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**DEPARTMENT OF HEALTH
AND HUMAN SERVICES
BUREAU OF HEALTH
DIVISION OF HEALTH ENGINEERING**

**RULES RELATING TO THE ADMINISTRATION AND
ENFORCEMENT OF ESTABLISHMENTS LICENSED BY
THE EATING AND LODGING PROGRAM**

10-144 CMR 201

**EATING AND LODGING PROGRAM
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APPROPRIATION 010-10A-2450-012

Nondiscrimination Notice

In accordance with Title VI of the Civil Rights Act of 1964, as amended by the Civil Rights Restoration Act of 1991 (42 U.S.C. 1981, 2000e et seq.), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and Title IX of the Education Amendments of 1972, the Maine Department of Human Services does not discriminate on the basis of sex, color, national origin, disability or age in admission or access to or treatment or employment in its programs and activities.

EFFECTIVE DATE: August 1, 2004

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2 **RULES RELATING TO THE ADMINISTRATION AND ENFORCEMENT OF ESTABLISHMENTS**
3 **LICENSED BY THE EATING AND LODGING PROGRAM**
4

5 **10-144 CMR 201**
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9 **SECTION 1**
10 **GENERAL PROVISIONS**

11
12 **1.1 PURPOSE**

13
14 These rules shall be liberally construed and applied to
15 promote their underlying purpose of protecting the public
16 health.

17
18 **1.2 DEFINITIONS**

19
20 **1.2.A. APPROVED** shall mean acceptable to the
21 Department based on its determination as to conformance
22 with appropriate standards and good public health practice.

23
24 **1.2.B. BED AND BREAKFAST** is a unique Food
25 Establishment where the general public can stay overnight
26 and are provided with a "limited menu," serving only a
27 breakfast meal. This meal can be either a full or
28 continental breakfast. Unlike other Food Establishments,
29 the meal is prepared in the private home. Licenses are
30 required for anyone renting one or more room(s) and
31 serving food.

32
33 **1.2.C. BOTTLE CLUB** means any place operating, on a
34 regular basis, for social activities in which members or
35 guests provide their own alcoholic beverages, and where
36 no alcoholic beverages are sold on the premises.

37
38 **1.2.D. CATERING** means preparing food for pre-arranged
39 events, and a license is required.

40
41 **1.2.D.a. CATERING ESTABLISHMENTS** means any
42 kitchen, commissary or similar place in which food or drink
43 is prepared for sale or service elsewhere or for food
44 service on the premises during special catered events. For
45 clarification, catering establishments are licensed to
46 prepare food at a specific location, yet the food is prepared
47 for a pre-arranged event at another location and the food
48 may be served anywhere the event is held.

49 **1.2.E. CAMPING** is an activity where people provide their
50 own shelter of a temporary form including but not limited to
51 tents, recreational vehicle (RV) campers, or sleeping bags.

52
53 **1.2.E.a CAMPGROUND** means a parcel of land where
54 camping takes place and contains 5 or more sites in any
55 combination. Specific requirements are contained in Rules
56 Relating to Campgrounds (10-144 CMR 205). At any such
57 campground the sites are intended for temporary

58 occupancy for recreational purposes only, and not for
59 permanent year-round residency. A campground excludes
60 recreational camps as defined herein.

61
62 **1.2.F. CERTIFIED FOOD PROTECTION MANAGER**
63 means a person that is an on-site employee designated by
64 the management of that establishment with the authority to
65 implement food protection measures, who meets the
66 certification requirements of section 2.1.

67
68 **1.2.G. COMMISSARY** means a catering establishment,
69 restaurant, or any other place in which food, containers or
70 supplies are kept, handled, prepared, packaged or stored.

71
72 **1.2.H. COMMISSIONER** means the Commissioner of the
73 Department of Human Services.

74
75 **1.2.I. CORROSION-RESISTANT MATERIALS** means
76 those materials that maintain their original surface
77 characteristics under prolonged influence of the food to be
78 contacted, the normal use of cleaning compounds and
79 bactericidal solutions, and other normal uses.

80
81 **1.2.J. COTTAGE** means a single structure where sleeping
82 accommodations are furnished to the public as a business
83 for day, week or month, but not for more than the entire
84 summer season.

85
86 **1.2.J. CRITICAL ITEM** means a provision of these rules
87 that, if in noncompliance, is more likely than other
88 violations to contribute to contamination, illness, or
89 environmental health hazard. Critical items relate directly to
90 factors which lead to illness and must receive immediate
91 attention and be corrected as soon as possible. Operators
92 of establishments with critical violations shall notify the
93 Department when corrections have been made. Critical
94 items may include but are not limited to the following:

95
96 **1.2.J.1.** Food from an unapproved or unknown source, or
97 food which is or may be adulterated, contaminated, or
98 otherwise unfit for human consumption is found in a food
99 service establishment;

100
101 **1.2.J.2.** Potentially hazardous food that is held longer than
102 necessary for preparation or service at a temperature
103 between 41°F and 140°F;

104
105 **1.2.J.3.** Insufficient facilities to maintain product
106 temperature;

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1	1.2.J.4. Re-service of potentially hazardous food or	58	
2	unwrapped food that has been previously served to	59	1.2.L. DEMERIT means a number indicating the
3	customers;	60	seriousness of a violation from a public health and safety
4		61	standpoint. The most serious violations are 5-point
5	1.2.J.5. A person infected with a communicable disease	62	demerits and the least serious are 1-point demerits, based
6	that can be transmitted by food is working as a food	63	on the U.S. Food and Drug Administration 1999 Model
7	handler in a food service establishment;	64	Food Code.
8		65	
9	1.2.J.6. A person not practicing strict standards of	66	1.2.M. DEPARTMENT means the Department of Health
10	cleanliness and personal hygiene which may result in the	67	and Human Services.
11	transmission of illness through food, is employed in a food	68	
12	service establishment;	69	1.2.N. DORMITORY means a room in any establishment
13		70	used for sleeping purposes by four (4) or more unrelated
14	1.2.J.7. Equipment, utensils and, food-contact surfaces are	71	persons.
15	not cleaned and sanitized effectively and may contaminate	72	
16	food during preparation, storage or service;	73	1.2.O. EASILY CLEANABLE means that surfaces are
17		74	readily accessible and made of such materials and finish
18	1.2.J.8. Sewage or liquid waste is not disposed of in an	75	and so fabricated that residue may be effectively removed
19	approved and sanitary manner, or the sewage or liquid	76	by normal cleaning methods.
20	waste may contaminate any food, areas used to store or	77	
21	prepare food, or any areas frequented by customers or	78	1.2.P. EATING AND LODGING PLACES OR LODGING
22	employees [Regulated under the Maine Subsurface	79	PLACES means every building or structure or any part
23	Wastewater Disposal Rules, 10 CMR 241, or the Maine	80	thereof kept, used as, maintained as, advertised as or held
24	Internal Plumbing Code, 10 CMR 238];	81	out to the public to be, a place where eating and sleeping
25		82	accommodations or sleeping accommodations are
26	1.2.J.9. Toilets and facilities for washing hands are not	83	furnished to the public as a business such as hotels,
27	provided, properly installed or designed, accessible or	84	motels, guest homes, cottages, and bed and breakfast.
28	convenient;	85	
29		86	1.2.Q. EATING ESTABLISHMENT means any place where
30	1.2.J.10. The supply of water is not from an approved	87	food or drink is prepared and served, or served to the
31	source or is not under pressure and the food service	88	public for consumption on the premises, or catering
32	establishment does not use single service articles and/or	89	establishments or establishments dispensing food from
33	bottled water from an approved source [Regulated under	90	vending machines, or establishment preparing foods for
34	Rules Relating to Drinking Water, 10 CMR 231];	91	vending machines dispensing foods other than in original
35		92	sealed packages, such as hotels, motels, boarding homes,
36	1.2.J.11. A defect exists in the system supplying potable	93	restaurants, mobile eating places, coffee shops, cafeterias,
37	water that may result in the contamination of the water;	94	short order cafes, luncheonettes, grills, tearooms,
38		95	sandwich shops, soda fountains, bars, cocktail lounges,
39	1.2.J.12 Plumbing not installed by a licensed master	96	night clubs, roadside stands, industrial feeding
40	plumber, and/or without the proper permits and/or not	97	establishments, private or public institutions routinely
41	inspected by the Local Plumbing Inspector shall be	98	serving foods, retail frozen dairy product establishments,
42	considered defective.	99	airports, parks, theaters, vacation camps or any other
43		100	catering or nonalcoholic drinking establishments or
44	1.2.J.13. Insects, rodents or other animals are present on	101	operations where food is prepared and served or served
45	the premises in such numbers as to increase the risk of	102	for consumption on the premises, or catering
46	communicable disease being transmitted to the public.	103	establishments where food is prepared, or where foods are
47		104	prepared for vending machines dispensing food other than
48	1.2.J.14. Toxic items are improperly labeled, stored or	105	in original sealed packages.
49	used; or	106	
50		107	1.2.R. EMPLOYEE means any person working in a
51	1.2.J.15. Any other violation of these regulations which has	108	regulated establishment, and shall include the proprietor
52	the potential to seriously affect the public health.	109	or manager or any member of his family, as well as any
53		110	other person employed in or about the regulated
54	1.2.K. DELEGATED COMMUNITY means a city, town, or	111	establishment.
55	plantation in Maine that has applied for, and received	112	
56	authorization from the Department to conduct eating place	113	1.2.S. EMPLOYER means the license holder or
57	inspections pursuant to 22 M.R.S.A. § 2499.	114	individual(s) having supervisory or management duties.

