STATE OF MAINE

RULES RELATING TO THE ADMINISTRATION AND ENFORCEMENT OF ESTABLISHMENTS AND BODY ARTISTS REGULATED BY THE DEPARTMENT HEALTH INSPECTION PROGRAM

10-144 CODE OF MAINE RULESCMR
CHAPTER 201

DEPARTMENT OF HEALTH AND HUMAN SERVICES
MAINE CENTER FOR DISEASE CONTROL AND PREVENTION
DIVISION OF ENVIRONMENTAL HEALTH
HEALTH INSPECTION PROGRAM
11 STATE HOUSE STATION
AUGUSTA, ME 04333-0011

LAST AMENDED: OCTOBER 7, 2012
SUMMARY STATEMENT:
These rules This rule contain the requirements which must be met by for eating establishments, eating
and lodging places establishments, campgrounds, sporting camps, and youth camps and body artists
licensed or regulated in the State of Maine by the Department of Health and Human Services. These rules
and regulations This rule define relevant terms, describe the application and inspection process,
provide specific standards
for licensure, as well as compliance, enforcement and appeal protocols, when eating establishments and
lodging places establishments and body artists fail to meet the requirements within this rule.

BASIS STATEMENT:
These rules are established to protect public health, by providing specific compliance and enforcement
requirements for the eating and lodging establishments, campgrounds, sporting/recreational camps and
youth camps licensed or regulated by the Health Inspection Program in the Division of Environmental
Health, Department of Health and Human Services.

AUTHORITY:
22 M.R.S. §§ 2496 and 1551-A; 32 M.R.S. §§ 1242, 4251, 4313, 4326–4252; 32 M.R.S. §§ 4325–26;

LAST AMENDED:
These regulations were last amended October 7, 2012.

Nondiscrimination Notice
In accordance with Title VI of the Civil Rights Act of 1964, as amended by the Civil
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 Health and 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.
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SUMMARY: These rules contain the requirements which must be met by eating and lodging establishments, campgrounds, sporting camps, and youth camps licensed or regulated in the State of Maine by the Health and Human Services. These rules and regulations define relevant terms, describe the inspection process, provide specific standards for licensure, as well as compliance, enforcement and appeal protocols, when eating and lodging establishments fail to meet the requirements within these Rules.

SECTION 1. GENERAL PROVISIONS—DEFINITIONS

A. Purpose

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

B. Definitions

The following definitions are intended to provide meanings for the terms used in this rule for the Department’s regulation and licensure of eating establishments lodging places, campgrounds, sporting/recreational camps, youth camps and body artists.

1. Accredited Program means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals. “Accredited Program” refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor’s mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; and test development and administration. “Accredited Program” does not refer to training functions or educational programs.

2. Active Managerial Control means a food safety management system where managers develop and implement food safety protocols to prevent, eliminate or reduce the occurrence of foodborne illness.

3. Approved means acceptable to the Department, based on its determination as to conformance with appropriate standards and good public health practice.

4. Bed and Breakfast means a unique eating, lodging establishment, where transient accommodations are provided to the general public. A bed and breakfast is limited to a morning meal to overnight guests, the cost of which is included in the cost of the stay. Breakfast is allowed to be prepared and served in the private home kitchen by the owner or the owner’s designee, can stay overnight and be provided with a “limited menu,” serving only a breakfast meal. This meal can be either a full or continental breakfast. Unlike other eating establishments, the meal is prepared in the private home. Notwithstanding 22 M.R.S.A. §2501, all bed and breakfasts, regardless of the number of rooms rented, are subject to Departmental licensing requirements by these rules.
5. **Bloodborne Pathogen Certificate** means certification that the body artist applicant or licensee has learned proper precautions to prevent disease transmission by bloodborne pathogens. Bloodborne pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV). The Department will only honor those bloodborne pathogen certificates issued by courses approved by the Department and listed at www.maine.gov/healthinspection.

6. **Body Artist** means a person who operates as a tattoo artist, body piercer, micropigmentation practitioner, and/or an electrologist.

7. **Body Piercer** means a person who performs body piercing on another person.

8. **Business Enterprise Program** is a program within the Maine Department of Labor that seeks to broaden economic opportunities for blind residents of Maine, by creating snack bars, cafeterias, and vending machine facilities located upon state, federal, and municipal properties.

9. **Catering** means preparing food for pre-arranged events, which requires a license is required. Events are contracted for a single fee for a set number of meals, paid by the person contracting the catering service a flat rate of pay and not charged per customer.

10. **Catering Establishment** means the physical location, such as a kitchen, or commissary, where or similar place in which food or drink is prepared for consumption at a different location, or for consumption on the premises, sale or service elsewhere, or for food service on the premises during special catered events. For clarification, catering establishments are licensed to prepare food at a specific location, yet the food is prepared for a pre-arranged event at another location and the food may be served anywhere the event is held.

11. **Campground** means a physical location parcel of land where camping takes place and contains five or more sites that are commonly owned in any combination. Specific requirements are contained in Rules Relating to Campgrounds (10-144 C.M.R., Ch. 205). At any such campground, the sites are intended for temporary occupancy for recreational purposes only, and not for permanent residency.

12. **Certified Food Protection Manager** means a person who is employed or engaged by the management of an eating establishment, who has the authority to implement food protection measures at that establishment, and who meets the certification requirements of Section 2(A) of this rule.

13. **Certified Pool Operator Certificate** means evidence of a person responsible for the operation or maintenance of a pool or spa. These certificates are provided to individuals who meet one of the following criteria:

   a. Passing the National Swimming Pool Foundation Certified Pool-Operator®(CPO) course; or
b. Passing the Pool and Hot Tub Council of Canada’s Professional Pool and Spa Operator (PPSO) course; or

c. Demonstrating evidence of licensure as a pesticide applicator, per the Maine Board of Pesticides; or

d. Passing any other Certified Pool Operator course that is approved by the Department and listed at www.maine.gov/healthinspection.

14. **Chain Restaurant** means an eating establishment that does business under the same trade name in 20 or more locations nationwide, at least one of which is located in the State of Maine, that offers predominantly the same type of meals, food, beverages, or menus, regardless of the type of ownership of an individual location. “Chain restaurant” does not include a grocery store. “Chain restaurant” does not include a hotel or motel that provides a separately-owned eating establishment that is not a chain restaurant, but this definition does include the separately-owned eating establishment within a hotel or motel or grocery store that is a chain restaurant, if the eating establishment meets the criteria of this subsection. “Chain restaurant” does not include a movie theater.

15. **Commercial Kitchen** means a kitchen used to prepare food for public consumption that meets all requirements of the Maine Food Code (10-144 C.M.R. Ch. 200). A commercial kitchen is not a private home kitchen.

16. **Commissary** means a kitchen that receives, stores, and prepares food for delivery to other meal sites or vending locations, and does not qualify for any other Department license. Examples of commissaries include, but are not limited to, vending company production kitchens that prepare food for use in vending machines; senior citizen meals production kitchens that deliver either frozen or ready-to-eat meals; kitchens that prepare food for small boat day trips; kitchens located at an event hall or convention hall used by multiple caterers as part of specific events, or a commercial kitchen used by multiple food vendors.

17. **Commissioner** means the Commissioner of the Department of Health and Human Services.

18. **Commercial Lot** means any property concerned with, or engaged in, the interchange of goods and services for money or in-kind. Commercial lot is referenced in the campground presumption provision in 22 M.R.S. §2492.

19. **Community Event** means an event that is of a civic, political, public or educational nature, including State and county fairs, city or town festivals, circuses and other public gatherings.

20. **Complete License Application** means an application for any license issued in Section 4(B) of this rule that includes all required establishment or body artist information, for the Department to review and determine if issuance of a license is appropriate, proper license category checked, proper license type checked, business owner information completed, including proper mailing address and physical location of
establishment, previous owner’s information, applicant’s name signed and printed, date of application, and planned opening date. If the establishment is an eating establishment, a menu or draft menu must be provided, along with completion of the business plan table within the license application. The completed application must also include the following: (a) a floor plan for review of newly constructed or extensively renovated establishments; (b) a site plan for review of newly constructed or expanded campground operations; and (c) written approval statements relative to plumbing, water supply, waste disposal, and compliance with state and/or municipal codes.

21. **Compressed Air** means a license required for a supplier either to fill or to supply any breathing apparatus with life-supporting gases.

22. **Continental Breakfast** means a breakfast consisting of non-potentially hazardous baked goods, whole fruit or fruit sliced for same-day service, cereal, milk, juice, portion-controlled butter, portion-controlled cream cheese, portion-controlled peanut butter and portion-controlled jam or jelly. For the purpose of this rule, portion-controlled means commercially pre-packaged individual items or foods portioned from bulk containers and presented in individual units to the consumer. Continental breakfast does not include heating/cooking and serving, or heating/cooking and hot-holding for service, eggs (or egg products), meats, or other potentially hazardous food items.

23. **Corrosion-Resistant Materials** means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other normal uses.

24. **Cottage/Cabin** means a single structure rented or let to the public on a daily, weekly, monthly or seasonal basis, where sleeping accommodations are furnished to the public as a business for day, week or month, but not for more than the entire summer season. Cottages/cabins are intended for temporary occupancy for recreational purposes and not for permanent residency.

25. **Critical Violation** means regulatory noncompliance that is more likely than other regulatory violations to pose a risk of contamination, illness, or an imminent health hazard. Critical violations relate directly to factors which lead to illness and must receive immediate attention and be corrected as soon as possible, but, in any event, within 10 days. Operators of establishments with critical violations shall notify the Department when corrections have been made. Critical violations may include, but are not limited to, the following:

(a.) Food from an unapproved or unknown source, or food which is, or may be, adulterated, contaminated, or otherwise unfit for human consumption is found in an eating establishment;

(b.) Potentially hazardous food that is held longer than **recommended by the Maine Food Code necessary** for preparation or service at a temperature between 41°F and 135°F;

(c.) Insufficient facilities to maintain product temperature;
Re-service of potentially hazardous food or unwrapped food that has been previously served to customers;

A person infected with a communicable disease that can be transmitted by food is working as a food handler in a food service establishment;

A person employed in an eating establishment who is not practicing strict standards of cleanliness and personal hygiene as required in the Maine Food Code, which whose behavior may result in the transmission of illness through food, is employed in a food service establishment;

Equipment, utensils and, food-contact surfaces are not cleaned and sanitized effectively and may contaminate food during preparation, storage or service;

Sewage or liquid waste is not disposed of in an approved and sanitary manner, or the sewage or liquid waste may contaminate any food, areas used to store or prepare food, or any areas frequented by customers or employees [Regulated under the Maine Subsurface Wastewater Disposal Rules, 10-144 CMR 241, or the Maine Internal Plumbing Code, 10-144 CMR 238];

Toilets and facilities for washing hands are not provided, properly installed or designed, accessible or convenient;

Water for drinking and food preparation supplied from an unapproved source or fails to meet pressure requirements in the Rules Relating to Drinking Water (10-144 C.M.R., Ch. 231), and the establishment The supply of water is not from an approved source or is not under pressure and the food service establishment does not use single-service articles and/or bottled water from an approved source [Regulated under Rules Relating to Drinking Water, 10-144 CMR 231];

A defect exists in the system supplying potable water that may result in the contamination of the water;

Plumbing not installed by a licensed master plumber, and/or without the proper permits and/or not inspected by the Local Plumbing Inspector shall be considered defective.

