Health Department finds that the reasons for revocation have been corrected, a provisional license shall be granted immediately.

### **Section 143-A:9 - Rulemaking.**

The Plaistow Health Department shall adopt rules relative to:

- I) The application procedure for any class of license issued under this chapter and the length of the licensing period.
  - (a) I-a. The amount of the fee to be charged for any license application processed, for each plan review conducted, and for each inspection performed under this chapter.
- II) Design and content of all forms required by this chapter.
- III) Procedures for inspections and re-inspections of licensees.
- IV) How a license is revoked and reinstated.
  - (a) IV-a. What constitutes a soup kitchen and procedures for exempting certain soup kitchens from licensure in accordance with PH 143-A:5-a.
  - (b) IV-b. A schedule of administrative fines which may be imposed under PH 143-A:10-a for violation of this chapter or the rules adopted pursuant to it.
  - (c) IV-c. Procedures for notice and hearing prior to the imposition of an administrative fine imposed under PH 143-A:10-a.
- V) Standards for licensing food service establishments and retail food stores, including, but not limited to sanitation, physical environment, health and safety, operational changes, and compliance with federal requirements.
- VI) Variances for licensing requirements.



- VII) Suspension of licenses.
- VIII) Trade secrets, complaints, and the confidentiality thereof.
- IX) Requirements for bed and breakfast facilities.
- X) Requirements for food processing plants.

### **Section 143-A:9-a - Failure to Pay Application Fee; Fee Disposition.**

- I) When a licensee fails to pay the applicable fee required by this chapter, the Plaistow Health Department, after notice and hearing may suspend or revoke the license or may issue an appropriate order.
- II) All fees collected under this chapter shall be forwarded to the state treasurer to be deposited in the general fund of the Town of Plaistow.

### **Section 143-A:9-b - Sale of Synthetic Drugs Prohibited.**

Any licensee who sells or distributes any substance containing a synthetic drug as defined in New Hampshire RSA 359-O:2 in any food service establishment or retail food store shall be guilty of a violation. Any licensee who violates this section shall be subject to the provisions of PH 143-A:7.

### **Section 143-A:10 - Penalty.**

Whoever violates any of the provisions of this chapter or fails to comply with the lawful orders and requirements of the Plaistow Health Department shall, upon conviction of a:

- I) First offense, be guilty of a violation;
- II) Second offense, be guilty of a misdemeanor; and
- III) Third offense, be guilty of a misdemeanor, if a natural person, or be guilty of a felony, if any other person.

### **Section 143-A:10-a - Administrative Fines.**

The Plaistow Health Department, after notice and hearing, may impose an administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision of this chapter or rules adopted under this chapter. Any administrative fine imposed under this section shall not preclude the imposition of further penalties or administrative actions under this chapter. The Plaistow Health Department shall adopt rules relative to administrative fines which shall be scaled to reflect the scope and severity of the violation. The sums obtained from the levying of administrative fines under this chapter shall be deposited into the general fund of the Town of Plaistow.

### **Section 143-A:11 - Injunctive Relief.**

The operation of a food service establishment or a retail food store without a license issued under this chapter, or the continued operation of such establishment or store after a license has been revoked or has expired, is declared to be a danger to the public health. In addition to any other civil, criminal, or disciplinary remedy, the attorney general, the commissioner, the prosecuting attorney of any county or municipality where the food service establishment or retail food store is operating, or any citizen may, in accordance with the laws of this state, maintain an action to enjoin that establishment or store from operation until a valid license is issued. An injunction without bond is available to the Plaistow Health Department for enforcement of this chapter.



### **Section 143-A:12 - Homestead Food Operations Not Allowed**

Homestead food operations are not allowed in the Town of Plaistow.

### **Section 143-A:13 - Rulemaking.**

Homestead food operations are not allowed in the Town of Plaistow.