Rules Relating to the Administration and Enforcement of Establishments
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1	58	
2	59	1.2.T. EQUIPMENT means stoves, ovens, ranges, hoods, slicers, meat blocks, tables, counters, mixers, refrigerators, sinks, dishwashing machines, steam tables, and similar items, autoclave, forceps, epilators, safety razor, other than utensils, used in the operation of an establishment licensed by the Department under these rules.
3	60	
4	61	
5	62	
6	63	
7	64	
8	65	
9	66	1.2.U. 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.
10	67	
11	68	
12	69	
13	70	1.2.V. FOODBORNE DISEASE OUTBREAK means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.
14	71	
15	72	
16	73	
17	74	1.2.W. FOOD CONTACT SURFACE means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.
18	75	
19	76	
20	77	
21	78	
22	79	
23	80	1.2.X. FOOD HANDLER means any person employed or working in a food service establishment who handles food and/or drink during preparation or serving, or who comes in contact with any eating, drinking or cooking utensils, or who works in a room or rooms in which food or drink is prepared, served, or stored.
24	81	
25	82	
26	83	
27	84	
28	85	
29	86	
30	87	1.2.Y. FOOD SERVICE ESTABLISHMENT means an establishment licensed by the Department under these rules and serves food.
31	88	
32	89	
33	90	
34	91	1.2.AA. HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) means a systematic evaluation of food preparation procedures to identify opportunities for bacterial contamination and growth. From this perspective a public health sanitarian may then determine those circumstances which could result in the development of foodborne diseases.
35	92	
36	93	
37	94	
38	95	
39	96	
40	97	
41	98	
42	99	1.2.BB. HERMETICALLY SEALED CONTAINER means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.
43	100	
44	101	
45	102	
46	103	
47	104	1.2.CC. IMMINENT HEALTH HAZARD includes but is not limited to (1) an extended loss of water supply, (2) an extended power outage, (3) flood water or sewer back-up into the establishment, (4) three or more repeat critical violations, (5) 15 or more single demerit violations or (6) any other violation(s) that has/have the potential to pose an imminent threat to public health. Failure to include other violations in this definition shall not be construed as a determination that other violations may not, in light of the circumstances, be found to pose an imminent health hazard.
48	105	
49	106	
50	107	
51	108	
52	109	
53	110	
54	111	
55	112	
56	113	
57		
		1.2.DD. INSPECTION means an official examination or review of an establishment licensed by the Division of Health Engineering, Eating and Lodging Program. The types of inspection conducted include: 1) Pre-operational, 2) Routine Compliance, 3) Follow-up, and 4) Complaint.
		1.2.EE. KITCHENWARE shall mean all multi-use utensils, other than tableware, used in the storage, preparation, conveying or serving of food.
		1.2.FF. LAW includes Federal, State, and local statutes, ordinances, and regulations.
		1.2.GG. LODGING PLACE means every building or structure, or any part thereof, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for business purposes. The term includes, but not by way of limitation, hotels, motels, guest homes and cottages, wherein the owner customarily maintains the sleeping accommodations. For purposes of these rules, lodging place does not include rooming houses or tenancies-at-will.
		1.2.HH. MANAGER means any person, 18 years or older, who operates or is responsible for operating an establishment.
		1.2.II. MOBILE EATING PLACE shall mean a mobile vehicle designed and constructed to transport, prepare, sell or serve food at a number of sites and shall be capable of being moved from its serving site at any time. For purposes of these rules, a mobile unit is interpreted to mean that it can be readily moved in order to be cleaned frequently and on a regular basis.
		1.2.JJ. PACKAGED means bottled, canned, cartoned, or securely wrapped.
		1.2.KK. PERSON includes any individual, partnership, corporation, association, or other legal entity.
		1.2.LL. PERSON IN CHARGE means the individual present in a food service establishment who is the apparent supervisor of the establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.
		1.2.MM. POTENTIALLY HAZARDOUS FOODS means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or their ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods which

