

“An Ordinance Amending Chapter 117,  
Food Service Establishments  
Of the Code of Ordinances of the City of Manchester.”

- I. Amend the Code of Ordinances by deleting language stricken (-----) and inserting new language as bolded (**bold**). Sections of Chapter 117 not reflected remain unchanged.

**§ 117.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**FOOD-SERVICE ESTABLISHMENT.** Any fixed or mobile restaurant; cafeteria; coffee shop; cocktail lounge; catering kitchen; sidewalk cafe; commissary; grille; luncheonette; short-order cafe; sandwich shop; soda fountain; tea-room; drive-in; nightclub; roadside stand; industrial feeding establishment; private, public or non-profit organization or institution serving the public; or similar place in which food or drink is prepared for sale for food service on the premises or elsewhere; and any other eating or drinking establishment where food is served or provided for the public with or without charge. A **FOOD-SERVICE ESTBALISHMENT** also means a grocery store; meat market; bakery or any establishment where food is stored, manufactured and /or processed, or packaged.

**HEALTH AUTHORITY.** The Board of Health **Health Officer** of the city or its **his** designated representatives.

**SANITARY FOOD CODE.** ~~The New Hampshire Rules for the Sanitary Production and Distribution of Food, part He-P2303 through He-P2328.~~ **The New Hampshire Rules for the Sanitary Production and Distribution of Food, part He-P2301; He-P2303 through He-P2326; He-P2329 and He-P 2331.**  
(’71 Code, § 10-1) (Ord. Passed 6-5-79; Am. Ord. 6-2-87).

**§ 117.02 APPROVAL OF PLANS REQUIRED FOR BUILDING PERMIT.**

When a food-service establishment is hereafter 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 Authority for approval before such work is begun. No building permit shall be issued by the Building Inspector until such approval has been given by the Health Authority.

(’71 Code, § 10-2) (Ord. Passed 4-15-69). Penalty, see § 10.99

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**§ 117.03 SALES OF FOOD BY FIRMS OUTSIDE CITY.**

Food from food-service establishments outside the jurisdiction of the Health Authority of the city may be sold within the city 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.

('71 Code, § 10-3) (Ord. Passed 4-15-69).

**PERMITS AND INSPECTIONS**

**§117.15 PERMIT REQUIRED.**

It shall be unlawful for any person who does not possess a valid permit issued to him by the Health Authority to operate a food-service establishment within the city or in a police jurisdiction.

('71 Code, § 10-14) (Ord. Passed 4-15-69).

Penalty, see § 10.99

**§ 117.16 COMPLIANCE WITH CHAPTER REQUIRED FOR PERMIT.**

Only a person who complies with the requirements of this chapter shall be entitled to receive and retain a permit issued to him by the Health Authority.

('71 Code, § 10-15) (Ord. Passed 4-15-69).

**§ 117.17 APPLICATION.**

Any person desiring to operate a food-service establishment shall make written application for a permit on form provided by the Health Authority.

('71 Code, § 10-16) (Ord. Passed 4-15-69).

**§ 117.18 ISSUANCE OF PERMIT.**

Upon receipt of an application and the designated license fee, and after inspection reveals that the applicable requirements of this subchapter have been met, a permit shall be issued to the applicant by the Health Authority.

('71 Code, § 10-17) (Ord. Passed 4-15-69).

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**§ 117.19 PERMIT FEE.**

The fee for any permit application pursuant to this article shall be in accordance with the following schedule:

<b>CLASS</b>	<b>DESCRIPTION OF ESTABLISHMENT</b>	<b>FEE</b>
Class I	Food Service Establishments having a seating capacity of 100 persons or greater; supermarkets	<del>\$300</del> <b>\$330</b>
Class I-A	Supermarket with bulk foods, a salad bar, and/or food buffet	<del>360</del> <b>400</b>
Class II	Food-service establishments having a seating capacity of rater than 25 but less than 100 persons; bakeries; warehouses; distributors, nursing homes; canteen commissaries; markets with less than two prep areas	<del>240</del> <b>265</b>
Class III-A	Markets selling only pre-packaged food products; mobile food operations; food service operations having seating capacity of 25 persons or less; child day care facilities	<del>130</del> <b>145</b>
Class III-B	Clubs incorporated under the laws of the State or which are affiliated with any national fraternal organization for the same members and bona fide guests of liquor by the glass only	<del>70</del> <b>80</b>
Class IV	Temporary food-service establishments:	
Class IV-A	Locally based food establishment with current Health Department permit	<del>35</del> <b>40</b>
Class IV-B	Establishments which do not possess a current Health Department permit or are located outside of the jurisdiction of the Manchester Health Department	<del>75</del> <b>80</b>
Class V	Non-profit organizations not holding a liquor permit and/or not serving meals on a daily basis; public and parochial school and institutions and government facilities	No fee