### **Section 143-A:14 - Definitions.**

In this subdivision:

- I) "Federally exempt poultry producer" means a poultry producer that qualifies for a federal exemption from inspection under the federal Poultry Products Inspection Act.
- II) "Licensed restaurant" means a food service establishment, licensed under PH 143-A:4, which is in a fixed location that is adequate and sanitary, where food is prepared primarily for service of a meal intended for purchase and consumption by the consumer.
- III) "Poultry" means any domesticated bird, whether alive or dead.
- IV) "Poultry producer" means any person who raises poultry and sells it for human consumption.
- V) "Processed" means the animal has been slaughtered and cleaned in a sanitary manner so that it is ready for use as human food but has not been further prepared or treated, except as needed to package and store it.
- VI) "Rabbit" means any domesticated member of the family Leporidae of long-eared, short-tailed lagomorph mammals with long hind legs, whether alive or dead.
- VII) "Rabbit producer" means any person who raises rabbits and sells them for human consumption.
- VIII) "Uninspected" means poultry or rabbits that are not individually marked as having passed inspection as prescribed by the United States Department of Agriculture or in accordance with New Hampshire RSA 427.

### **Section 143-A:15 - Purchase of Uninspected Poultry and Rabbits by Licensed Restaurants.**

- I) A licensed restaurant may purchase uninspected, processed, whole poultry or rabbits from rabbit producers or federally exempt poultry producers who provide proof of compliance with the registration and educational requirements of this subdivision. All packaging containing uninspected poultry and rabbits shall be clearly labeled to include, but not be limited to, the following information: the name and address of the farm where the product originates and the date of slaughter.
- II) For at least 90 days from the date of each purchase, the licensed restaurant shall keep on file the receipt of purchase to include the product purchased, the date of purchase, the name of the producer, the name and address of the farm, and phone number.
- III) The licensed restaurant shall clearly label any menu item containing uninspected poultry or rabbit with the following statement: "This product has been raised and processed on a New Hampshire farm and is exempt from state and federal inspection."

### **Section 143-A:16 - Producer Requirements.**

A federally exempt poultry producer may, in a calendar year, sell to licensed restaurants up to 1,000 uninspected, processed whole poultry that the producer has raised and a rabbit producer may, in a calendar year, sell to licensed restaurants up to 1,000 uninspected, processed whole rabbits that the producer has raised, provided all of the following conditions are met:



- I) The producer is current with all educational requirements that are established by the commissioner in consultation with the commissioner of agriculture, markets, and food relative to proper methods of slaughtering, processing, packaging, and storing poultry or rabbit on the farm and its subsequent transport to restaurants; and
- II) The producer has registered with the department of agriculture, markets and food by providing his or her name, the name and address of the farm, and phone number, to allow for trace back in the event of disease outbreak. Such registry information shall be protected pursuant to New Hampshire RSA 436:6-a.

### **Section 143-A:17 - Rulemaking.**

The Plaistow Health Department, in consultation with the commissioner of the department of agriculture, markets, and food, may adopt rules, relative to:

- I) Content and format of all labeling requirements, except for the label content required under PH 143-A:15, III;
- II) Educational requirements under PH 143-A:16, I, which may include a continuing education component; and
- III) The method by which proof of compliance by producers with the registration and educational requirements of this subdivision can be demonstrated to licensed restaurants, which may include an online listing of compliant producers.