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1	have a pH level of 4.6 or below or a water activity (a_w)	57	1.2.XX. SALAD BAR UNIT means a refrigerated unit or
2	value of 0.85 or less.	58	properly drained ice-filled unit where food is displayed for
3		59	consumer self-service.
4	1.2.NN. PRIVATE FACILITY is a facility funded by an	60	
5	individual, partnership or corporation, and which is not a	61	1.2.YY. SANITARIAN means a person whose education
6	public facility.	62	and experience in the biological and sanitary sciences
7		63	qualify him/her to engage in the promotion and protection
8	1.2.OO. PROPRIETOR shall mean any person, 18 years	64	of the public health. A sanitarian applies technical
9	or older, corporation, firm, organization, municipality or	65	knowledge to solve problems of a sanitary nature and
10	partnership who operates or is responsible for operating a	66	develops methods and carries out procedures for the
11	eating establishment or eating and lodging place.	67	control of these factors of man's environment which affect
12		68	health, safety and the well-being of others.
13	1.2.PP. PUBLIC FACILITY is any facility funded in whole or	69	
14	part by municipal, state or federal funds. These facilities	70	1.2.ZZ. SANITIZATION means effective bactericidal
15	shall include but not be limited to public schools, state	71	treatment by a process that provides enough accumulative
16	controlled universities, mental and correctional facilities,	72	heat or concentrations of chemicals for a time sufficient to
17	etc.	73	reduce the bacterial count including pathogens, to a safe
18		74	level on food contact surfaces of utensils and equipment.
19	1.2.QQ. RECREATIONAL CAMP means a day camp, boys'	75	
20	and girls camp, family, hunting, fishing, and similar camps.	76	1.2.AAA. SCHOOL FEEDING (SATELLITE) means a
21	For purposes of this definition, recreational camps	77	school facility that receives food items, prepared at a
22	generally do not include summer sports programs	78	separate location, for final assembly, rethermalization
23	overseen by employees or volunteers of municipalities and	79	(reheating) and service.
24	educational institutions when the activities generally take	80	
25	place at the municipal or institution property and buildings.	81	1.2.BBB. SEALED shall mean free of cracks or other
26		82	openings which permit the entry or passage of moisture,
27	1.2.RR. RECREATIONAL VEHICLE (RV) PARK means a	83	and bacterial, viral, or chemical contaminants.
28	campground that permits the use of RVs where an RV	84	
29	consists of a recreational shell mounted upon a wheel	85	1.2.CCC. SERVICING AREA means a designated location
30	mounted vehicle permanently, or towed behind a	86	or locations equipped for cleaning, sanitizing or drying
31	motorized vehicle. An RV park is designed for seasonal	87	equipment, utensils and product modules.
32	sites or temporary occupancy and not for permanent	88	
33	residency.	89	1.2.DDD. SINGLE-SERVICE ARTICLES shall mean cups,
34		90	containers, lids, closures, plates, knives, forks, spoons,
35	1.2.SS. RECONSTITUTED means dehydrated food	91	stirrers, paddles, straws, placemats, napkins, doilies,
36	products recombined with water or other liquids.	92	wrapping materials, toothpicks and similar articles which
37		93	are constructed wholly or in part from paper, paper board,
38	1.2.TT. REGULATED ESTABLISHMENT means an	94	molded pulp, foil, wood, plastic, synthetic, or other readily
39	establishment that is required to be licensed and/or	95	destructible materials, and which are designed by the
40	inspected for compliance by the Department. Regulated	96	manufacturers and generally used by the public as for one-
41	establishments shall display the license at their place of	97	time, one-person use and then discarded.
42	sale or service.	98	
43		99	1.2.EEE. TABLEWARE shall mean all multi-use eating and
44	1.2.UU. REPEAT VIOLATION means a violation	100	drinking utensils, including flatware (knives, forks, spoons,
45	determined and recorded during a previous inspection.	101	dishware).
46		102	
47	1.2.VV. SAFE TEMPERATURES, as applied to potentially	103	1.2.FFF. TEMPORARY FOOD SERVICE
48	hazardous food, means temperatures of 41° F or below	104	ESTABLISHMENT shall mean a food service
49	(for cold food) and 140° F or above (for hot foods) unless	105	establishment that operates at a fixed location for a period
50	otherwise specified in these regulations, and 0°F or below	106	of time of not more than 14 consecutive days in
51	for frozen foods.	107	conjunction with a single event or celebration.
52		108	
53	1.2.WW. SALAD BAR OPERATION means an area or	109	1.2.GGG. UTENSIL shall mean any tableware and
54	areas where cold salads and/or salad ingredients are	110	kitchenware used in the storage, preparation, conveying,
55	prepared, stored and displayed for consumer self-service.	111	or serving of food.
56		112	

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1 1.2.HHH. VENDING MACHINE shall mean any self-service
2 device offered for public use which, upon insertion of a
3 coin, coins or token or by other similar means, dispenses
4 unit servings of food other than in original sealed packages
5 without the necessity of replenishing the device between
6 vending operations.
7
8 1.2.III. VENDING MACHINE ESTABLISHMENT means
9 any establishment preparing foods for vending machines
10 dispensing foods other than in original sealed packages.
11
12 1.2.JJJ. VIOLATION means a critical, non-critical, or
13 routine item of non-compliance with any rule. A critical
14 item means a provision of these rules that, if in
15 noncompliance, is more likely than other violations to
16 contribute to contamination, illness, or environmental
17 health hazard.
18 1.2.KKK. WILDERNESS RECREATIONAL PARK means
19 recreational park containing only primitive sites and
20 adhering to the rules of same.
21
22 1.2.LLL. YOUTH CAMP means a combination of program
23 and facilities established for the primary purpose of
24 providing an outdoor group living experience for children
25 with social, recreational, spiritual, and educational
26 objectives and operated and used for five or more
27 consecutive days during one or more seasons of the year.
28 Youth camps include day camps, residential camps and
29 trip and travel camps. Rules Relating to Boys, Girls, Boys
30 and Girls, Day Camps, and Primitive and Trip Camping
31 provide specific information (10-144 CMR 208).
32
33 SECTION 2 CERTIFICATION OF PERSONNEL
34
35 2.1 CERTIFIED FOOD PROTECTION MANAGERS
36
37 2.1.A. The Department of Human Services recognizes that
38 the storage, preparation and service of food for the public
39 requires a certain minimal knowledge of sanitation
40 principles and practices. A Certified Food Protection
41 Manager should have or should acquire the training
42 necessary to follow proper sanitary practices for the health
43 risk associated with the specific eating establishment.
44 Knowledge of these principles and practices can be
45 demonstrated by becoming certified.
46
47 2.1.B. Each eating establishment should employ at least
48 one Certified Food Protection Manager who is an on-site
49 employee designated by the management of that
50 establishment with the authority to implement food
51 protection measures.
52
53 2.1.C. In the State of Maine, the following will be accepted
54 as meeting the requirements for certification.
55
56 2.1.A.1. Having written proof of completion of specialized
57 training in the preparation and serving of safe food, such

58 as the ServSafe[®] training courses from the National
59 Restaurant Association Educational Foundation, or
60 equivalent and receiving a passing grade on a competency
61 test, approved by the National Conference for Food
62 Protection (CFP). Such Certified Food Protection Manager
63 Certification shall be renewed through re-training and re-
64 testing every 5 years or as required by standards adopted
65 by the Department.
66
67 2.1.A.2. When considering the certification of Food
68 Protection Managers in low health risk establishments,
69 such as those not preparing potentially hazardous foods,
70 or for certain mobile eating establishments; and for certain
71 medium risk establishments, the Department may establish
72 testing procedures and other requirements to establish and
73 determine acceptable credentials.
74
75 2.1.B. Establishments requiring two repeat inspections due
76 to multiple critical violations may be required to employ
77 additional Certified Food Protection Managers.
78
79 2.1.C. Nothing in these rules precludes the Department
80 from requiring an eating establishment, as part of a
81 compliance action, to hire on a less than full-time basis and
82 outside, or third-party consultant who would provide
83 recommendations a food safety consultant

SECTION 3 DELEGATION OF RESTAURANT
INSPECTION DUTIES TO MUNICIPALITIES

84
85
86
87
88
89 3.1 Pursuant to 22 M.R.S.A. § 2499 the Department may
90 delegate restaurant inspection duties to municipalities.
91
92 3.1.A. In delegated municipalities, the Department
93 continues to be the licensing authority, and may issue a
94 license to establishments on the basis of an inspection
95 performed by an inspector who works for and is
96 compensated by the municipality in which such
97 establishment is located
98
99 3.1.B. The following conditions must be met:
100
101 3.1.B.1 The municipality holding or requesting to hold such
102 delegation has adopted rules through an ordinance
103 consistent with the Maine Food Code.
104
105 3.1.B.2. No municipally employed sanitarians shall make
106 inspections under the provisions of this chapter unless
107 certified as qualified by the Commissioner of Human
108 Services. Such certification will be determined through
109 formal and informal training and education, and other such
110 criteria as the Department may determine.
111
112 3.1.B.3. For quality control purposes, the Department may
113 from time to time inspect such municipally inspected
114 establishments to ascertain that the intent of these statutes

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1 is being followed. Pursuant to Maine law, the municipalities
2 may not charge the Department for performing such
3 inspections.
4
5 3.1.B.4. The municipalities shall furnish to the Department,
6 electronically, if possible, copies of its inspection reports
7 relating to said inspections on a monthly basis.
8
9 3.1.B.5. The municipalities are responsible to ensure that
10 all eating places within their jurisdiction apply for a State
11 license. Failure of an establishment to operate without the
12 necessary State license will result in the eating place being
13 assessed an administrative fine as specified in these rules.
14 Pursuant to 22 M.R.S.A. §2498, the Department retains its
15 right to pursue other sanctions against non-licensed eating
16 places including seeking injunctive relief to enjoin further
17 violations.
18
19 3.1.B.6. When a license is issued on the basis of a
20 municipal inspection as specified in this section, the
21 requirement for payment of a license fee to the Department
22 as set forth in section 4.1.D is waived pursuant to 22
23 M.R.S.A. § 2499. In lieu of the prescribed fee the licensee
24 shall pay the Department a sum not to exceed the fee for
25 delegated municipalities indicated in Table 1, Fee
26 Schedule.
27
28 3.1.B.7. Licenses issued by the Department under 22
29 M.R.S.A. § 2499 must be displayed, renewed and in every
30 other way treated the same as licenses issued under this
31 chapter on the basis of inspection by the Department.
32
33 3.1.B.8. Pursuant to 22 M.R.S.A. § 2499, the certification of
34 municipally employed sanitarians shall be in accordance
35 with standards set by the Department and shall be for a
36 period of 3 years.