('71 Code, § 10-18) (Ord. Passed 6-5-79; Am. Ord. passed 6-19-84; Am. Ord. Passed 6-2-87; Am. Ord. passed 6-5-90; Am. Ord. passed 6-4-96)

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**§ 117.20 EXPIRATION AND RENEWAL OF PERMIT.**

Except as otherwise stipulated in this chapter, any permit issued pursuant to this section shall be valid for a one-year period and shall expire on the last day of the month in which it was first issued. There shall be a ~~\$40~~ **\$25** late application fee for any permit renewal application received more than ten days after its expiration.  
(’71 Code, § 10-19) (Ord. Passed 4-15-69; Am. Ord. passed 6-19-84; Am. Ord. passed 6-2-87).

**§ 117.21 PERMIT FOR TEMPORARY ESTABLISHMENT.**

Any permits for temporary food-service establishments shall be issued for a period of time not to exceed 14 days.  
(’71 Code, § 10-20) (Ord. passed 4-15-69)

**§ 117.22 PERMIT TO BE POSTED.**

Any permit issued pursuant to this chapter shall be posted in every food-service establishment. Mobile caterers, canteen trucks, and other readily moveable food establishments shall be clearly identified by establishment name and permit number plainly displayed on at least two (2) sides of the vehicle.  
(’71 Code, § 10-21) (Ord. passed 4-15-69; Am. Ord. passed 6-19-84)  
Penalty, see § 10.99

**§ 117.23 TRANSFER OF PERMIT PROHIBITED.**

Any permit issued pursuant to this chapter shall not be transferable from one person to another person; or from one place to another place; or from one vehicle to another vehicle.  
(’71 Code, § 10-22) (Ord. passed 4-15-69; Am. Ord. passed 6-2-87)  
Penalty, see § 10.99

**§ 117.24 SUSPENSION OF PERMIT; REINSTATEMENT.**

(A) Any permit issued pursuant to this subchapter may be suspended by the Health Authority for failure of the holder to comply with the requirements of this chapter.

(B) Whenever a permit holder or operator has failed to comply with any notice under the provisions of this chapter, the permit holder or operator shall be notified in writing that

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the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Health Authority by the permit holder.

(C) Notwithstanding the other provisions of this chapter, whenever the Health Authority finds unsanitary or other conditions in the operation of a food-service establishment which, in his judgment, constitute a substantial hazard to the public health, he may issue a written notice to the permit holder or operator citing such condition, the corrective action to be taken, and specifying the time period within which such action shall be taken. If it is deemed necessary, the Health Officer may order that the permit be immediately suspended and all food-service 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 as soon as possible.

(D) Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit accompanied by a reinspection fee which shall be equal to cost of the annual permit. Within five days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the permit have been corrected, the Health Authority shall make a reinspection. If the applicant is complying with the requirements of this chapter, the permit shall be reinstated.

(’71 Code, § 10-23) (Ord. passed 4-15-69; Am. Ord. passed 3-1-83)

**§ 117.25 REVOCATION OF PERMIT.**

For serious or repeated violations of any of the requirements of this chapter, or for interference with the Health Authority in the performance of his duties, any permit issued pursuant to this subchapter 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 permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five days following service of such notice, unless a request for a hearing is filed with the Health Authority, by the permit holder, within such five-day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

(’71 Code, § 10-24) (Ord. passed 4-15-69)

Penalty, see § 10.99

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**§ 117.26 HEARINGS FOR SUSPENSION OR REVOCATION.**

The hearings provided for in §§ 117.24 and 117.25 shall be conducted by the Board of Health at a time and place designated by it. Based upon the record of such hearing, the 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 permit holder by the Board of Health.