## APPENDIX A

<b>Town Administrative Rule</b>	<b>Town Regulation which the Rule Implements</b>	<b>Specific State Statute which the Rule Implements</b>
PH 2301.01	PH 143-A; PH 143-A:3; PH 143-A:12, PH 143-A:13; and PH 145	RSA 143-A; RSA 143-A:3; RSA 143-A:12, RSA 143-A:13; and RSA 145
PH 2301.01(o) & (ae)	PH 143-A:12, 13	RSA 143-A:12, 13
PH 2302.01	PH 143-A:4; PH 143-A:5; PH 143-A:12, II	RSA 143-A:4; RSA 143-A:5; RSA 143-A:12, II
PH 2302.02	PH 143-A:5-a	RSA 143-A:5-a
PH 2303.01	PH 143-A:9, V	RSA 143-A:9, V
PH 2303.02	PH 143-A:9, V	RSA 143-A:9, V
PH 2304.01	PH 143-A:6, I and V	RSA 143-A:6, I and V
PH 2304.01(a)	PH 143-A:6, I and V	RSA 143-A:6, I and V
PH 2304.01(a)(1)	PH 143-A:6, I	RSA 143-A:6, I
PH 2304.02	PH 143-A:4, II; PH 143-A:6, I-V	RSA 143-A:4, II; RSA 143-A:6, I-V
PH 2304.03	PH 143-A:6, I-V	RSA 143-A:6, I-V
PH 2304.04	PH 143-A:9, I; PH 143-A:12, II	RSA 143-A:9, I; RSA 143-A:12, II
PH 2304.05	PH 143-A:6, V; PH 143-A:9, I-a; PH 143-A:13, V	RSA 143-A:6, V; RSA 143-A:9, I-a; RSA 143-A:13, V
PH 2304.06	PH 143:3; PH 143-A:9, V	RSA 143:3; RSA 143-A:9, V
PH 2304.07	PH 143:3; PH 143-A:9, V; PH 485-A:29	RSA 143:3; RSA 143-A:9, V; RSA 485-A:29
PH 2304.08	PH 143-A:6; PH 143-A:9, V	RSA 143-A:6; RSA 143-A:9, V
PH 2304.09	PH 143-A:6; PH 143-A:9, V	RSA 143-A:6; RSA 143-A:9, V
PH 2304.10	PH 143-A:6; PH 143-A:9, V	RSA 143-A:6; RSA 143-A:9, V
PH 2304.11	PH 143-A:6; PH 143-A:9, V	RSA 143-A:6; RSA 143-A:9, V
PH 2304.12	PH 143-A:9, V	RSA 143-A:9, V
PH 2304.13	PH 143-A:9, V	RSA 143-A:9, V
PH 2304.14	PH 143-A:9, VI	RSA 143-A:9, VI
PH 2304.15	PH 143-A:9, V	RSA 143-A:9, V
PH 2305.01	PH 143:4; PH 143-A:6	RSA 143:4; RSA 143-A:6
PH 2305.02	PH 143:7-a; PH 143-A:10-a	RSA 143:7-a; RSA 143-A:10-a
PH 2305.03	PH 143:4; PH 143-A:6	RSA 143:4; RSA 143-A:6
PH 2306.01	PH 143:5-a; PH 143-A:6; PH 143-A:7; PH 143-A:9-a, I	RSA 143:5-a; RSA 143-A:6; RSA 143-A:7; RSA 143-A:9-a, I
PH 2306.02	PH 143:7-a; PH 143-A:10-a	RSA 143:7-a; RSA 143-A:10-a
PH 2306.03	PH 143-A:6; PH 143-A:7; PH 143-A:9-a, I	RSA 143-A:6; RSA 143-A:7; RSA 143-A:9-a, I





<b>Town Administrative Rule</b>	<b>Town Regulation which the Rule Implements</b>	<b>Specific State Statute which the Rule Implements</b>
PH 2306.04	PH 143-A:9, IV-c	RSA 143-A:9, IV-c
PH 2306.05	PH 143-A:4; PH 143-A:6; PH 143-A:11	RSA 143-A:4; RSA 143-A:6; RSA 143-A:11
PH 2306.06	PH 143:5-a; PH 143-A:9, V	RSA 143:5-a; RSA 143-A:9, V
PH 2309.01 – PH 2309.05	PH 143-A:9, V	RSA 143-A:9, V
PH 2310.01	PH 143-A:12-13	RSA 143-A:12-13