38 3.1.B.9. The eating establishment inspection delegation
39 shall be reviewed by the Department every three years for
40 staff competency, enforcement/compliance status,
41 inspection practices, and routine reporting to the
42 Department.
43
44 3.2. FOOD OUTBREAK PROTOCOLS. In the event of
45 food borne disease outbreaks, upon learning of same, the
46 delegated municipalities shall immediately contact the
47 State of Maine, Bureau of Health. Authority for this
48 requirement is contained in Rules for the Control of
49 Notifiable Conditions, 10-144 CMR Ch. 258 which governs
50 the reporting of certain diseases, clusters of unusual cases
51 of a disease or outbreaks of a disease, epidemics, and
52 extreme public health emergencies.

SECTION 4 LICENSING PROCEDURES

4.1. LICENSES

4.1.A. License required:

4.1.A.1. No person, corporation, firm or co-partnership may
conduct, control, manage or operate, for compensation,
directly or indirectly, any eating establishment, eating and
lodging place, lodging place, recreational camp,
campground, or recreational vehicle park unless the
establishment is licensed by the Department. Licenses
issued must be displayed in a place readily visible to
customers or other persons using a licensed
establishment.

**TABLE 1
FEE SCHEDULE**

ESTABLISHMENT TYPE	Base Fee	Add On Fee	Maximum Fee
Eating Place	\$45.00	3.00 per seat	\$150
Eating and Lodging Place	\$45.00	3.00 per seat; 2.00 per room	\$150
Mobile Eating Place	\$60.00	None	\$150
Vending Machine	\$45.00	None	\$150
Eating Place/Vend Mach	\$45.00	\$3.00 per seat	\$150
Catering Establishment	\$75.00	None	\$150
Temporary Food Service	\$45.00	None	\$150
Vending Machine Commissary	\$75.00	None	\$150
Lodging Place	\$45.00	\$2.00 per room	\$150
Bed & Breakfast	\$45.00	\$2.00 per room	\$150
Cottages	\$45.00	\$3.00 per cottage	\$150
Campground	\$55.00	\$100 per site/cabin \$3.00 per cottage	\$150
Temporary Campground	\$125.00	None	\$150
Agricultural Fair	\$125.00	None	\$150

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Compressed Air	\$10.00	None	\$150
Eating Place and Caterer	\$45.00	\$3.00 per seat	150
Bottle Club	\$45.00	\$3.00 per seat	\$150
Jails	\$50.00	None	\$150
School Feed Satellite	\$100.00	None	\$150
Mass Gathering	\$100.00- \$750.00	None	\$750
Youth Camp: Residential Youth	\$90.00		\$150
Day Camp or Trip & Travel	\$45.00		\$150
Soup Kitchens	\$50.00	None	\$150
Tattoo, and/or Body Piercing	\$50.00- \$75.00		\$50-\$75
Micropigmentation	\$50.00	None	\$50
Electrology	\$50.00	None	\$50
Retail Tobacco	\$50.00	None	\$50
School Feeding	\$100.00	None	\$150
School Feed and Cater	\$100.00	None	\$150
Vending Machine Location	\$5.00	None	\$150
Senior Citizen Meal Satellite	\$30.00	None	\$150
Takeout Eating Place	\$75.00		\$150
Senior Citizen Meal Commissary	\$40.00	None	\$150
Sporting Camp or other non-youth Recreational Camp	\$75.00		\$150

MISCELLANEOUS FEES PER ESTABLISHMENT

Fee for delegated municipalities	\$60.00	NOTE: Pursuant to Title 22 M.R.S.A. § 2501, Nonprofit organizations including, but not limited to, 4-H Clubs, scouts and agricultural societies shall be exempt from department rules and regulations relating to dispensing foods and nonalcoholic beverages at not more than 12 public events or meals within one calendar year. For the purposes of these rules, 12 public events are interpreted to mean monthly, but in no case more than 12 events per year. In those instances, the establishment shall be licensed as provided in these rules.
Reprint license	\$10.00	
Late renewal	\$25.00	
Non profit /courtesy inspection	\$15.00	
Holding fee (e.g., late water analyses)	\$10.00	
Additional inspection (beyond 3)	\$35.00	
Application submitted within 30 days of license issue (i.e., applicant's request)	\$25.00	

1
2 4.1.A.3. A Lodging license is required for any person or 22 the proper fee. Applications shall be submitted at least 30
3 entity which rents out four or more rooms or cottages. 23 days in advance of opening.
4
5 4.1.B. Any person, corporation, firm or co-partnership 25 4.1.C.2. No such fee may be refunded. Should the
6 desiring a license shall submit satisfactory evidence of his, 26 applicant make an overpayment, the excess payment shall
7 her or its ability to comply with the minimum standards of 27 be applied to the next year's license fee. No license may
8 these rules which may include documenting the adequacy 28 be assignable or transferable. The Department may assign
9 of any private wastewater disposal system and/or the 29 multiple licenses for establishments with multiple functions,
10 quality of the drinking water. 30 such as a hotel and a restaurant in that hotel.
11
12 4.1.C. Each application for, or for renewal of an annual 32 4.1.C.3. License fees established herein provide for the
13 license to operate an eating establishment, eating and 33 license, two (2) routine and/or preoperational inspections
14 lodging place, campground, or recreational 34 and one (1) follow-up inspection. When additional
15 camp shall be accompanied by a fee, appropriate to the 35 inspections are required to determine an applicant's
16 size of the establishment, not to exceed \$150. Table 1 36 eligibility for licensure, the Department may charge an
17 provides a schedule for these fees. 37 additional \$35 fee to cover the costs of each additional
18 inspection or visit. Failure to pay such charges within 30
19 4.1.C.1. Application submittal. Each request for a license 39 days of the billing date shall constitute grounds for
20 shall be submitted on an application designed for that 40 revocation of the license.
21 purpose. Each license application shall be accompanied by 1