Insects, rodents or other animals are present on the premises in such numbers as to that increase the risk of communicable disease being transmitted to the public;

Toxic items are improperly labeled, stored or used; or

Any other violation of these regulations which has the potential to seriously affect the public health.

26. **Day** means the period of time from 12:00 a.m. to 11:59 p.m. on any given calendar date, including a portion of this period.
27. **Delegated Municipality Community** means a municipality in Maine that has applied for, and received authorization from, the Department to conduct inspections pursuant to 22 M.R.S.A. §2499.

28. **Department** means the Department of Health and Human Services Maine Center for Disease Control and Prevention Health Inspection Program.

29. **Designated camping area** means an area where camping occurs, and may include, but is not limited to, fire rings, picnic tables, trash receptacles, water spigots, electrical hookups, signage, sites, or other improvements.

30. **Dormitory** means a room or a building in any establishment used for living and sleeping purposes by 4 or more unrelated persons.

31. **Easily Cleanable** means that surfaces are readily accessible and made of such materials and finish, and so fabricated, that residue may be effectively removed by normal cleaning methods.

32. **Eating Establishment or Eating Place** means any place where food or drink is prepared and served or served to the public for consumption on the premises, or prepared and served or served ready to eat to the public for consumption off-premises catering establishments or establishments dispensing food from vending machines, or establishment preparing foods for vending machines dispensing foods other than in original sealed packages, such as hotels, motels, boarding homes, restaurants, mobile eating places, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands, industrial feeding establishments, private or public institutions routinely serving foods, retail frozen dairy product establishments, airports, parks, theaters, take outs, or any other catering or nonalcoholic drinking establishments or operations where food is prepared and served or served for consumption on the premises, or catering establishments where food is prepared, or where foods are prepared for vending machines dispensing food other than in original sealed packages.

   a. Eating establishment includes places in the entertainment, hospitality, recreation, restaurant and tourism industries; catering establishments; correctional facilities; hospital cafeterias, mobile eating places; public and private schools; retail frozen dairy product establishments; and workplace eating establishments and places where food is prepared for vending machines dispensing food other than in original sealed packages.

   b. Eating establishment does not include the following:

      i. A place preparing and serving food that is licensed pursuant to State law by a State agency other than the Department as long as the licensing of the place includes regular food safety inspections;

      ii. A place serving food only to residents, such as a boarding home, a retirement home or an independent living place; and
iii. A farm stand that offers only whole, uncut fresh fruits and vegetables.

33. **Eating Place – Limited Menu** means an establishment which contains only a bar where food is served but has no kitchen. This type of establishment may contain fewer sinks than are required by the Maine Food Code and serves only pre-packaged foods or pre-packaged, pre-cooked food to be heated prior to service that does not require preparation, handling, or the use of reusable utensils to serve it. This type of establishment license does not permit use as a commercial kitchen for catering operations.

34. **Eating Place – Mobile** means a Mobile Eating Place. See definition for Mobile Eating Place. Mobile vehicle designed and constructed to transport, prepare, sell or serve food at a number of sites and is capable of being moved from its serving site at any time. This type of establishment is a self-contained food service operation, located in a vehicle or a movable stand on wheels, used to store, prepare, display or serve food intended for individual portion service.

35. **Eating Place – Mobile Stick Built** means food service equipment that may be assembled and disassembled for storage or transportation and may only operate at a fixed location for the duration of an approved community event.

36. **Eating Place – School** means a school kitchen facility for which the primary function is to provide meals to students in kindergarten through grades 12 or less. Nursery schools, Headstart programs, pre-schools and before and after care are not included in this definition and do not require a license. Career Technical Education classes or Culinary Arts Programs may carry this license type if they do not sell food to the public.

37. **Eating Place – School Satellite** means a school facility that receives food items prepared at a separate location for final assembly, rethermalization (reheating) and service at the school satellite location.

38. **Eating Place – Temporary** means an eating place or establishment that operates at a fixed location, for a period not exceeding 14 consecutive days, in conjunction with a single community event. See definition for Temporary Eating Place.

39. **Electrologist** means a person who practices electrology.

40. **Employee** means the permit holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, Person performing work under contractual agreement, or other person working in an eating establishment. Volunteers providing services in an eating establishment are subject to the same standards as other employees.

41. **Employer** means the license holder or individual(s) having supervisory or management duties.
29. **Equipment** means stoves, ovens, ranges, hoods, slicers, meat blocks, tables, counters, mixers, refrigerators, sinks, dishwashing machines, steam tables, and similar items, other than utensils, used in the operation of an establishment licensed by the Department under these rules.

30. **Event Camping** means overnight use of areas associated with events lasting four or fewer consecutive nights for 50 or fewer nights in a calendar year. Event camping may include, but is not limited to, race tracks, non-agricultural fairs, festivals, and shows where camping is incidental to the event occurring, and meets the event camping criteria in Section 4 of this rule.

31. **Food** means any raw, cooked or processed edible substance, ice, beverage, alcoholic beverage or ingredient used, or intended for use, or for sale, in whole, or in part, for human consumption.

32. **Foodborne Disease Outbreak** means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food and epidemiological and/or laboratory investigations implicate the food as the source of the illness.

33. **Food Safety Consultant** means an independent professional business advisor who specializes in food safety, in accordance with a defined scope of work for a related fee. The food safety consultant works as an advocate for the clients in achieving their goals through the design and implementation of foodservice facilities, operations and active managerial control.

34. **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.

35. **Food Employee** means any individual employed or working in an eating 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.

36. **Food Security** means that an eating establishment demonstrates that food is protected from any potential threat that causes the food to be adulterated, contaminated or abused in such a way as to render it unsafe or questionably safe for consumption.

37. **Guest Body Artist** means an out-of-state tattooist, body piercer, micropigmentation practitioner or electrologist who practices body art at a body artist shop licensed by the Department in the State of Maine for a period not to exceed 14 days.

38. **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 inspector may then determine those circumstances which could result in the development of food-borne diseases.
51. **HACCP Plan** means a written document that describes delineates the formal procedures required by for following the HACCP principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

52. **Health Inspector** means a person employed by or contracted with the Department or delegated municipality whose education and experience in the biological and sanitary environmental sciences qualify him/her to engage in the promotion and protection of the public health and safety. A health inspector applies technical knowledge to solve problems of a sanitary nature and develops methods and carries out procedures for those factors of man’s environment which affect health, safety and the well-being of others.

53. **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.

54. **Hold Tag** means an official Department label that is placed on foods that the Department has good cause to believe is not from an approved source or has been adulterated.

55. **Home Kitchen** means a bed and breakfast kitchen which is only licensed to serve breakfast to its own overnight guests.

56. **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 based on: (a) the number of potential injuries and (b) the nature, severity and duration of the anticipated injury. Imminent Health Hazard may includes, but is not limited to, the following:

   a. (4) an extended loss of water supply;
   b. (2) an extended power outage;
   c. (3) flood water or sewer back-up into the establishment;
   d. (4) fire; or
   e. (5) 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.

57. **Inspection** means an on-site regulatory review of an establishment licensed by the Department’s Health Inspection Program and conducted by an authorized health inspector. The types of inspections include: 1) Pre-operational; 2) Routine Compliance; 3) Follow-up; and 4) Complaint.
40. **Kitchenware** means food preparation and storage utensils.

58. **Law** includes federal, state, and local statutes, ordinances, and rules and regulations.

59. **Letter of Enforcement** means a Department document that notifies a licensee of a violation(s), outlines the actions to resolve the violations and sets a deadline for correction of the violation(s).

60. **Lodging Place** means any place 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 in an establishment where four or more rooms, or cottages or cabins are available for rental to the public for lodging. The term includes, but not by way of limitation, hotels, motels, guest homes or cottages wherein the owner customarily maintains the sleeping accommodations, and condominium associations that rent units to the public. For purposes of this rule, these rules, a lodging place does not include dormitories of charitable, educational, philanthropic institutions, fraternity and sorority houses affiliated with educational institutions, permanent residences, rooming houses or tenancies-at-will, or rental properties with a tenant-landlord relationship.

61. **Manager** means any person, 18 years or older, who operates, or is responsible for, operating an establishment.

62. **Mass Gatherings** means any gatherings held outdoors at temporary facilities, with the intent to attract the continued attendance of at least 2,000 persons for 12 or more hours.

63. **Micropigmentation Practitioner** means a person who practices micropigmentation on another person.

45. **Mobile Eating Place** means a mobile vehicle designed and constructed to transport, prepare, sell or serve food at a number of sites and is capable of being moved from its serving site at any time.

64. **Packaged** means bottled, canned, cartoned, or securely wrapped.

65. **Parking Lot** means an area or space that provides no water, no sanitary facilities, contains no fire rings, no campsites, and camping is not authorized or endorsed.

66. **Person** includes any individual, partnership, corporation, association, or other legal entity.

67. **Personal Chef** means a person hired to prepare at-home meals in private households. Meals are prepared in a client’s home kitchen for one or more members of the same household and for the client’s guests. A personal chef is not licensed by the Department.

68. **Person in Charge** means the individual present in an eating establishment at the time of inspection who has the authority to make operational decisions, 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. Pursuant to the Maine Food Code (10-144 C.M.R. Ch. 200), there must be a person in charge present at the establishment during all hours of operation. This person must be able to demonstrate knowledge of the Maine Food Code and perform specific duties as specified under Chapter 2 of the Maine Food Code.

69. **Portion Controlled** means commercially pre-packaged individual items or food portioned by the Person in Charge from bulk containers, and presented individually to the consumer.

70. **Potentially Hazardous Foods** means any food that requires time and/or temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation, as further defined in the Maine Food Code (10-144 C.M.R. Ch. 200), 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.

71. **Potentially Tainted Foods** means foods that include, but are not limited to, temperature-abused foods, foods processed without (or not conforming with) a HACCP plan and/or variance, or foods stored, prepared or processed in violation of the Maine Food Code (10-144 C.M.R. Ch. 200).

53. **Proprietor** means any person, 18 years or older, corporation, firm, organization, municipality or partnership who operates, or is responsible for, operating an eating establishment or eating and lodging place.

72. **Public Pool** means any constructed or prefabricated pool, other than a residential pool, or medical facility pool that is intended to be used for swimming, recreational bathing, or wading and is operated by an owner, lessee, tenant, or concessionaire or by a person licensed by the Department, regardless of whether a fee is charged for use. A pool on the premises of a child care facility that is licensed or required to be licensed under 22 M.R.S.A. §8301-A, is a public pool.

73. **Public Spa** means any constructed spa, other than a residential spa or medical facility spa.

74. **Recreational Vehicle (RV) Park** means a campground that permits the use of RVs where an RV consists of a travel RV, pick-up couch, motor home, camping trailer, dependent RV or self-contained independent RV, as defined in the Rules Relating to Campgrounds (10-144 C.M.R. Ch. 205). An RV park is designed for seasonal sites or temporary occupancy and not for permanent residency.

75. **Reconstituted** means dehydrated food products recombined with water or other liquids.

56. **Regulated Establishment** means an establishment that is required to be licensed and/or inspected for compliance by the Department. Regulated establishments shall display the license at their place of sale or service.
Reduced Oxygen Packaging (ROP) means a packing procedure resulting in a reduced oxygen level in a sealed food package that decreases the amount of competing spoilage bacteria normally found in certain foods.

Repeat Violation means a violation determined and recorded during a previous inspection.

Restriction means a limitation placed on a license under this rule to further protect public health. Restrictions include, but are not limited to, requiring single-service articles only, bottled water exemptions, water meters or limiting meal service to breakfast, lunch or dinner, (or to two meals) per day.