(’71 Code, § 10-25) (Ord. passed 4-15-69)

**§ 117.27 INSPECTION REQUIRED.**

At least once every six (6) months, the Health Authority shall inspect each food-service establishment located in the city, or its police jurisdiction, and shall make as many additional inspections and reinspections as are necessary for the enforcement of this chapter. To assist the Health Department in making inspections, mobile caterers, canteen trucks, and other readily moveable food establishments shall submit accurate route schedules identifying location and time of stops. ***Non-mobile food-service establishments shall submit normal days and times of operation on forms provided by the Health Authority.***

**§ 117. 28 ACCESS; EXAMINATION OF RECORDS.**

The Health Authority, after proper identification, shall be permitted to enter, at any reasonable time, any food-service establishment within the city of its police jurisdiction, for the purpose of making inspections to determine compliance with this chapter. He shall be permitted to examine the records of the establishment to obtain pertinent information pertaining to food and supplies purchase, received, or used, and persons employed.

(’71 Code, § 10-27) (Ord. passed 4-15-69; Am. Ord. passed 6-19-84)

Penalty, see § 10.99

**§ 117.29 REPORT; RATING SCORE.**

Whenever the Health Authority makes an inspection of a food-service establishment, he shall record his findings on an inspection report form provided for this purpose, and shall furnish the original of such inspection report form to the permit holder or person in charge at the conclusion of the inspection. Such form shall summarize the requirements of the ~~New Hampshire Department of Health Food Code~~ ***New Hampshire Rules for the Sanitary Production and Distribution of Food*** and shall set forth a

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weighted point value for each requirement. Inspection remarks shall be written to reference, by section number, and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations subtracted from 100. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

**§117.30 CORRECTION OF VIOLATIONS.**

(A) The completed inspection report form shall specify a reasonable period of time for the correction of the violations found; and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

(1) If an imminent health hazard exists, such as **lack of hot water, loss of power, fire, flood**, complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations **and notify the Health Authority**. Operations shall not be resumed until authorized by the Health Authority.

(2) All violations of four or five - point weighted items shall be corrected as soon as possible, but in any event, within (10) days following inspection. ~~Within (15) days after the inspection, the holder of the permit, license or certificate shall submit a written report to the Health Authority stating that the four or five point weighted violations have been corrected.~~ A follow-up inspection shall be conducted to confirm correction.

(3) All one-or two-point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

(4) When the rating score of the establishment is less than ~~60~~ **70**, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more reinspections will be conducted at reasonable time intervals to assure correction.

(5) In the case of temporary food service establishments, all violations shall be corrected within 24 hours. If violations are not corrected within 24 hours, the establishment shall immediately cease food service operations until authorized to resume by the Health Authority.

(B) The inspection report shall state that failure to comply with any time limits for corrections may result in the issuance of a citation or suspension of the permit to operate. An opportunity for appeal from the inspection findings and time limitations will

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be provided if a written request for a hearing is filed with the regulatory authority within ten (10) days following cessation of operation. If a request for a hearing is received, a hearing shall be held within 20 days of receipt of that request.

(C) Whenever a food-service establishment is required under the provisions of this section to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time. (Ord. of 6-5-79)

**§ 117.31 SERVICE OF NOTICE.**

All notices provided for under Section 117.30 shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit 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 permit holder. A copy of such notice shall be filed with the records of the Health Authority.

('71 Code, § 10-30) (Ord. passed 4-15-69)

**§ 117.32 PROCEDURE WHEN INFECTION IS SUSPECTED.**

When the Health Authority has reasonable cause to suspect possible disease transmission by an employee of a food-service establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The Health Authority may require any or all of the following measures:

(A) The immediate exclusion of the employee from employment in all food-service establishments;

(B) The immediate closing of the food-service establishment concerned until, in the opinion of the Health Authority, no further danger of disease outbreak exists;

(C) Restriction of the employee's service to some area of the establishment where there would be no danger of transmitting disease;

(D) Adequate medical and laboratory examination of the employee and of other employees and of his and their body discharges.

('71 Code, § 10-31) (Ord. passed 6-5-79)