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1 4.1.D. The specific annual license fees are shown in Table 57
2 1, Fee Schedule. 58
3 59
4 4.1.E. The fee for eating establishments in municipalities 60
5 that have received a valid delegation is a flat fee of \$60.00 61
6 regardless of the number of seats. This fee shall apply 62
7 only to those eating establishments which the municipality 63
8 inspects for conformance with these rules or equivalent 64
9 municipal rules or ordinances. All other establishments, 65
10 such as lodging, campgrounds, etc., must pay the full fee 66
11 as listed in the above Table 1. 67
12 68
13 4.2 ISSUANCE OF LICENSES 69
14 70
15 4.2.A. New licenses: When any applicant is found, based 71
16 upon an inspection by the Department or by municipal 72
17 inspection, not in compliance with the requirements of 73
18 departmental regulations the Department may refuse 74
19 issuance of the initial (first-time) license, but shall issue a 75
20 conditional license for up to 90 days, except when 76
21 conditions are found which present a serious danger to the 77
22 health and safety of the public. An example of such is the 78
23 presence of any critical violation found during a pre- 79
24 operational inspection. Failure by the conditional licensee 80
25 to meet the conditions specified by the Department shall 81
26 permit the Department to void the license. Should the 82
27 establishment continue to operate without a valid license, 83
28 the penalties set forth in Section 4.4, Penalties, shall be 84
29 administered. 85
30 86
31 4.2.A.1 In order to determine the suitability of the applicant 87
32 for licensing, in conformity with the provisions of the 88
33 statutes of the State of Maine, and rules promulgated 89
34 hereunder, each applicant shall provide to the Department 90
35 or to any properly delegated municipality, such information 91
36 as the Department (or municipality) may require. Such 92
37 information may include but is not limited to the following: 93
38 (1) a floor plan for review of newly constructed or 94
39 extensively renovated establishments; (2) a site plan for 95
40 review of newly constructed or expanded campground 96
41 operations; (3) written approval statements relative to 97
42 plumbing, water supply, waste disposal, and compliance 98
43 with state and/or municipal codes, (4) a copy of the curren 99
44 lease, and (5) any transfer agreements for new ownership. 100
45 101
46 4.2.B. Renewal of licenses: The Department shall, within 102
47 30 days following receipt of application, and the prescribed 103
48 fee, issue an annual license to operate any eating 104
49 establishment, eating and lodging place, lodging place, 105
50 youth camp, sporting camp, or camping area, which is 106
51 found to comply with the rules and regulations of the 107
52 Department. If any such establishment is not in 108
53 compliance, the Department may apply conditions to such 109
54 renewal, dependant upon the violations and how long they 110
55 have been present. 111
56 112
113 4.2.B.1 All establishment licenses shall be renewed
annually (except for Micropigmentation Practitioner) upon
payment of a fee, and compliance with Maine statutes,
rules and/or regulations thereunder. No license granted as
such will be transferable or assignable.
4.2.B.2. The Department shall charge a \$10.00 fee for
each reprint license, such as those with lost licenses,
name changes, or multiple locations.
4.2.B.3. Any operating establishment applying for a
renewal within the 30 day period as specified in section
4.1.C.1. shall be charged a fee of \$25.00 in addition to the
annual license fee. The Department has the prerogative to
seek additional fines as authorized by statute and these
rules, should the establishment continue operation without
renewal of the license(s).
4.2.B.4. For establishments licensed by the Department in
a delegated community, the Department may charge a \$60
fee for each state inspection.
4.2.B.5. Unlicensed non-profit establishments requesting a
courtesy inspection may be charged a \$15 fee for each
inspection.
4.2.C. The issuance of the license does not provide
exemption from other state or local laws, ordinances or
regulations, notwithstanding any other provision of law.
4.2.D. Licenses erroneously issued by the Department
shall be deemed to have been issued in error and are void
and shall be returned to the Department on demand in a
notice delivered by hand or by certified mail to the licensee.
For cause, the Department may revoke or suspend any
license.
4.2.E. The Department may charge a \$10 fee for all
licenses put on "hold" or otherwise set aside and not
issued due to instances such as an incomplete application
such as 1) a missing or late water test, 2) a previously
failed inspection, 3) an uncorrected critical violations, and
4) similar circumstances.
4.3 SUSPENSION OR REVOCATION: APPEALS
4.3.A. When the Department believes a license should be
suspended or revoked, it shall file a complaint with the
District Court in conformity with the Maine Administrative
Procedure Act. A person aggrieved by the refusal of the
Department to issue a license may request a hearing in
conformity with the Maine Administrative Procedure Act.
4.3.B. Whenever, upon inspection, conditions are found
which violate these rules, or which may be an immediate
threat to the public health, safety or welfare, or endanger
the life, health or safety of persons living in or attending

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1 any licensed establishment, the Department may request 58
2 an emergency suspension of license by the District Court 59
3 pursuant to Title 4, §184, and the court may grant 60
4 suspension subject to reinstatement following a hearing 61
5 before the court if cause is not shown. 62
6 63
7 4.3.C. Upon issuance of an order revoking or suspending 64
8 license under this section, the Department shall promptly 65
9 request District Court to schedule an expedited hearing on 66
10 the agency's complaint. Any order temporarily suspending 67
11 or revoking a license expires within 30 days of issuance 68
12 unless renewed by the court after such hearing as it may 69
13 determine necessary. 70
14 71
15 4.4. PENALTIES 72
16 73
17 4.A. Any person, corporation, firm or co-partnership who 74
18 shall operate any eating establishment, eating and lodging 75
19 place, lodging place, youth camp, sporting camp, or 76
20 camping area without first obtaining a license as required 77
21 shall, upon conviction thereof, be punished by a fine of not 78
22 less than \$25 nor more than \$200 and upon 2nd or 79
23 subsequent conviction, shall be punished by a fine of not 80
24 less than \$100. Each day any such person, corporation, 81
25 firm or co-partnership operates without obtaining a license 82
26 shall constitutes a separate offense. In the event of any 83
27 violation of these rules or 22 M.R.S.A. §2491-2501, the 84
28 Attorney General may seek to enjoin further violations 85
29 thereof, in addition to any other remedy. 86
30 87
31 4.4.B All such fees are for the license, two licensure 88
32 inspections and one follow-up inspection. When additional 89
33 inspections are required to determine an applicant's 90
34 eligibility for licensure, the department may charge an 91
35 additional \$20 fee to cover the costs of each additional 92
36 inspection or visit. Failure to pay such charges within 30 93
37 days of the billing date shall constitute grounds for 94
38 revocation of the license, unless an extension for a period 95
39 not to exceed 60 days is granted in writing by the 96
40 commissioner. 97
41 98
42 4.5 INSPECTIONS 99
43 100
44 4.5.A The Department and any duly designated officer or 101
45 employee of the Department shall have the right, without 102
46 an administrative inspection warrant, to enter upon and 103
47 into the premises of any establishment licensed at any 104
48 reasonable time in order to determine the state of 105
49 compliance with any rules in force. 106
50 107
51 4.5.A.1. Such right of entry and inspection shall extend to 108
52 any premises which the Department has reason to believe 109
53 is being operated or maintained without a license, but no 110
54 such entry and inspection of any premises may be made 111
55 without the permission of the owner or person in charge 112
56 unless a search warrant is obtained authorizing entry and
57 inspection.

4.5.A.2. Inspections of a routine compliance nature shall be carried out at a frequency established based on risk as specified in section 4.8.

4.5.B. The inspector shall note any violations of these rules and leave a copy of the report at the establishment. Additionally, should the establishment fail the inspection, the inspector shall inform the person in charge of the administrative remedies stated within these rules, and leave a copy of such information with the report. A copy of the most recent inspection report shall be maintained at the establishment and the establishment shall post a notice advising patrons that a copy of the most recent inspection report is available for review by interested parties (sample attached).

4.5.C. Each violation of these rules is assigned a 1 to 5-point demerit value.

4.5.C.1. A 5-point demerit value is considered the most serious violation. Critical violations are 4 or 5-point demerit violations.

4.5.C.2. Violations of 4 and 5-point demerit items shall be corrected as soon as possible but in any event within 10 days.

4.5.C.3. Violations of 1 and 2-point demerit items shall be corrected before the next routine inspection.

4.5.C.4. Establishments which receive more than three, critical item violations or risk factor violations or ten or more non-critical item violations shall be asked to close immediately and be scheduled for a follow-up inspection prior to reopening. Failure to satisfactorily correct these violations before the follow-up inspection may result in any or all of the following action by the Department

4.5.C.4.a. Release of information on the results of the inspection of to the news media.

4.5.C.4.b. Start of license revocation proceedings in District Court.

4.5.C.4.c. Refusal to renew the license.

4.5.D INSPECTION FAILURE. A failed inspection shall be deemed by any of the following:

4.5.D.1. Not achieving a score of 80 or higher.

4.5.D.2. Receiving more than 3 critical violations (4 and 5 point items).