Safe Temperatures, as applied to potentially hazardous food, means temperatures of 41° F or below (for cold food) and 135° F or above (for hot food) unless otherwise specified in this rule/ these regulations, and 0°F or below for frozen foods.

Salad Bar Operation means an area or areas where cold salads and/or salad ingredients are prepared, stored and displayed for consumer self-service.

Salad Bar Unit means a refrigerated unit or properly drained ice-filled unit where food is displayed for consumer self-service.

Sanitization means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to 99.999% reduction of representative disease microorganisms of public health importance.

Sealed means free of cracks or other openings, which permit the entry or passage of moisture and bacterial, viral, or chemical contaminants.

Senior Citizen Meals Site means any kitchen or eating place/ establishment that prepares or serves potentially hazardous food for compensation to a predominantly senior citizen population who is not the general public. A senior citizen meal site does not include a place serving food to only its residents.

Servicing Area means an operating base location, to which a mobile eating place/ establishment or transportation vehicle returns to regularly, for services like vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and storing food.

Single-Service Articles means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, placemats, napkins, doilies, wrapping materials, toothpicks and similar articles which are constructed wholly, or in part, from paper, paper board, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and which are designed by the manufacturers and generally used by the public as for one-time, one-person use and then discarded.
87. **Sporting/Recreational Camp** means a building or group of buildings devoted primarily to the offering of eating and primitive lodging facilities to guests only, and not to the general public, primarily in pursuit of primitive recreation, hunting, fishing, snowmobiling or similar activities. Sporting/recreational camps generally do not include summer sports programs overseen by employees or volunteers of municipalities and educational institutions, when the activities generally take place at the municipal or institution property and buildings.

67. **Tableware** means all multi-use eating and drinking utensils, including flatware (knives, forks, spoons, dishware).

88. **Tattoo Artist** means a person who places a tattoo on another person who is at least 18 years of age.

68. **Temporary Eating Place/ Temporary Eating Establishment** means an eating place or establishment that operates at a fixed location for a period of time of not more than 14 consecutive days, in conjunction with a single event or celebration.

89. **Utensil** means any tableware and kitchenware used in the storage, preparation, conveying, or serving of food.

90. **Vending Machine** means any self-service device offered for public use, which, upon insertion of money, or by other similar means, dispenses unit servings of food other than in original sealed packages without the necessity of replenishing the device between vending operations for each customer.

91. **Vending Machine Company** means a company that places vending machines at any site.

92. **Violation** means a critical, or non-critical regulatory finding of non-compliance with this rule these Rules.

93. **Wilderness Recreational Park** means a recreational park containing only primitive sites and adhering to the Rules Relating to Campgrounds (10-144 C.M.R. Ch. 205).

94. **Youth Camp** means a combination of program and facilities established for the primary purpose of providing an outdoor group living experience for children with social, recreational, spiritual, and educational objectives and operated and used for five or more consecutive days during one or more seasons of the year. Youth camps include day camps, residential camps and trip and travel camps. See Rules Relating to Youth Camps (10-144 C.M.R., Ch. 208). Youth camps do not include summer sports programs overseen by employees or volunteers of municipalities and educational institutions, when the activities generally take place at the municipal or institution property and buildings.
SECTION 2. CERTIFIED FOOD PROTECTION MANAGERS
CERTIFICATION OF PERSONNEL

A. Certified Food Protection Managers

1. Unless otherwise provided in these Rules, an eating establishment must have at least one employee granted supervisory and management responsibility and designated as a certified food protection manager (CFPM). The CFPM must have demonstrated appropriate proficiency and skills regarding food safety by successfully passing a CFPM exam that is part of an Accredited Program as described in Section 2(C)(1) below. The Department may approve a food safety consultant to serve as CFPM, if necessary, to assure food safety, when cultural, language, and literacy barriers prevent any of the establishment’s employees from passing the CFPM exam.

B. In the event that, during an inspection by the Department, the person in charge is not able to make the demonstration required by Section 2-102.11 of the Maine Food Code at 10-144 C.M.R. Ch. 200, §2-102.11, or there are multiple critical violations present during such inspection, the Department, or its designee, may thereafter require every person in charge for such eating establishment to be a certified food protection manager.

C. In the State of Maine, the following will be accepted as meeting the requirements for certification:

1. Having written proof of completion of specialized training in the preparation and serving of safe food, such as ServSafe® Food Protection Manager Certification from the National Restaurant Association Solutions, LLC, the National Registry of Food Safety Professionals, 360training.com, Inc., AboveTraining/StateFoodSafety.com and Prometric (formerly Experior Assessments), or equivalent; and

2. Receiving a passing grade on a competency test, approved by the National Conference for Food Protection (CFP). CFPM certified food protection manager certification shall be renewed through re-training and re-testing every 5 years, or as required by standards adopted by the Department.

3. The following establishments are exempt from the CFPM certified food protection manager requirement:

a. Bed and breakfast establishments with five or fewer 5 rooms or less;

b. Bed and breakfasts and lodging establishments that serve a continental breakfast, as defined in Section 1 of this rule, consisting of non-potentially hazardous baked goods, whole fruit or fruit sliced for same-day service, cereal, milk, juice, portion controlled cream cheese, portioned controlled peanut butter, and portion controlled jam or jelly.

c. Temporary eating establishments that operate fewer than 14 days;

d. Establishments that prepare, serve or sell non-potentially hazardous pre-packaged foods (non-time/temperature control for safety (TCS) foods);
c. Establishments that prepare only non-potentially hazardous foods (non-TCS foods);

d. Establishments that heat only commercially-processed, potentially hazardous foods (TCS foods) for hot holding. Establishment that No cooling of potentially hazardous foods (TCS foods) are not exempt from the CFPM requirement;

e. Sporting/Recreational Camps operating 90 days or fewer and serving only their own residential guests; and

f. Eating establishments which pose minimal risk of causing, or contributing to, foodborne illness, based on the nature of the operation and the extent of food preparation.

4. (d) A valid CFPM certificate certified food protection manager must be included with the license application for all new establishments and changes in ownership, hired within 90 days of a new eating establishment opening or when a certified food protection manager leaves employment.

5. A CFPM must be hired within 60 days of the departure of the last CFPM leaving employment.

6. (e) Establishments requiring two repeat inspections, due to multiple critical violations, or repeated failure to successfully complete demonstration of knowledge required by 2-102.11 of the Maine Food Code, 10-144 C.M.R., Ch. 200, or being involved in a food-borne illness outbreak, must employ a CFPM certified food protection manager, if not previously required to do so. If the above issues exist, the establishment may be required to employ an additional CFPM certified food protection managers, at the discretion of the Department.

D. 4. Nothing in these rules precludes the Department from requiring an eating establishment, as part of a compliance action, to hire, on a less than full-time basis, an outside, or third-party, a food safety consultant who would provide recommendations to a food safety consultant.

E. 5. Eating establishments must post in a conspicuous area the certification of the CFPM(s) in a conspicuous area certified food protection manager(s), and the certificate must be made available to the Department, upon request.
SECTION 3. DELEGATION OF INSPECTION DUTIES TO MUNICIPALITIES

A. Pursuant to 22 M.R.S. §2499, the Department may delegate authority to a municipality to conduct licensing inspections duties to municipalities. Delegated municipalities must enter and adhere to a memorandum of understanding with the Department, in order to engage in these duties.

B. In delegated municipalities, the Department continues to be the State of Maine licensing and enforcement authority, and may issue a license to establishments on the basis of an inspection performed by an inspector who works for, and is compensated by, the municipality in which such establishment is located.

C. The following conditions must be met:

1. The municipality has adopted the most recent rules or ordinances, which were approved by the Department and consistent with the Department’s rules and statutes for such licensure at the time of inspection, holding, or requesting to hold, such delegation must adopt an ordinance that incorporates the Department’s Rules.

2. No municipally-employed health inspectors may not inspect any establishment under this rule, unless certified as qualified by the Department, are authorized to perform inspections under the provisions of these Rules, unless certified as qualified by the Commissioner. Such certification will be determined through formal and informal training and education, and other such criteria, as the Department may determine.

3. For quality control purposes, the Department may, from time to time, inspect such municipally-inspected establishments, to ascertain that the intent of these Rules is being followed.

4. Delegated municipalities must use the same operating system, hardware and screen resolution that the Department uses, in order for the Department to properly record and store inspection and complaint information. A municipality must furnish electronic copies of its inspection reports in a format, and on a schedule, determined by the Department.

5. The delegated municipalities are responsible for ensuring that all establishments within their jurisdiction renew apply for a their State of Maine license, prior to renewing their municipal license. Failure of an establishment to operate without the necessary State of Maine license will result in the establishment being assessed an administrative penalty, fine as specified in these rules. Pursuant to 22 M.R.S. §2498, the Department retains its right to pursue other sanctions against non-licensed establishments, including seeking injunctive relief to enjoin further violations. The Department may allow a dual municipal/State of Maine license, issued by the delegated municipality on the Department’s behalf.

6. When the Department issues a license on the basis of a municipal inspection, in lieu of the prescribed fee, the licensee shall pay a fee to the Department in an amount not to exceed
$60, to support the costs of shipping, handling and record keeping, for delegated municipalities, (as outlined in Table 1, Fee Schedule).

7. Licenses issued by the Department under such delegation must be displayed, renewed, and, in every other way, treated as the same license issued through inspections by the Department, 22 M.R.S. §2499, must be displayed, renewed and, in every other way, treated the same as licenses issued under these Rules, on the basis of inspection by the Department. The inspection reports must be made available to the Department, upon request.

8. Three-year certification of municipally-employed health inspectors must be in accordance with standards set by the Department. No municipally-employed health inspector may conduct inspections under the provisions of this rule, unless he or she is duly certified. Such certification will be determined through formal and informal training and education, and other such criteria as the Department may determine. Such standards may include items, such as staff competency, enforcement and compliance status, inspection practices, attendance at training meetings and seminars and routine reporting to the Department. Pursuant to 22 M.R.S. §2499, the certification of municipally employed health inspectors must be in accordance with standards set by the Department and for a period of 3 years.

9. The establishment inspection delegation will be reviewed by the Department every three years, the Department shall review the inspection program of each delegated municipality for staff competency, enforcement/compliance status, inspection practices, and routine reporting to the Department.

10. According to 22 M.R.S. §2499(5), the Delegated municipalities may not charge the Department for performing such inspections.

11. Delegated municipalities may not post or release protected health information or medical information that could reasonably be used to identify a person, except to the Department, or in accordance with law, due to this information being confidential under 22 M.R.S. §43(5).

12. Delegated municipalities shall determine the primary language of individuals requesting licensing and inspection services and ensure that the services are provided, either by a qualified interpreter when English is not the primary language, or a qualified sign language interpreter. These municipalities shall obtain the service at their own expense and shall not charge the establishment or the Department for this service.

These delegated municipalities shall use only qualified in-house interpreters or Maine-State approved interpreters found at www.maine.gov.

Vendors are approved in each of the following areas:
- American Sign Language Interpretation Services;
- In-Person Spoken Language Interpreting;
- Telephonic Interpreting Services; and
- Video Remote Interpreting Services
13. Delegated municipalities shall respond to after-hour calls and holiday emergencies to the greatest extent practicable, understanding that vacation and sick time may prevent those health inspectors from responding. Expenses shall be incurred by the delegated municipalities, and these expenses may not be charged to the Department for such calls and emergencies. The Department shall provide back-up coverage for after-hour calls and holiday emergencies, in the event that a delegated municipal health inspector is sick or on vacation, and no other delegated municipal inspector is able to cover their district.

D. **Foodborne Outbreak Protocols.** In the event of a suspected or confirmed foodborne disease outbreaks, upon learning of same, the delegated municipalities shall notify immediately contact the Department’s Health Inspection Program. Or, if the Department learns of the outbreak first, then it shall notify the delegated municipality as soon as practicable, but no longer than one hour after learning of the suspected or confirmed outbreak. Outbreaks suspected or confirmed outside of business hours shall be reported to the Department’s Maine CDC Disease Reporting line at 1-800-821-5821. Authority for this requirement is contained in Rules for the Control of Notifiable Conditions, 10-144 CMR 258, which governs the reporting of certain diseases, clusters of unusual cases of a disease or outbreaks of a disease, epidemics, and extreme public health emergencies.
SECTION 4. APPLICATION AND LICENSING PROCEDURES

A. Fees. Unless otherwise stated in this section, applicants must pay the appropriate license fee to the Department at the time of submitting the application. Fee amounts for each license are outlined in Section 5 of this rule. If the Department receives overpayment, then the check or money order will be returned to the applicant. The applicant must re-submit the correct fee payment, in order for the Department to continue its review of the application. 4A.4.(b) No such fee may be refunded. Should the applicant make an overpayment, the excess payment shall be applied to the next year’s fee.

1. 4A.5. The maximum fee for each establishment in municipalities with delegated inspection authority is a flat fee of $60.00.

2. 4A.6. No fee is assessed for non-profit establishments that conduct 12 or fewer events and meals per year.

3. 4A.4(e) License fees established herein provide for one licensure inspection and one follow-up inspection, in accordance with 22 M.R.S.A. §2494. When additional inspections are necessary, the Department is authorized to charge an additional $100 fee for each additional inspection or visit.

B. Complete Application. A complete application for a license must be filed with the Department, along with full license fee payment. License applicants must also comply with the following:

1. Be at least 18 years of age, except for electrologist license applicants, who may be at least 17 years of age.

2. Include a floor plan of the establishment;

3. Include a water testing report, in accordance with Rules Relating to Drinking Water (10-144 C.M.R. Ch. 231), for establishments or body artist facilities serving water from a private well (i.e. public water systems);

4. Include a written approval statement from the municipality (Local Plumbing Inspector), on the “Local Review and Verification Form” within the application, for applicants with private septic systems;

5. Eating Establishment Applicants must include the following information:
   a. Menu or draft menu;
   b. Eating establishment business plan;
   c. Kitchen or food preparation area plan; and
   d. Valid CFPM certificate;

6. Campground Applicants must include a site plan of the campground operations;
7. **Public Pool/Spa Operator** Applicants must include a valid Certified Pool Operator certificate;

8. **Tattoo Artist Applicants** must include a valid Bloodborne Pathogen certificate, and demonstrate knowledge of safe practices in regard to the art of tattooing;

9. **Body Piercer Applicants** must include a valid Bloodborne Pathogen certificate, and provide a description of his or her experience in performing body piercing;

10. **Electrologist Applicants** must demonstrate evidence of a high school diploma (or its equivalent) and pass an inspection under 32 M.R.S. §1243, within 60 days of the license being issued;

11. **Micropigmentation Practitioner Applicants** must demonstrate evidence of a high school diploma (or its equivalent) and submit evidence of completion of education or training required by 32 M.R.S. Micropigmentationist applicants must also show evidence of working under direct supervision of a licensed micropigmentationist and demonstrate the ability to comply with this rule and micropigmentation rules.

C. **Application Requirement for Changes.** In addition to the requirement to submit license applications for new licenses, a license application is also required whenever a licensee’s establishment or building where the licensing action is occurring, undergoes new construction or extensive renovation. A new license application is required for any change of ownership.

D. **Department Review and Decision.** The Department will review applications within 30 days of receipt of the completed application and full license fee payment. The Department will, in its review, determine whether to grant a full license, deny the license, issue a restricted license or issue a conditional license.

1. When the Department determines that all application and fee requirements are satisfied according to Section 4(A) and (B) above, a pre-operational inspection will be scheduled by a health inspector. If the inspection is satisfactory, a license will be issued within 30 days of receiving a completed license application.

2. **B.6. Denial of Application for License, Notice.** When the Department determines that conditions present a serious danger to the health and safety of the public, or the actions required to correct the conditions are impossible to complete under a conditional license, then the Department will deny the license application. The Department will notify the applicant of its denial of application within 30 days of receipt of the completed application and fee payment. This notification of license denial from the Department shall include the following: If an application for a license to operate is denied, the Department shall provide the applicant with a notice that includes:

   (a.) The specific reasons and relevant rule citations for the license denial;

   (b.) The actions, if any, that the applicant must take to qualify for a license; and
3. **Conditional Licenses, Notice.** When the Department decides to issue a conditional license to an applicant, it will notify the applicant of the specific reasons and relevant rule citations for the conditional license, the specific conditions and actions required to receive a full license, the duration of the conditional license, as well as notice of the applicant’s right of appeal and the process time frames for appeal provided in this rule. Conditional licenses will only be issued by the Department when it determines that the conditions are such that they may be achieved within the conditional licensing period.

   a. The Department shall issue a conditional license for a specific length of time that is in accordance with managing public health risk.

   b. Failure by the conditional licensee to meet the conditions specified by the Department is grounds for the Department to void the conditional license.

   c. If the conditional licensee submits another license application, but the conditions from the previous conditional license are still not met, then the Department will not issue the new or renewed license.

4. **Restricted Licenses.** The Department may place restrictions on licenses, when there is a greater public health risk, which include, but are not limited to, under-sized septic systems, inadequate water quality or any other public health risk. Restrictions may include requiring single-service articles, bottled water exemptions, water meters, limiting meal service or any other requirement that protects public health.

E. **Licensing Required**

1. 4.A. Any person, corporation, firm or co-partnership who conducts, controls, manages or operates, for compensation, directly or indirectly, any eating establishment, eating and lodging place, lodging place, sporting/recreational camp, youth camp, campground, or recreational vehicle park, or is a body artist, must be unless the establishment is licensed by the Department.

2. **Campground Presumption:** Maine statute (22 M.R.S. §2492), establishes the legal presumption that a campground license is required, when five or more tents or recreational vehicles are on a commercial lot, regardless of compensation. The Department may determine that an event camping license is appropriate instead of a campground license, when the following criteria is presented to the Department, to rebut the presumption of a campground license:

   a. Potable water is offered: If potable water is offered, the applicant must report satisfactory water results annually to the Department; or

   b. Sanitary facilities are offered: If such facilities are offered, the applicant must provide at least one portable toilet per 150 people, minimally; or
c. A designated camping area is provided; and

d. The total number of event days do not exceed 50 nights in any calendar year; or

e. Overnight stays do not exceed four consecutive nights.

If overnight stays exceed 50 nights in any calendar year, or if the number of overnight stays exceed four consecutive nights, then a campground license is required.

3. 4.A.1. Licenses, conditional licenses, inspection reports or other notices issued by the Department must be displayed in a place readily visible to customers or other persons using a licensed establishment or employing the services of a licensed body artist. Department correspondence shall be made readily available to the public, upon request.

2. Cottages are intended for temporary occupancy for recreational purposes only, and are not for permanent residency. Licenses are required for any individual, establishment or corporation that rents out structures.

3. Youth camps do not include summer sports programs overseen by employees or volunteers of municipalities and educational institutions, when the activities generally take place at the municipal or institution property and buildings.

4. 4.A.4. Term. The Department shall issue licenses for a term of one year for all licenses in this rule, except for micropigmentation licenses, which are for a term of two years and expire on September 30th.

Each application for either a license or license renewal, to operate an establishment, eating and lodging place, lodging place, youth camp, campground, or sporting/recreational camp, must be accompanied by a fee, in accordance with the fee schedule established in Tables 1A-1C, listed in this Section.

5. The fee for each establishment in municipalities that have received inspection delegation authority, is a flat fee of $60.00.

B. Issuance of Licenses

1. New licenses: Except as otherwise provided for herein, the Department, upon review, will issue an annual license to operate an establishment within 30 days following receipt of a complete application and the prescribed fee. When any applicant is found, based upon an inspection by the Department or by municipal inspection, not in compliance with the requirements of departmental regulations, the Department may refuse issuance of the initial (first time) license but will issue a conditional license for up to 90 days, except when conditions are found which present a serious danger to the health and safety of the public. Failure by the conditional licensee to meet the conditions specified by the Department permits the Department to void the license, requiring the establishment to cease operation. Should the establishment continue to operate without a valid license, the penalties set forth in Section 6 (Penalties) shall be administered. The Department may assign multiple licenses for establishments with multiple functions, such as a hotel and a restaurant within the hotel.
5. **Compliance.** Licensees are responsible for ensuring compliance with this rule and applicable rules and statutes.

6. **4.B.2. Renewal of licenses:** The Department will notify licensees of an upcoming license renewal at least 30 days prior to the current license expiration date. The applicant must provide evidence of compliance with Department rules, including, but not limited to, the Maine CDC Drinking Water Program’s Rules Relating to Drinking Water (10-144 C.M.R. Ch. 231) and Subsurface Wastewater Rules (10-144 C.M.R. Ch. 241). If any such establishment is not in compliance with relevant regulations, the Department may apply conditions to such renewal. When the Department is determining whether to renew a license, it will review the licensee’s compliance history. When the Department finds non-compliance, the Department may either deny the renewal or issue a conditional license instead of full renewal.

(a.) All establishment licenses are renewed annually, except micropigmentation licenses (which are renewed every two years), upon both payment of a fee, and compliance with Maine statutes and rules and/or regulations.

(b.) It is the responsibility of the Licensee Licensee Applicant to renew licenses prior to the expiration date. Operation of the licensed activity after the license expiration date without renewing the license is prohibited.

c. When conditions exist where the violations are not corrected by the Department’s deadlines or the licensee continuously incurs the same violations repeatedly after technical assistance and guidance, the Department determines that correction of violations is not likely to be achieved during a conditional license and/or there is an immediate threat to public health and safety, then the Department will deny renewal of a license.

d. Pursuant to 22 M.R.S. §2498(3)(B), eating, lodging, campground, youth camp, public pool and spa licensees must pay all fines to the Department prior to the Department renewing a license.

7. **4.B.3.** No license granted by the Department may be transferable or assignable.

8. **4.B.4.** The issuance of the license does not provide exemption from other state or local laws, ordinances or regulations, notwithstanding any other provision of law.

9. **4.B.5.** Licenses erroneously issued by the Department are considered void and must be returned to the Department.

**F. Right to Appeal.** Appeals by an applicant or licensee, in accordance with 22 M.R.S. §10003, are limited to appeals contending that a licensing decision by the Department misapplied applicable laws, procedures or rules.

1. The following Department actions are subject to the licensee’s right of appeal:
a. Issuance of a conditional license;
b. Amendment, modification or restriction on a license;
c. Voiding of a conditional license;
d. Denial of issuing a new license or denial of renewal of a license; or
e. Assessment of administrative penalties.