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1	4.5.D.2. Receiving more than 10 non-critical item	58	4.8.B. Risk categories
2	violations 4.5.D.3. Operating while serving drinking water	59	
3	that is deemed not potable.	60	4.8.B.1. High-risk establishment. A High-risk
4		61	establishment is any eating or beverage service
5	4.6 EXAMINATION AND CONDEMNATION OF FOOD	62	establishment that:
6		63	
7	4.6.A. Food may be examined or sampled by the	64	(1) serves potentially hazardous foods that require
8	Department as often as necessary for enforcement of the	65	extensive processing on the premises, including manual
9	rules. The Department may, upon written notice to the	66	handling, cooling, reheating, or holding for service;
10	owner or person in charge, specifying with particularity the	67	
11	reasons thereof, place a hold order on any food that it	68	(2) prepares foods several hours or days before service;
12	believes is in violation of any section of the rules. The	69	
13	Department shall tag, label, or otherwise identify any food	70	(3) serves menu items that epidemiologic experience has
14	subject to the hold order. No food subject to a hold order	71	demonstrated to be common vehicles of food-borne illness;
15	shall be used, served, or moved from the establishment.	72	
16	The Department shall permit storage of the food under	73	(4) has a public swimming pool; and/or
17	conditions specified in the hold order, unless storage is not	74	
18	possible without risk to the public health, in which case	75	(5) obtains its drinking water from a surface water supply.
19	immediate destruction shall be ordered and accomplished.	76	
20	The hold order shall state that a request for hearing may	77	(6) has a history of critical item violations, or risk factor
21	be filed in writing within 10 days and that if no hearing is	78	violations and/or non-critical item violations or good retail
22	requested the food shall be destroyed. If a request for	79	practices violations that increase the risk of food borne
23	hearing is received, the hearing shall be held within 20	80	disease.
24	days after receipt of the request. On the basis of evidence	81	
25	produced at the hearing, the hold order may be vacated, or	82	4.8.B.2. Medium-risk establishment. A Medium-risk
26	the owner or person in charge of the food may be directed	83	establishment is any eating or beverage service
27	by written order to denature or destroy such food or to	84	establishment that:
28	bring it into compliance with the provisions of this	85	
29	ordinance.	86	(1) serves potentially hazardous foods but with minimal
30		87	holding between preparation and service; and/or
31	4.7 PROCEDURE WHEN INFECTION IS SUSPECTED	88	
32		89	(2) serves foods, such as pizza, that require extensive
33	4.7.A. When the Department has reasonable cause to	90	handling followed by heat treatment.
34	suspect possible disease transmission by an employee of	91	
35	a food service establishment, it may secure a morbidity	92	4.8.B.3. Low-risk establishment. A Low-risk establishment
36	history of the suspected employee or make any other	93	means an eating or beverage service establishment that is
37	investigation as indicated and shall take appropriate action	94	not a high-risk or medium-risk establishment.
38	The Department may require any or all of the following	95	
39	measures	96	SECTION 5 COMPLIANCE AND ENFORCEMENT
40		97	PROTOCOLS
41	4.7.A.1. The immediate exclusion of the employee from	98	
42	employment in food service establishments;	99	5.1 The goal of this enforcement protocol is to establish an
43		100	effective system for initiating enforcement against violators
44	4.7.A.2. Restriction of the employee's services to some	101	to accomplish the following:
45	area of the establishment where there would be no danger	102	
46	of transmitting disease;	103	5.1.A. to protect the public health and promote the public
47		104	welfare by regulating the safety and sanitation of all
48	4.7.A.. Adequate medical and laboratory examination of	105	licensed eating and lodging establishments;
49	the employee and of other employees and of his and their	106	
50	body discharges.	107	5.1.B. to enable the Eating and Lodging Program to
51		108	measure the effectiveness of its enforcement efforts; and,
52	4.8. CATEGORIES OF RISK	109	
53		110	5.1.C. to foster compliance, continued compliance, and
54	4.8.A. Categories of risk shall be low, medium, or high.	111	deterrence of non-compliance.
55	Risk based assessment categories will be assigned at	112	
56	yearly intervals and posted for public notification.	113	5.2. Identification of Violations for Enforcement Action
57		114	

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1	5.2.A. The identification of a violation is the first step in the	58	
2	enforcement process. The licensing and inspection	59	5.4.A. When formal enforcement action is determined to be
3	sections of the Department shall be responsible for	60	necessary for the resolution of a violation, the
4	identification of violations, and attempts to resolve the	61	establishment shall be referred for enforcement action. The
5	violations prior to referral of the violations for administrative	62	following criteria establish the steps for immediate referral
6	enforcement action.	63	of an establishment for possible enforcement action.
7		64	
8	5.2.B. The following steps may be used to discover a	65	1. Any critical violation(s).
9	violation: 1.) By internal review of laboratory analysis or	66	2. Any violation(s) which pose an Imminent Health Hazard.
10	inspection reports, 2.) By on-site inspection or	67	3. Any uncorrected violations which have not been
11	investigation, 3.) By complaint or referral through other	68	corrected within one year.
12	agencies, and 4.) By epidemiological studies.	69	4. Any violation identified as the result of a disease or
13		70	food-borne outbreak.
14	5.3. RISK ASSESSMENT AND ANALYSIS	71	5. Any uncorrected violation(s) after the Program has
15		72	exhausted all informal means of inducing compliance.
16	When the Eating and Lodging Program staff identifies a	73	
17	violation, an assessment of the likely impact upon public	74	SECTION 6 FINES AND PENALTIES
18	health will occur. Some factors to be considered are listed	75	
19	below and are further delineated.	76	6.1. AUTHORIZATION
20		77	Pursuant to 22 M.R.S.A. § 2498 the Department is
21	5.3.A. Degree of Risk- The seriousness of the violation	78	authorized to impose one or more of the following
22	shall be determined in prioritizing violations for an	79	sanctions when a violation of this chapter, or rules
23	enforcement action. The seriousness of the violation shall	80	contained therein, occurs and the Department determines
24	be determined by the actual risk to health that the violation	81	that a sanction is necessary and appropriate to ensure
25	poses.	82	compliance with state licensing rules or to protect the
26		83	public health.
27	5.3.B. History of Non-Compliance- It is important to assess	84	
28	the establishment's violation history in determining an	85	6.2. UNCORRECTED VIOLATIONS
29	appropriate course of action. The extent of historical	86	
30	review will be by establishment and violation specific.	87	6.2.A. The Department may impose penalties for violations
31	Department staff may also take into consideration whether	88	of this chapter, or the respective rules enacted, on any
32	the establishment has undergone recent changes to its	89	eating establishment, lodging place, youth camp, sporting
33	facilities when determining an appropriate course of action	90	camp, or camping area. The penalties may not be greater
34	and citing violations for a formal enforcement action.	91	than \$50 for each violation. Each day that the violation
35		92	remains uncorrected may be counted as a separate
36	5.3.C. Duration/Re-occurrence of the Violation- The	93	offense. As authorized by statute, penalties may be
37	duration that a violation persists without corrective action,	94	imposed for each violation of the rules.
38	and whether the violation recurs will also be factors in	95	
39	determining appropriate action and priority for	96	6.2.B. The Department may direct any of its licensed
40	enforcement.	97	establishments to correct any violations in a manner and
41	5.3.D. Size of Population/Type of Population at Risk- The	98	within a time frame that the Department determines is
42	assessment of risk for this category will be proportionate to	99	appropriate to ensure compliance with state rules or to
43	the population served. Larger populations will be	100	protect the public health. Failure to correct violations within
44	assessed the greatest risk. However, in certain cases,	101	the time frames constitutes a separate finable violation.
45	priority enforcement action will focus on risk-sensitive	102	
46	smaller populations (e.g. elderly, children, or those with	103	6.2.C. Any person, corporation, firm or co-partnership, or
47	special medical needs)	104	other legal entity that operates any eating establishment,
48		105	lodging place, youth camp, sporting camp, or camping
49	5.3.E. Drinking Water or Wastewater System Integrity- A	106	area without first obtaining a license as required by this
50	drinking water or wastewater's system integrity will be a	107	chapter must be punished, upon conviction, by a fine of not
51	factor in prioritizing a violation for enforcement action. Any	108	less than \$10 nor more than \$100, and upon 2nd or
52	system needing treatment, replacement, or otherwise	109	subsequent conviction, must be punished by a fine of not
53	found to be inadequate may be given consideration for	110	less than \$100. Each day any such person, corporation,
54	enforcement action.	111	firm or co-partnership operates without obtaining a license
55		112	constitutes a separate offense.
56	5.4 REFERRAL OF VIOLATION FOR ENFORCEMENT	113	
57	ACTION		

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1 6.2.D. In the event of any violation of this section or any
2 rule pursuant to this chapter, the Attorney General may
3 seek to enjoin a further violation, in addition to any other
4 remedy.