2. When appealing, the applicant or licensee shall request a hearing, in accordance with the instructions provided by the Department correspondence, this rule and the Department’s Administrative Hearings Regulations at 10-144 C.M.R., Ch. 1.

a. The request must state in writing the specific issue(s) being appealed; and

b. The request must be submitted to the Department within 30 days of receipt of notice of Department action subject to the right of appeal.
SECTION 5—FEES SCHEDULE

**TABLE 1 (A) — FISCAL YEAR 2013: July 1, 2012 — June 30, 2013**

<table>
<thead>
<tr>
<th>EATING LICENSE TYPES</th>
<th>FEES FOR FISCAL YEAR 2013</th>
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</thead>
<tbody>
<tr>
<td>Business Enterprise PR</td>
<td>No Charge</td>
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<tr>
<td>Catering</td>
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<td>Correctional Facility</td>
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<td>Eating Place – Mobile</td>
<td>$175.00</td>
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<td>Eating Place, 0–29 seats</td>
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<td>Eating Place, 30–75 seats</td>
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<td>Eating Place-Temporary 1–4 Days</td>
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<tr>
<td>Eating Place, Temporary 5–14 Days</td>
<td>$150.00</td>
</tr>
<tr>
<td>Eating Place—Limited Menu</td>
<td>$150.00</td>
</tr>
<tr>
<td>Eating Place—School</td>
<td>$100.00</td>
</tr>
<tr>
<td>Eating Place – School Catering</td>
<td>$100.00</td>
</tr>
<tr>
<td>Eating Place – School Satellite</td>
<td>$100.00</td>
</tr>
<tr>
<td>Commissary</td>
<td>$250.00</td>
</tr>
<tr>
<td>Vending Company</td>
<td>$75.00</td>
</tr>
<tr>
<td>Senior Citizen Meals</td>
<td>$30.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LODGING LICENSE TYPES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bed and Breakfast—6 Rooms or More</td>
<td>$150.00</td>
</tr>
<tr>
<td>Bed and Breakfast—5 Rooms or Less</td>
<td>$100.00</td>
</tr>
<tr>
<td>Lodging 4–15 Rooms</td>
<td>$150.00</td>
</tr>
<tr>
<td>Lodging 16–75 Rooms</td>
<td>$175.00</td>
</tr>
<tr>
<td>Lodging &gt;75 Rooms</td>
<td>$200.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COMBINATION LICENSE TYPES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Eating and Catering</td>
<td>$275.00</td>
</tr>
<tr>
<td>Eating and Lodging</td>
<td>$275.00</td>
</tr>
<tr>
<td>Eating and Campground</td>
<td>$275.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CAMP LICENSE TYPES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Sporting-Recreational Camp</td>
<td>$175.00</td>
</tr>
<tr>
<td>Campground – Agricultural Fair</td>
<td>$200.00</td>
</tr>
<tr>
<td>Campground 5–24 Sites</td>
<td>$150.00</td>
</tr>
<tr>
<td>Campground 25–124 Sites</td>
<td>$175.00</td>
</tr>
<tr>
<td>Campground &gt;124 Sites</td>
<td>$200.00</td>
</tr>
<tr>
<td>Campground—Temporary</td>
<td>$200.00</td>
</tr>
<tr>
<td>Youth Camp—Day</td>
<td>$95.00</td>
</tr>
<tr>
<td>Youth Camp—Resident&lt;100 Campers</td>
<td>$185.00</td>
</tr>
<tr>
<td>Youth Camp—Resident 100–200 Campers &amp;</td>
<td>$215.00</td>
</tr>
<tr>
<td>Property Tax—Exempt&gt;200 Campers</td>
<td></td>
</tr>
<tr>
<td>Youth Camp—Resident&gt;200 Campers</td>
<td>$275.00</td>
</tr>
<tr>
<td>Youth Camp—Trip And Travel</td>
<td>$95.00</td>
</tr>
<tr>
<td>Compressed Air</td>
<td>$10.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BODY ARTIST LICENSE TYPES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tattooing Practitioner</td>
<td>$225.00</td>
</tr>
<tr>
<td>Tattooing Show</td>
<td>$75.00</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>Body-Piercing Practitioner</td>
<td>$200.00</td>
</tr>
<tr>
<td>Tattoo – Body-Piercing Practitioner</td>
<td>$275.00</td>
</tr>
<tr>
<td>Electrologist Practitioner</td>
<td>$125.00</td>
</tr>
<tr>
<td>Micropigmentation Practitioner</td>
<td>$150.00</td>
</tr>
</tbody>
</table>

**MISCELLANEOUS FEES**

<table>
<thead>
<tr>
<th>Reprint License</th>
<th>$25.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late Renewal within 30 days of license expiration date</td>
<td>$25.00</td>
</tr>
<tr>
<td>Additional Inspection</td>
<td>$100.00</td>
</tr>
<tr>
<td>Late Renewal more than 30 days after expiration date</td>
<td>$100.00 for 1st offense / $200.00 for 2nd offense</td>
</tr>
<tr>
<td>Insufficient Funds</td>
<td>$25.00</td>
</tr>
</tbody>
</table>

**TABLE 1 (B) FISCAL YEAR 2014: July 1, 2013—June 30, 2014 LICENSE FEES**

<table>
<thead>
<tr>
<th>EATING PLACES LICENSE TYPES</th>
<th>LICENSE FEES FOR FISCAL YEAR 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Enterprise PR (Division of the Blind)</td>
<td>No Charge</td>
</tr>
<tr>
<td>Catering</td>
<td>$200.00</td>
</tr>
<tr>
<td>Correctional Facility</td>
<td>$200.00</td>
</tr>
<tr>
<td>Eating Place-Mobile</td>
<td>$200.00</td>
</tr>
<tr>
<td><strong>Eating Place - Mobile Stick Built</strong></td>
<td>$200.00</td>
</tr>
<tr>
<td><strong>Eating Place - Takeout</strong></td>
<td>$160.00</td>
</tr>
<tr>
<td>Eating Place, Tier 1: 10-29 seats</td>
<td>$160.00</td>
</tr>
<tr>
<td>Eating Place, Tier 2: 30-75 seats</td>
<td>$195.00</td>
</tr>
<tr>
<td>Eating Place, Tier 3: More Than 75 seats</td>
<td>$230.00</td>
</tr>
<tr>
<td>Eating Place - Temporary: 1-4 Days</td>
<td>$95.00</td>
</tr>
<tr>
<td>Eating Place - Temporary: 5-14 Days</td>
<td>$150.00</td>
</tr>
<tr>
<td>Eating Place - Limited Menu</td>
<td>$150.00</td>
</tr>
<tr>
<td>Eating Place - School</td>
<td>$100.00</td>
</tr>
<tr>
<td>Eating Place - School Catering</td>
<td>$100.00</td>
</tr>
<tr>
<td>Eating Place - School Satellite</td>
<td>$100.00</td>
</tr>
<tr>
<td><strong>Eating Place - Commissary</strong></td>
<td>$250.00</td>
</tr>
<tr>
<td>Vending Company</td>
<td>$75.00</td>
</tr>
<tr>
<td>Senior Citizen Meals Site</td>
<td>$30.00</td>
</tr>
</tbody>
</table>

**LODGING PLACES LICENSE TYPES**

| Bed and Breakfast - 6 Rooms or More | $150.00 |
| Bed and Breakfast - 5 Rooms or Less | $100.00 |
| Lodging Place, Tier 1: 4-15 Rooms | $150.00 |
| Lodging Place, Tier 2: 16-75 Rooms | $175.00 |
| Lodging Place, Tier 3: More Than 75 Rooms | $200.00 |

**COMBINATION LICENSES TYPES**

| Eating and Catering | $275.00 |
| Eating and Lodging  | $275.00 |
| Eating and Campground | $275.00 |
| **Food Service at Youth Camp (Eating & Catering)** | $275.00 |

**CAMPS LICENSE TYPES**
<table>
<thead>
<tr>
<th>Campground Type</th>
<th>License Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sporting-Recreational Camp</td>
<td>$175.00</td>
</tr>
<tr>
<td>Campground - Agricultural Fair</td>
<td>$200.00</td>
</tr>
<tr>
<td>Campground - Wilderness</td>
<td>$150.00</td>
</tr>
<tr>
<td>Campground – Self-Contained RV Only</td>
<td>$150.00</td>
</tr>
<tr>
<td>Campground Tier 1: 5-24 Sites</td>
<td>$150.00</td>
</tr>
<tr>
<td>Campground Tier 2: 25-124 Sites</td>
<td>$175.00</td>
</tr>
<tr>
<td>Campground Tier 3: More Than ≥124 Sites</td>
<td>$200.00</td>
</tr>
<tr>
<td>Campground - Temporary Event Camping</td>
<td>$200.00</td>
</tr>
<tr>
<td>Youth Camp-Day</td>
<td>$100.00</td>
</tr>
<tr>
<td>Youth Camp-Resident Less Than ≤100 Campers</td>
<td>$190.00</td>
</tr>
<tr>
<td>Youth Camp-Resident 100-200 Campers &amp; Property Tax-Exempt More Than ≥200 Campers</td>
<td>$225.00</td>
</tr>
<tr>
<td>Youth Camp-Resident: More Than ≥200 Campers</td>
<td>$285.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CAMPS LICENSE FEES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>First Pool/Spas</td>
<td>$50.00</td>
</tr>
<tr>
<td>Additional Pools/Spas</td>
<td>$25.00 each</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BODY ARTISTS LICENSE TYPES</th>
<th>FEES FOR FISCAL YEAR 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tattooing Practitioner Artist</td>
<td>$225.00</td>
</tr>
<tr>
<td>Tattooing Show</td>
<td>$75.00</td>
</tr>
<tr>
<td>Body Piercing Practitioner</td>
<td>$200.00</td>
</tr>
<tr>
<td>Tattoo Artist- and Body Piercing Practitioner</td>
<td>$275.00</td>
</tr>
<tr>
<td>Electrologist Practitioner</td>
<td>$125.00</td>
</tr>
<tr>
<td>Micropigmentation Practitioner</td>
<td>$150.00</td>
</tr>
<tr>
<td>Guest Body Artist</td>
<td>$90.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MISCELLANEOUS FEES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reprint License</td>
<td>$25.00</td>
</tr>
<tr>
<td>Compressed Air</td>
<td>$10.00</td>
</tr>
<tr>
<td>Mass Gatherings Application Review: $100/Permit: $400 - $750</td>
<td></td>
</tr>
<tr>
<td>Late Renewal: within 30 days of license expiration date</td>
<td>$25.00</td>
</tr>
<tr>
<td>Late Renewal: more than 30 days after expiration date</td>
<td>$100.00 for 1st offense + $25 for first 30 days $200.00 for 2nd consecutive offense + $25 for first 30 days</td>
</tr>
<tr>
<td>Additional Inspection</td>
<td>$100.00</td>
</tr>
<tr>
<td>Insufficient Funds</td>
<td>$25.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TABLE 2(L(C) DELEGATED MUNICIPALITY LICENSES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>DELEGATED MUNICIPALITY EATING PLACES LICENSES</td>
<td>LICENSE FEES – FISCAL YEARS 2011-2014</td>
</tr>
<tr>
<td>Eating Place - Catering</td>
<td>$60.00</td>
</tr>
<tr>
<td>Correctional Facility</td>
<td>$60.00</td>
</tr>
<tr>
<td>Eating Place</td>
<td>$60.00</td>
</tr>
<tr>
<td>Eating Place - Commissary</td>
<td>$60.00</td>
</tr>
<tr>
<td>Eating Place - Mobile</td>
<td>$60.00</td>
</tr>
</tbody>
</table>
**TABLE 32 – RETAIL TOBACCO LICENSE FEES**

<table>
<thead>
<tr>
<th>License Type</th>
<th>April 1 – June 30</th>
<th>July 1 – September 30</th>
<th>October 1 – December 31</th>
<th>January 1 – March 31</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Tobacco I License:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt; 30 % annual gross revenue from total cigarette tobacco sales</td>
<td>$100</td>
<td>$75</td>
<td>$50</td>
<td>$25</td>
</tr>
<tr>
<td>Retail Tobacco II License:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&gt; or = 30 – 50% of annual gross revenue from total cigarette tobacco sales</td>
<td>$125</td>
<td>$94</td>
<td>$63</td>
<td>$32</td>
</tr>
<tr>
<td>Retail Tobacco III License:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&gt; 50% of annual gross revenue from total cigarette tobacco sales</td>
<td>$150</td>
<td>$113</td>
<td>$75</td>
<td>$38</td>
</tr>
<tr>
<td>Seasonal Mobile Fair Tobacco Vendor License</td>
<td>$50 for first fair location and $10 for each additional fair location</td>
<td>$50 for the first fair location and $10 for each additional fair location</td>
<td>$50 for the first fair location and $10 for each additional fair location</td>
<td>$50 for the first fair location and $10 for each additional fair location</td>
</tr>
<tr>
<td>Tobacco Vending Machine License</td>
<td>$50</td>
<td>$38</td>
<td>$25</td>
<td>$25</td>
</tr>
</tbody>
</table>

- Fees in Table 3.2 are also found in the Rules Relating to the Sale and Delivery of Tobacco Products in Maine (10-144 C.M.R., Ch. 203).
SECTION 6. INSPECTIONS

A. Right of Entry

1. The Department and any duly designated officer or employee of the Department shall have the right, without an administrative inspection warrant, to enter upon and into the premises of any establishment licensed at any reasonable time, in order to determine the state of compliance with any rules in force, in accordance with 22 M.R.S. § 2497.

2. Such right of entry and inspection shall extend to any premises which the Department has reason to believe is being operated or maintained without a license.

3. No such entry and inspection of any premises may be made without the permission of the owner or person in charge, unless a search warrant is obtained authorizing entry and inspection.

4. In the event that a person denies access to the Department, the Department may secure access through an administrative search warrant or pursuant to such process as provided by law.

B. Frequency

1. In accordance with 22 M.R.S. §2497, the Department will either inspect or otherwise determine whether an establishment is in regulatory compliance, in accordance with the provisions of these Rules. The Department shall also inspect body artist premises every other year. Based on the result of these routine inspections, the Department may increase frequency for establishments and body artists from every two years to more frequent inspections, based on the following criteria:

   a. **Quarterly Inspections:** The Department’s finding of the following factors will increase inspection frequency for an establishment or body artist, from a minimum of every two years to quarterly, for a period of one year:

      i. Two failed inspections occurred within one year of each other;

      ii. Three failed inspections under the same owner occurred within the past five years;

      iii. Other uncorrected health hazards occurred, where the Department required correction of such health hazards; or

      iv. Any other conditions posing a risk to public health and safety and listed in Section 6 (B)(2) below.

   b. **Monthly Inspections:** The Department will increase the frequency of inspections from quarterly to monthly, for a period of four months, if, after being placed on a quarterly inspection frequency, (due to findings in Section 6(B)(1)(a) above), the
establishment or body artist failed an inspection during that year of quarterly inspections.

2. The Department may, at its discretion, inspect, or determine whether an establishment or body artist is in regulatory compliance at more frequent intervals, as necessary, to follow-up on complaints or other problems noted on previous inspections. Factors considered by the Department include the following:

   (a) Whether the eating establishment is fully operating under an approved and validated HACCP Plan as specified under the Maine Food Code, §8-201.14 and ¶¶ 8-103.12(A) and (B);

   (b) Whether the eating establishment should be assigned a less frequent inspection frequency based on a written risk-based inspection schedule uniformly applied throughout the jurisdiction; or

   (c) The eating establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not Potentially Hazardous (Time/Temperature Control For Safety Food) such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels.

   a. Any eating establishment may be assigned more or less frequent inspections, based on a risk-based assessment uniformly applied by the Department throughout the jurisdiction, based on the following factors:

      Category 1: Classified as Low-Risk Establishments with an inspection frequency of 24 months, include the following criteria:

      i. Serve or sell only pre-packaged, non-potentially hazardous foods;

      ii. Prepare only non-potentially hazardous foods;

      iii. Heat only commercially processed, potentially hazardous foods for hot holding; and/or

      iv. Does not cool any potentially hazardous foods.

   b. Category 2: Classified as Medium Risk with an inspection frequency of at least 24 months or more frequently, include those establishments with the following criteria:

      i. Most products are prepared/cooked and served immediately;

      ii. May involve hot and cold holding of potentially hazardous foods after preparation and cooking; and/or

      iii. Complex preparation of potentially hazardous foods requiring cooking, cooling, and reheating for hot holding is limited to five or fewer potentially hazardous foods.

   c. Category 3: Classified as High Risk with an inspection frequency of at least 24 months or more frequently, include those establishments with the following criteria:
i. Extensive menu and handling of raw ingredients;

ii. Complex preparation, including cooking, cooling and reheating for hot holding, involves more than five potentially hazardous foods; and/or

iii. Variety of processes require hot and cold holding of potentially hazardous food.

d. Category 4: Classified as the Highest Risk with an inspection frequency of one to 12 months, include those establishments with the following criteria:

i. Serve a highly susceptible population who include, are not limited to, immune-compromised, pre-school children and the elderly;

ii. Conduct specialized processes, including but not limited to, smoking and curing; reduced oxygen packaging for extended shelflife or are under Department enforcement;

iii. Determined by the Department to require greater frequency of inspections and are in enforcement with the Department; and/or

iv. Any eating establishment preparing food via reduced oxygen packaging, HACCP or a variance.

3. **Criteria for Returning to Standard Routine Inspection Frequency.** The Department will review the following factors to determine whether the establishment or body artist may return to a less frequent inspections:

a. **Monthly to Quarterly Inspections:** When an establishment or body artist is subject to monthly inspections for a four-month time period (due to factors in Section 6(B)(1)(b) above) and the establishment or body artist passes those monthly inspections for all four consecutive months, then the Department may reduce inspection frequency of the establishment or body artist to two quarterly inspections.

b. **Quarterly to Annual Inspections:** When an establishment or body artist passes quarterly inspections for either one year under Section 6(B)(1)(a) or two consecutive quarters under Section 6(B)(3)(a), then the Department may reduce inspection frequency to every other year. In order for the establishment or body artist to resume routine inspections every other year, the Department will consider whether the establishment or body artist committed repeat violations during the increased frequency period.

C. **Inspectionor’s Report Findings**

1. **(Identification of Violations):** The health inspectionor’s findings may refer to the compliance history of an establishment or body artist, including any prior violations and corrective action. The findings shall identify violations by the following means:
(a.) Site Inspection or Investigation;
(b.) Internal Review of Laboratory Analyses or Inspection Reports; and/or
(c.) Complaints or Referrals from the public or other agencies.

2. The inspection report must note any violations of applicable rules, and the inspector will provide on the inspection report and leave a copy of the report to the person in charge at the establishment at the time of the inspection.

(a.) Should the establishment or body artist fail the inspection, the inspector must inform the person in charge of the failed inspection, the administrative remedies to correct the violation(s) and deadlines for corrective action in writing stated within these rules, and leave a copy of such information with the report.

(b.) A copy of the most recent inspection report must be maintained at the establishment or body artist’s facility and be made available to the public upon request.

i. The inspector must document details of any denial of access to perform an inspection.

ii. The inspector will ask the licensee or person in charge to sign the inspection report, acknowledging the receipt of the inspection report, findings and requirements.

3. When a licensee or person in charge refuses to sign an acknowledgement of receipt of an inspectional report findings, the Department will state the following items:

(a.) An acknowledgment of receipt does not constitute an agreement with the investigation report findings;

(b.) Refusal to sign an acknowledgment of receipt will not affect the licensee’s Permit Holder’s obligation to correct the violations noted in the inspection report within the time frames specified;

(c.) Refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the Department’s historical record for the establishment; and

(d.) Statement of a final request for the licensee or person in charge to sign an acknowledgment receipt of inspectional findings. Should the licensee or person in charge continue to refuse to sign, the inspector shall document the refusal upon the inspection report.

D. Inspection Failure

1. A failed inspection occurs when an establishment or body artist:
(a.) Receives more than three critical violations; or
(b.) Receives more than ten non-critical violations.

2. Critical Violations should be corrected on site, but, in any event, within ten days. The licensee must contact the Department when the critical violation has been addressed.

3. Non-critical violations must be corrected in a period to be determined by the Department, but no later than 90 calendar days after the inspection. The Department may approve a compliance schedule that extends beyond the time limits specified in this section, if a written schedule of compliance is submitted by the licensee and no health hazard exists or will result from allowing an extended schedule for compliance.

4. Failure to correct these violations satisfactorily within the time periods set in paragraphs (2) and (3) above may result in enforcement proceedings by the Department, which are outlined in Sections 6, 7, 8 and 9 of these Rules.

5. Any failed inspection requires the health inspector to follow up with a later inspection, to assure that all corrections were completed and remain corrected.

E. Alternative Determination of Compliance for Youth Camps

This section describes alternative methods of determination of compliance which the Department, in its discretion, may apply in the consideration of renewal of a youth camp license, in lieu of an on-site compliance inspection.

1. Accreditation by a Nationally Recognized Accreditation Organization

(a.) Requirements for Re-Licensure. A youth camp applying for license renewal by means of accreditation by a nationally recognized accreditation organization must demonstrate the following:

(i.) Submission of a complete Department youth camp inspection variance application on or before March 15 of each year, which demonstrates the youth camp has submitted a request for determination of compliance, on the basis of accreditation by a nationally recognized accreditation organization;

(ii.) The youth camp in all material respects complies with the regulatory requirements established by the Department’s 10-144 C.M.R. Ch. 208 Rules Relating to Boys, Girls, Boys and Girls, Day Camps, Primitive and Trip Camping in all material aspects;

(iii.) The youth camp is presently fully accredited by a nationally recognized accreditation organization and demonstrates that its accreditation process was at least as protective of public health as the Department’s process for licensing inspections of youth camps;
Since its most recent licensure, the youth camp has not undergone extensive renovations or expansions of any youth camp buildings, as defined in 10-144 C.M.R., Ch. 208, §Section 1(H); and

Since its most recent licensure, the youth camp has not undergone a change of camp ownership, a change of camp director, or both;

The Department did not grant an inspection variance during the previous two consecutive years; and

There is no other reason to deny the variance (including, but not limited to, uncorrected repeat critical violations from previous inspections).

Substantive Review of Department Rules. In the event of a significant revision of the Department’s 10-144 C.M.R., Ch. 208 -Rules Relating to Boys, Girls, Boys and Girls, Day Camps, Primitive and Trip Camping since the issuance of the most recent license to the youth camp, the Department reserves the right to require a full licensing inspection of the premises.