5
6 6.3. ENFORCEMENT AND APPEAL

7
8 6.3.A. The Department may impose any fine in conformity
9 with the Maine Administrative Procedure Act, Title 5,
10 chapter 375, subchapter IV, providing the licensee the
11 opportunity for an administrative hearing.

12
13 6.3.B. Licensees that are fined pursuant to this chapter
14 are required to pay the Department the amount of the
15 penalties. If a licensee has not paid any collectible fines by
16 the time of its license renewal, the Department may collect
17 such fines by requiring their payment prior to the
18 processing of any license renewal application. An appeal
19 of the Department's decision to fine a licensee stays the
20 collection of any fine. Interest must accrue on fines at a
21 rate described in Title 14, section 1602 prior to the
22 completion of any appeal. After the completion of any
23 appeal process or after any appeal period has passed,
24 interest must accrue pursuant to Title 14, section 1602-A.

25

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1
2 Basis Statement: These rules endeavor to protect the 7
3 health of the people of Maine and its visitors by providing 8
4 specific compliance and enforcement standards to the 9
5 establishments licensed by the Division of Health 10
6 Engineering.
11 22 M.R.S.A. §2491 to 2501
12 22 M.R.S.A. §1681 to 1684
13
14 EFFECTIVE DATE: March 1, 1979
15
16 AMENDED:
17 November 4, 1981
18 October 1, 1982 - Section 14 (added)
19 May 15, 1983 - Section 2 and Section 4
20 October 17, 1983 - Section 7
21 June 27, 1984 - Section 12 (J)
22 January 1, 1985 - Section 14
23 October 28, 1985 - Section 14
24 January 1, 1987
25 January 1, 1989
26
27 EFFECTIVE DATE (ELECTRONIC CONVERSION):
28 May 5, 1996
29
30 AMENDED:
31 August 1, 2004 – filing 2004-252
32
33

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APPENDIX A

SUMMARY OF DRINKING WATER REGULATIONS

The State of Maine "Rules Relating to Drinking Water" (10-63 144 CMR 231) are administered as a result of the Federal 64 Safe Drinking Water Act Amendments of 1996. These 65 rules allow the State of Maine Drinking Water Program to 66 regulate all public water systems in the State of Maine. A 67 full copy of the Rules Relating to Drinking Water are 68 available at www.medwp.com or by calling the Maine 69 Drinking Water Program at 287-2070. 70

A. DEFINITIONS: Section (2) of Maine's "Rules Relating to 72 Drinking Water," along with the Drinking Water Program's 73 Field Services Policy, defines the following terms: 74

PUBLIC WATER SYSTEM: Any publicly or privately owned 76 system of pipes, ...structures and facilities through which 77 water is obtained for or sold, furnished, or distributed to the 78 public for human consumption, if such a system ... 79 regularly serves an average of at least 25 individuals daily 80 for at least sixty (60) days out of the year.... 81

The following list is a summary of the policy used to 82 determine if a facility qualifies as a public water system, 83 assuming that each facility is in operation for at least 60 84 days per year: 85

a. **Restaurant:** A restaurant is a public water system if 86 there are at least 10 seats; 87

b. **Hotel/Motel/Bed & Breakfast:** A hotel, motel, or bed & 88 breakfast is a public water system if there are at least 13 89 rooms; 90

c. **Campground/Cottages:** Campgrounds and cottages 91 qualify as public water systems if there are least 10 sites or 92 units; 93

d. **Take-Out Establishments:** A take-out establishment is 94 a public water system where water is provided to the public 95 in cups, drinking fountain, mixed beverages (fountain 96 drinks), ice or any other activity involving human 97 consumption; 98

e. **Day Use Parks, State Parks, Beaches, and Picnic 99 Areas:** These facilities are considered public water 100 systems if they have at least 13 parking spaces; 101

f. **Boys and Girls, Scout, Church, and Sporting Camps:** 102 These camps are considered public water systems if they 103 serve at least 25 campers and staff; and 104

g. **Miscellaneous Facilities:** All other facilities making 105 water available to the public and serving at least 25 106 persons are considered a public water system. 107

B. TREATMENT AND TESTING REQUIREMENTS: State 108 and federal safe drinking water rules and regulations, 109 along with Drinking Water Program policies depend upon 110 the following factors: population/type of public water 111 system; type of drinking water source; degree of past 112

compliance with rules and regulations; proximity of source 58 to possible contaminants; type of treatment installed; and 59 any other factors affecting the drinking water quality for 60 public consumers. Any treatment or testing questions 61 pertaining to specific public water systems should be 62 directed to the Drinking Water Program at (207) 287-2070.

APPENDIX B

SUBSURFACE WASTEWATER DISPOSAL LAW
30 M.R.S.A. §3221

SUBSURFACE WASTEWATER DISPOSAL SYSTEM means any system for disposing of wastes or 71 wastewaters on or beneath the surface of the earth, 72 including, but not limited to, septic tanks, drainage fields, 73 grandfathered cesspools, holding tanks or any other 74 fixture, mechanism or apparatus used for those purposes, 75 but does not include any discharge system licensed under 76 Title 38, §414, surface wastewater treatment system or any 77 municipal or quasi-municipal sewer or waste water 78 treatment system. 79

No person may erect a structure that requires a 80 subsurface wastewater disposal system until 81 documentation has been provided to the municipal officers 82 that the disposal system can be constructed in compliance 83 with regulations promulgated under Title 22, §42, and this 84 section. 85

For purposes of this section, "expansion" means 86 the enlargement or change in use of a structure using an 87 existing subsurface wastewater disposal system that 88 brings the total structure into a classification that requires 89 larger subsurface wastewater disposal system components 90 under regulations promulgated by Title 22, §42, and this 91 section. 92

No person may expand a structure using a 93 subsurface wastewater disposal system until 94 documentation has been provided to the municipal officers 95 and a notice of the documentation recorded in the 96 appropriate registry of deeds that, in the event of a future 97 malfunction of the system, the disposal system can be 98 replaced and enlarged to comply with the rules 99 promulgated under Title 22, section 42, and ordinances 100 promulgated under this section. No requirements of these 101 rules and ordinances may be waived for an expanded 102 structure. The Department shall prescribe the form of the 103 notice to be recorded in the registry of deeds. The notice 104 shall include a site plan showing the exact location of the 105 replacement system, the approximate location of lot lines 106 and the exact location of existing wells serving the lot on 107 which the replacement system will be located and those 108 located on abutting lots. Copies of the notice shall be sent 109 by certified mail, return receipt requested, to all owners of 110 abutting lots. The person seeking to expand a structure 111

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1 shall be responsible for providing that notice. Following 57
2 recording of notice as provided in this subsection, it is a 58
3 violation of this section for any abutting landowner to install 59
4 a well on his property in a location which would prevent the 60
5 installation of the replacement septic system. The owner 61
6 of the lot on which the replacement system will be installed 62
7 may not erect any structure on the proposed site of the 63
8 replacement system or conduct any other activity which 64
9 would prevent the use of the designated site for the 65
10 replacement system. Any person who violates this section 66
11 shall be penalized in accordance with section 4966. The 67
12 municipality or the Department may seek to enjoin 68
13 violations of this section. In the prosecution of a violation 69
14 by a municipality, the court may award reasonable 70
15 attorneys' fees to a municipality if that municipality is the 71
16 prevailing party, unless the court finds that special 72
17 circumstances make the award of these fees unjust. 73