2. Determination of Compliance by Certification of Regulatory Compliance

Requirements for Re-Licensure. A youth camp applying for license renewal by means of certification of regulatory compliance must demonstrate the following that:

i. Submission of a completed Department youth camp inspection variance application on or before March 15 of each year, it has submitted a request for determination of regulatory compliance without inspection that certifies the following on the basis of a certification statement, executed by its Camp Director, which states:

“I, , certify that the camp has (within the past five years) passed its two most recent Department inspections, and the camp, during its period of licensure, will be in substantial compliance with the Department’s 10-144 C.M.R. Ch. 208 Rules Relating to Boys, Girls, Boys and Girls, Day Camps, Primitive and Trip Camping. In making this certification, I have reviewed the Department’s rules, the camp facilities, the camp operating procedures and the required documentation. I further certify that the documents required, pursuant to 10-144 C.M.R. Chapters 200, 201 and 208, are on file at the camp and available for Department review”.

ii. The youth camp has successfully passed its most recent (i.e. within the past five years) two licensing inspections by the Department;

iii. Since its most recent licensing inspection, the youth camp has not extensively renovated or expanded youth camp buildings, as defined in 10-144 C.M.R. Ch. 208, §(1)(H).
iv. Since its most recent licensure, the youth camp has not undergone a change of camp ownership, a change of camp director, or both.

v. The Department did not grant an inspection variance during the two previous consecutive years; and

vi. There is no other reason for the Department to deny the variance, including, but not limited to, uncorrected repeat critical violations from previous inspections.

(b.) Substantial Review of Department’s Rules. In the event of a significant revision of the Department’s 10-144 C.M.R. Ch. 208 Rules Relating to Boys, Girls, Boys and Girls, Day Camps, Primitive and Trip Camping since the issuance of the most recent license to the youth camp, the Department reserves the right to require a full licensing inspection of the premises.

3. General Licensing Requirements

(a.) Applicants for youth camp re-licensure shall submit applications on Departmental approved forms.

(b.) No later than May 15th of each year, the Department will notify youth camp applicants of whether they qualify for re-licensure on the basis of alternate determination of compliance.

(c.) The Department reserves the right to inspect a youth camp, notwithstanding the issuance of a renewal license under this Section, in order to investigate a licensing complaint, or upon reasonable cause that a condition exists at the youth camp which is not protective of public health and safety.

(d.) Except as otherwise provided in this Section, the Department reserves the right to conduct an inspection of a youth camp, in order to determine compliance with these rules, the Maine Food Code (10-144 C.M.R., Ch. 200), or the Public Pool/Public Spa Rules (10-144 C.M.R., Ch. 202).

F. Imminent Health Hazards

1. Ceasing Operations and Reporting. A licensee Permit Holder shall immediately discontinue operations and notify the Department if an Imminent Health Hazard (IHH) may exist because of an emergency, such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent food-borne illness outbreak, gross unsanitary occurrence or condition, or other circumstance that may endanger public health.

2. If operations are discontinued, or a license is temporarily suspended, the licensee Permit Holder must obtain approval from the Department before resuming operations.
3. For those establishments with conditions that which pose an Imminent Health Hazard, and conditions are not corrected within the time period set by the Department, then the Department may require suspension of a license, in accordance with the requirements of the Maine Administrative Procedure Act at 5 M.R.S.A. §10003, on an ex-parte basis, under 4 M.R.S. §184 & 10004.

4. Hold Order. The Department may issue a written order to hold and not use food that it finds, or has reason to believe, is adulterated, misbranded, not from an approved source or is not in compliance with the Maine Food Code.

   a. The issued hold order must include the following information: the common name of the food product, the label information, a container description, the quantity of food, the location of the food, the date the hold order is issued, the hold tag information and the signature of the Department’s health inspector who issued the hold order;

   b. A Department-approved hold tag shall be placed securely on the food container or food that is subject to the hold order. The hold tag must state that the food may not be used, sold, moved or destroyed without a written release of the hold order issued by the Department;

   c. The inspection report shall state the specific reasons for issuing the hold order with reference to the applicable provisions of the Maine Food Code and the hazard or adverse effect created by the observed condition of the food product;

   d. Food subject to the hold order may not be used, sold, served or moved from the establishment by any unauthorized person;

   e. When the Department finds, or has reasonable cause to believe, that the hold order will be violated, the Department may remove the food subject to the order from service and move that food to a place of safekeeping.

   f. Test, Sample, Examine the Food. The Department may examine, sample and test food that is subject to a hold order, to determine compliance with this rule.

   g. Notice Releasing Safe Food from a Hold Order. The Department shall issue a written notice on the inspection report releasing food from a hold order and shall remove the hold tags when the food is determined to be safe for human consumption by testing results or by documented confirmation that food is from an approved source.

   h. Unsafe Food is Destroyed. When food is determined to be unsafe, the food shall be destroyed or otherwise rendered unusable.

      i. The Department will observe the destruction process, to ensure that it is properly completed.

      ii. The Department shall provide written notice through the inspection report of the requirement to destroy the unsafe food.
iii. If a licensee disposes of the food, as required, then the establishment may continue operations, provided that there is no other IHH to be addressed.

Failure to Comply with Hold Order or Destruction of Food Requirement. The Department may seek administrative or judicial remedies to achieve compliance with the issued hold order, when the licensee fails to comply with the Hold Order, including, but not limited to, a temporary suspension of the eating establishment license. The Department is authorized to take such action under 5 M.R.S. §10004.

5. Food Security. A licensee shall ensure food security by performing the following actions:

a. Assigning responsibility of food security to knowledgeable individuals;
b. Conducting periodic assessments of food security procedures and operations;
c. Promoting food security awareness to encourage all staff to be alert to any signs of tampering or other malicious, criminal or terrorist actions;
d. Providing an appropriate level of supervision to all staff and operations;
e. Conducting random and routine security checks of the premises;
f. Investigating threats or information about signs of tampering or other malicious, criminal or terrorist actions or threats;
g. Obtaining and verifying references prior to hiring staff;
h. Knowing who is, and should be, on the premises;
i. Monitoring displayed food and self-service areas, such as salad bars;
j. Only using food from an approved source;
k. Supervising off-loading of food deliveries, including off-hour deliveries;
l. Rejecting suspect food;
m. Implementing a system for receiving, storing and handling food; and
n. Ensuring that food (not meant for consumer self-service operations) is stored in a secure location that is not accessible to the general public.

6. Specialized Food Processes. Eating establishments that perform specialized food processes, such as, but not limited to, vacuum packaging, cook chill packaging, sous vide packaging, acidifying foods for preservation, fermenting of vegetables and curing foods, must develop and implement Hazard Analysis Critical Control Point (HACCP) plan prior to performing these processes. Some of these specialized processes may also require a variance. Because it is the licensee’s responsibility to develop a HACCP plan, the licensee must contact the Department for guidance prior to performing any specialized processing.
a. Applicants for a variance must demonstrate an appropriate level of training and/or experience to process the product safely;

b. The Department may mandate a HACCP training course, depending upon the knowledge, compliance history and experience with the specialized food processes they are performing;

c. The development of a HACCP plan is the responsibility of the licensee; and

d. The Department will review requests for, and issue, variances, on a case-by-case basis for specialized food processes.
SECTION 7—ENFORCEMENT PROTOCOLS

A. **Intent:** This enforcement protocol is to establish an effective system for initiating enforcement against violators to protect the public health and promote the public welfare by regulating the safety and sanitation of all licensed eating establishments, and lodging places establishments, sporting/recreational camps, youth camps, and campgrounds and body artists requiring licensure by the Department.

B. **Authorization:** Pursuant to 22 M.R.S. §2498 and 32 M.R.S. §§1222, 4252, 4318 and 4327, the Department is authorized to impose one or more of the following sanctions when a violation of this rule occurs, and the Department determines that a sanction is necessary and appropriate to ensure compliance with Department state licensing rules, or to protect the public health.

C. **Referral for Enforcement Action:** The health inspector will refer an establishment to enforcement staff when the establishment or body artist fails to meet the compliance deadline set by the inspector to correct the cited violations, within the inspection report. The Department may issue a letter of enforcement to an establishment or body artist to require compliance.

D. **Penalty Assessment Notice:** When the licensee does not complete corrective action for violation(s) by the Department’s deadline(s), then the Department may assess penalties per the penalty schedule outlined in Section 8 of this rule.

**Initial Letter of Enforcement:** The Department will issue an initial letter of enforcement, describing the noncompliance, outlining the actions to resolve the violations and setting a new deadline to correct the violations.

E. **Referral to the Office of the Attorney General:** A licensee may be referred to the State of Maine Office of the Attorney General for appropriate civil litigation, if the establishment or body artist fails to comply with the Department deadlines.

E. **Menu Labeling Compliance/Enforcement:** Unless preempted by Section 4205 of the Patient Protection and Affordable Care Act of 2010, the Department or an agent authorized to inspect an eating establishment under 22 M.R.S. §2409 must ensure compliance with the provisions of 22 M.R.S. §2500-A, but is not required to verify the accuracy of the caloric information required by Section 2500-A. Upon request, a chain restaurant must provide to the Department documentation of the accuracy of the information required by 22 M.R.S. §2500-A (1).
SECTION 8. ADMINISTRATIVE PENALTIES

A. **Scope of Administrative Penalties:** An administrative penalty may only be assessed for a violation or a failure to comply with Department requirements, that, at the time it occurred, constituted noncompliance with statutes or rules under the jurisdiction of the Department’s Health Inspection Program: (i) which were then in effect; and (ii) to which the person was then subject; and (iii) to which these rules apply.

1. Any person who commits an act prohibited by an applicable statute or rule is subject to the imposition of the Administrative Penalty.

Pursuant to 22 M.R.S. §2498(2), the Department establishes the following schedule of penalties within this section for establishments and body artists failing to correct violations by the Department’s deadline(s).

B. **Process:** An inspection report or letter of enforcement (described in Section 7(D) above) must be issued by the Department, prior to the Department imposing an administrative penalty.

1. An administrative penalty is assessed via a Notice of Penalty Assessment Notice.

2. A Notice of Penalty Assessment Notice may be imposed, once an establishment or body artist fails to complete or maintain corrective action required by the Department described in the inspection report or letter of enforcement.

3. Imposing an administrative penalty is not deemed, in any way, to extend any deadline for compliance.

4. Eating, lodging, campground, youth camps and public pool/spa licensees are required to pay the Department the full amount of the penalties to the Department, owed at the time of license renewal, or prior to the Department processing any license application. If a licensee has not paid any collectible fines by the time of its license renewal, the Department may collect such penalty assessments by requiring their payment, prior to the processing of any license renewal application.

C. **Risk Assessment and Analysis:** In order to determine the amount of a penalty assessment, the following factors are considered in the determination of penalty amounts:

1. **Degree of Risk (Critical and Non-Critical Violations)** - The level of risk to public health and safety; seriousness of the violation shall be determined in prioritizing enforcement actions by the actual risk to health that the violation poses. Therefore, critical violations will incur larger penalty amounts than non-critical violations, due to the greater threat to public health.

2. **Duration of the Violation** - The length of time a violation persists without corrective action; will be factored, in determining appropriate action and priority for enforcement.

3. **Repeat Violations:** Whether there is a recurrence of the same violations. If the same violations were committed by the establishment in the past, then the Department will assess a larger administrative penalty, due to the reoccurrence of violations.
D. Authority The Department may direct any of its licensed establishments and body artists 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, or failure to maintain compliance, constitutes a separate fineable violation.