18
19 APPENDIX C

20 AMERICAN NATIONAL STANDARD A117.1 – 1998 76

21
22 ICC/ANSI A117.1/1998 Standard for Accessible & Usable 78
23 Buildings & Facilities. 79

24
25 Note: For a copy of this standard, contact the International 81
26 Code Council, <http://www.iccsafe.org/e/category.html>, or 82
27 email, webmaster@iccsafe.org 83

28
29 APPENDIX D 85

30
31 **Excerpts from Maine Law governing the licensing and 87**
32 **inspection of Establishments Licensed by the Division 88**
33 **of Health Engineering 89**
34

35 **22 § 2492. License required 92**

36 No person, corporation, firm or copartnership may conduct 93
37 control, manage or operate, for compensation, directly or 94
38 indirectly, any eating establishment, eating and lodging 95
39 place, lodging place, recreational camp or camping area, 96
40 unless the same shall be licensed by the Department. 97
41 Licenses issued must be displayed in a place readily 98
42 visible to customers or other persons using a licensed 99
43 establishment. 100

44 **22 § 2493. Applicant 101**

45 Any person, corporation, firm or copartnership desiring a 102
46 license shall submit satisfactory evidence of his, her or its 103
47 ability to comply with the minimum standards of this 104
48 chapter and all regulations adopted thereunder. 105

49 **22 § 2496. Rules and regulations 106**

50 The Department is authorized and empowered to make 107
51 and enforce all necessary rules and regulations for the 108
52 administration of this chapter, and may rescind or modify 109
53 such rules and regulations from time to time as may be in 110
54 the public interest, insofar as such action is not in conflict 111
55 with any of the provisions of this chapter. 112

56 **22 § 2498. Fines and penalties**

1. Authorization. The Department is authorized to impose one or more of the following sanctions when a violation of this chapter, or rules enacted pursuant to this chapter, occurs and the Department determines that a sanction is necessary and appropriate to ensure compliance with state licensing rules or to protect the public health.

A. The Department may impose penalties for violations of this chapter, or the rules enacted pursuant to this chapter, on any eating establishment, eating and lodging place, lodging place, recreational camp or camping area. The penalties may not be greater than \$50 for each violation. Each day that the violation remains uncorrected may be counted as a separate offense. Penalties may be imposed for each violation of the rules.

B. The Department may direct an eating establishment, eating and lodging place, lodging place, recreational camp or camping area to correct any violations in a manner and within a time frame that the Department determines is appropriate to ensure compliance with state rules or to protect the public health. Failure to correct violations within the time frames constitutes a separate finable violation.

C. Any person, corporation, firm or copartnership that operates any eating establishment, eating and lodging place, lodging place, recreational camp or camping area without first obtaining a license as required by this chapter must be punished, upon conviction, by a fine of not less than \$10 nor more than \$100, and upon 2nd or subsequent conviction, must be punished by a fine of not less than \$100. Each day any such person, corporation, firm or copartnership operates without obtaining a license constitutes a separate offense.

D. In the event of any violation of this section or any rule pursuant to this chapter, the Attorney General may seek to enjoin a further violation, in addition to any other remedy.

2. Schedule of penalties. The department shall establish a schedule of penalties according to the nature and duration of the violation.

3. Enforcement and appeal. Enforcement and appeal of this section is as follows.

A. The Department may impose any fine in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, providing the licensee the opportunity for an administrative hearing.

B. Licensees that are fined pursuant to this chapter are required to pay the Department the amount of the penalties. If a licensee has not paid any collectible fines by the time of its license renewal, the Department may collect such fines by requiring their payment prior to the processing of any license renewal application. An appeal of the Department's decision to fine a licensee stays the collection of any fine. Interest must accrue on fines at a rate described in Title 14, section 1602 prior to the completion of any appeal. After the completion of any appeal process or after any appeal period has passed, interest must accrue pursuant to Title 14, section 1602-A.

22 § 2500. Suspension or revocation; appeals

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1 When the Department believes a license should be
2 suspended or revoked, it shall file a complaint with the
3 Administrative Court in conformity with the Maine
4 Administrative Procedure Act. A person aggrieved by the
5 refusal of the Department to issue a license may request a
6 hearing in conformity with the Maine Administrative
7 Procedure Act.
8 Whenever, upon inspection, conditions are found which
9 violate this chapter or regulations adopted thereunder, or
10 which may endanger the life, health or safety of persons
11 living in or attending any licensed establishment under this
12 chapter, the Department may request an emergency
13 suspension of license of the Administrative Court pursuant
14 to Title 4, section 1153, and the court may grant
15 suspension subject to reinstatement following a hearing
16 before the court if cause is not shown.

17
18 **Excerpt from Title 5, Chapter 375, Administrative**
19 **Procedure Act**

20
21 **§10003. Right to Hearing**

22 1. Opportunity for hearing. Subject to the provisions of
23 section 10004, an agency may not amend or modify any
24 license unless it has afforded the licensee an opportunity
25 for hearing in conformity with subchapter IV, nor may it
26 refuse to renew any license unless it has afforded the
27 licensee either an opportunity for an agency hearing in
28 conformity with subchapter IV or an opportunity for a
29 hearing in the District Court. In any such proceeding
30 determined by the agency to involve a substantial public
31 interest, an opportunity for public comment and
32 participation must also be given by public notice in
33 conformity with subchapter IV. [1999, c. 547, Pt. B, §17
34 (amd.); §80 (aff.).]

35 2. Proceeding. In any proceeding involving a proposed
36 modification or amendment of a license which was the
37 subject of an earlier hearing, the agency shall give notice
38 thereof to all parties to the earlier proceeding and in any
39 other manner required by section 9052, and may reopen
40 the earlier proceeding for consideration of the proposed
41 amendment or modification. [1977, c. 551, §3 (new).]
42

43 **§10004. Action without hearing**

44 Notwithstanding the provisions of sections 10003 and
45 10051, an agency may revoke, suspend or refuse to renew
46 any license without proceedings in conformity with
47 subchapters IV or VI, when: [1977, c. 694, § 38 (rpr.).]

48 1. Judicial action. The decision to take that action rests
49 solely upon a finding or conviction in court of any violation
50 which by statute is expressly made grounds for revocation;
51 [1977, c. 694, § 38 (new).]

52 2. Reciprocal license. The Maine license has been issued
53 upon the basis of a reciprocal agreement with another
54 government, and the Maine action is based upon evidence,
55 in the form of a certified copy, that the authority issuing the
56 license which provided the basis for reciprocal licensing in

57 Maine has revoked or suspended their license; [1977,
58 c. 694, § 38 (new).]

59 3. Health or safety hazard. The health or physical safety
60 of a person or the continued well-being of a significant
61 natural resource is in immediate jeopardy at the time of the
62 agency's action, and acting in accordance with subchapter
63 IV or VI would fail to adequately respond to a known risk,
64 provided that the revocation, suspension or refusal to
65 renew shall not continue for more than 30 days; [1977, c.
66 694, § 38 (new).]

67 4. Certified inspector. The action is based solely upon the
68 physical test, examination or inspection by a state-certified
69 inspector of any product, animal, material or equipment,
70 from which the agency concludes that action in accordance
71 with subchapter IV or VI would not adequately protect
72 public health or safety, provided that action under this
73 subsection shall not be effective for a period of more than
74 30 days. [1977, c. 694, § 38 (new).]

75 5. Rules of sportsmanship. In the course of any
76 professional sporting event directly regulated by an
77 agency, the agency determines that a licensee has:
78 [1977, c. 694, § 38 (new).]

**This eating establishment is inspected by
the State of Maine, Bureau of Health.**



**A copy of the most recent food safety
inspection report is available here for
review upon request.**

**Eating and Lodging Program
Division of Health Engineering
Bureau of Health, Department of Health and Human Services
11 State House Station
Augusta, ME 04333-0011**

<http://www.maine.gov/dhs/eng/el>