E. Penalty Schedule for Violations (Except Eating Establishments, Lodging Places, Recreational Camps, Youth Camps, Public Pools/Public Spas or Campgrounds Operating Without a License): Pursuant to 22 M.R.S. §2498(1)(C)(2), the Department is authorized to assess shall establish a schedule of penalties to those establishments operating without a Department license and impose penalty assessments, according to the nature and duration of the violation. The following schedule shall apply to establishments that fail to comply with the Department’s initial enforcement deadline, referred to in Section 7(D):

1. It is the responsibility of the establishment to be licensed at all times of operation and to notify the Department, if there are any questions or concerns regarding proper licensure. For any establishment with a critical violation (other than operating without a license), the base penalty amount is $50.00 per critical violation. If an establishment incurs a critical violation that is a repeat violation, then the base penalty amount is $100.00 per critical violation.

2. If an establishment operates without a license, the Department may assess the following penalty amounts, according to the following time periods: For any establishment with a non-critical violation, the base penalty amount is $25.00 per non-critical violation. If an establishment incurs a non-critical violation that is a repeat violation, then the base penalty amount is $50.00 per non-critical violation.
   a. Unlicensed for more than 30 days, but fewer than 45 days: $200.
   b. Unlicensed for 45 days to 60 days: $500.
   c. Unlicensed for 60 days or more: $1,000.

3. The penalty amounts assessed by the Department for operating without a license are in addition to, not in place of, the license fees owed for the current year that the establishment should have been licensed. The base penalty amount(s) determined from Section 8(E)(1) and (2) above must be multiplied by the number of violations incurred by that establishment, at the time of the Notice of Penalty Assessment.

4. Upon the Department’s second finding of the same owner of an establishment operating without a license, the Department will assess penalties that are at least double the amount listed in Section 8(E)(2) above. For establishments with both critical and non-critical violations, the Department will add the results of both critical and non-critical formulas from paragraphs 8(E)(1) through (3) above, to determine the penalty owed.

F. Penalty Schedule for All Other Violations for Eating Establishments, Lodging Places, Recreational Camps, Youth Camps, Public Pools / Public Spas and Campgrounds:
1. For any establishment with a critical violation, the penalty amount is $100.00 per repeat critical violation.

2. For any establishment with a non-critical violation, the penalty amount is $50.00 per repeat non-critical violation, or day out of compliance.

3. For operating in violation of an Imminent Health Hazard, the penalty amount is $100 for each violation. Each day that the violation remains uncorrected may be counted by the Department as a separate offense.

4. Pursuant to 22 M.R.S. §2498(3)(B), all penalties must be paid to the Department prior to the Department’s approval of license applications or renewals.

G. **Penalty Schedule for Body Artists:** Pursuant to 32 M.R.S. §§1222, 4204, 4327 and 4318, body artists who practice without a license, practice under the influence (or upon a patron who is under the influence), or who violate the sterilization, sanitation or safety standards adopted by the Department, are subject to penalties.

1. **Operating without a license:** A person who operates as a body artist and is not licensed, is subject to a $1,000 penalty for each procedure performed without a license.

2. **Tattooing a Minor:** A tattoo artist who tattoos a minor is subject to a $1,000 penalty for each case.

3. **Body Piercing a Minor:** A body piercer who pierces a minor without prior written consent of a parent or guardian is subject to a $1,000 penalty.

4. **Operating Under the Influence:** No body artist may be under the influence of alcoholic beverages or chemical substances when they perform body artist operations. A body artist who violates this requirement is subject to a $1,000 penalty for each occurrence of operating as a body artist while under the influence.

5. **Patron Under the Influence:** No body artist may perform body artist operations onto a patron who is under the influence of alcoholic beverages or chemical substances. The Department will assess a $750 penalty against any body artist who operates on a patron who is under the influence.

6. **All Other Violations:** A body artist who violates any other sterilization, sanitation or safety rule under 10-144 C.M.R. Chapter 209, 210, 211 or 212, shall be subject to a $500 penalty for each violation.

8.E.5. The Department will assess an additional penalty amount for violations (other than operating without a license) that exist for a particular duration of time. The following amounts will be added to the amounts determined by the Department in paragraphs 8(E)(1) through (3) above:

(a) If any of the establishment’s violations remain unresolved for more than 30 days and less than 60 days from the deadline set by the initial
enforcement letter deadline, then the Department will add $250 to the penalty amount determined from the formulas within Section 8(E)(1)-(4);

(b) If any of the establishment’s violations remain unresolved for more than 60 days and less than 90 days from the deadline of the initial enforcement letter, then the Department will add $500 to the penalty amount determined from the formulas within 8(E)(1)-(4); and

(c) If any establishment’s violations remain unresolved for more than 90 days from the deadline set in the initial enforcement letter, then the Department will add $750 to the penalty amount determined from the formulas within 8(E)(1)-(4).

6. The Penalty Formula for violations, other than operating without a license, consists of the following:
   
   [Base penalty for critical violations] multiplied by [number of critical violations] + [Base penalty for non-critical violations] multiplied by [number of non-critical violations] + Duration Amount determined from Section 8 (E)(5) = Total Penalty Assessment for Violations other than Operating Without a License

F. Penalty Schedule for Operating Without a License Violations: According to 22 M.R.S. §2498 (1)(C), “any person, corporation, firm or copartnership that operates any eating establishment, eating and lodging place, lodging place, youth camp, sporting camp, or camping area, without first obtaining a license, as required by these rules, must be punished, upon adjudication of unlicensed operation, by a fine of not less than $25, nor more than $200, and upon a 2nd or subsequent adjudication of unlicensed operation must be punished by a fine of not less than $200 nor more than $500. Each day any such person, corporation, firm or copartnership operates without obtaining a license constitutes a separate offense.”

1. It is the responsibility of the establishment to be licensed at all times of operation and to notify the Department if there are any questions or concerns, regarding proper licensure.

2. If an establishment operates without a license, the Department may assess the following penalty amounts, according to the following time periods:
   
   (a) Unlicensed for more than 30 days but fewer than 90 days: $200.
   (b) Unlicensed for 90 days to 120 days: $500.
   (c) Unlicensed for more than 120 days: $1,000.

3. For each year that the establishment has operated without such license, the base amount of $1,000 shall be multiplied by the number of years unlicensed.

4. The penalty amounts assessed by the Department for operating without a license are in addition to, not in place of, the license fees owed for the current year that the establishment should have been licensed.

5. Upon the Department’s second finding of an Establishment operating without a license, the Department will assess an additional administrative penalty of $500.
6. The penalty formula for operating without a license consists of the following:

- [Base Penalty of $200, $500 or $1,000 (depending on the length of time unlicensed; see Section 8(F)(2) above), if first offense]
- + $1,000 for each year that the establishment operated without a license.
- + [Repeat penalty of $500, if repeat operating without a license violation]
- = Total Penalty Assessment for Operating Without a License Violations.

G. In the event of any violation of this section or any rule pursuant to these rules, the Attorney General may seek to enjoin any further violation, in addition to any other remedy.
SECTION 9. SUSPENSION OR REVOCATION OF LICENSES

A. **Department Filing of Complaint for Suspension/Revocation:** When the Department determines that 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.

B. **Suspension/Revocation/Refusal of License for Micropigmentation or Electrology:** 32 M.R.S. §§4316 and 1233 authorize the Department to revoke, suspend or deny the issuance or renewal of a micropigmentation practitioner or electrologist license, if the following occur:

1. **Conviction.** The person has been convicted of a crime related to the practice of micropigmentation or electrology;

2. **Deception or misrepresentation.** The person has engaged in any deception or misrepresentation to the Department or the public in applying for a license under 32 M.R.S. Chapters 18 or 63-A, or in the advertising or practice of micropigmentation or electrology;

3. **Incompetence (Micropigmentation).** The person has demonstrated negligence, incompetence or danger to the public in the practice of micropigmentation; or

4. **Violation of Rules.** The person has violated any of the electrology or micropigmentation rules adopted by the Department under 32 M.R.S. Ch. 18 or 63-A.

C. **Emergency Suspension/Revocation:** Whenever, upon inspection, conditions are found, which violate this rule 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 any regulated establishment, the Department may request an emergency suspension of license by the District Court, pursuant to 4 M.R.S. §184, and the court may grant suspension subject to reinstatement following a hearing, before the court, if cause is not shown.

D. **Temporary License Suspension:** If the licensee refuses to comply with an Imminent Health Hazard notice, the Department may take further action, including immediately suspending a license temporarily and without court proceedings, in accordance with 5 M.R.S. §10004.
SECTION 10. APPEALS

A. Right to Appeal: The Department may impose any fine penalty in conformity with the Maine Administrative Procedure Act, 5 M.R.S., Chapter 375, Subchapter IV, providing the licensee the opportunity for an administrative hearing.

B. Collection of Penalties/Fines Prior to Department Renewal: Eating establishment, Lodging Place, Campground, Sporting/Recreational Camp, Youth Camp, Public Pool or Public Spa licensees who are fined pursuant to this rule are required to pay the Department the full amount of any penalties to the Department. If any of these licensees have not paid any collectible penalties/fines by the time of its license renewal, then the Department will collect such fines by requiring their payment prior to the processing of any license renewal application.

C. Stay During Appeal: An appeal of the Department's decision to assess a penalty against any licensee stays the collection of any penalty/fine. Interest must accrue on penalties/fines at a rate described in 14 M.R.S. §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 14 M.R.S. §1602-A.

D. Denial of New or Renewed License, Voided Conditional License, Non-Compliance with Variance: The Department may deny a license application, void a conditional license or refuse to renew a license, when it determines that the applicant or licensee failed to comply with Department rules or law. In such cases, the establishment or body artist applicant or licensee is afforded the opportunity for an administrative hearing, in accordance with the Department’s Administrative Hearings Regulations at 10-144 C.M.R., Ch. 1.
SECTION 11. VARIANCES

A. Variances and Waivers. The Department may grant a variance by modifying or waiving the requirements of relevant Department rules, if the Department determines that a health hazard will not result from the variance. If a variance is granted, the Department will retain the establishment’s or body artist’s information specified under such rules in its records for the establishment.

B. Documentation of Proposed Variance and Justification. A person seeking a variance or waiver of any provision of this rule these Rules is required to submit the following information, in support of the request:

1. A statement of the proposed variance of the relevant rules requirement, citing relevant appropriate section numbers;

2. An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant rule sections will be alternatively addressed by the proposal; and

3. A HACCP Plan, if required, as specified under the relevant rules, that includes the information specified under this these Rules, as it is relevant to the variance requested.

C. Conformance with Approved Procedures. If the Department grants a variance as specified in the relevant rules, the licensee permit holder will:

1. For eating establishments

   a. Comply with the HACCP Plans and procedures that are submitted as specified under Maine Food Code, 10-144 C.M.R., Ch. 200, §8-201.14 and approved as a basis for the modification or waiver; and

   b. Maintain and provide to the Department, upon request, records specified under the Maine Food Code, 10-144 C.M.R., Ch. 200, §§ 8-201.14(D) and (E) that demonstrate that the following are routinely employed:

      i. Procedures for monitoring critical control points;
      
      ii. Monitoring of the critical control points;
      
      iii. Verification of the effectiveness of an operation or process; and
      
      iv. Necessary corrective actions, if there is failure at a critical control point.

2. For all other establishments, meet the terms and conditions of the variance.

D. Violation of Variance. When the licensee does not maintain compliance with the variance, the Department may take enforcement action, subject to appeal by the licensee, who may request an administrative hearing.

EFFECTIVE DATE:
March 1, 1979

AMENDED:
November 4, 1981
October 1, 1982 - Section 14 (added)
May 15, 1983 - Section 2 and Section 4
October 17, 1983 - Section 7
June 27, 1984 - Section 12 (J)
January 1, 1985 - Section 14
October 28, 1985 - Section 14
January 1, 1987
January 1, 1989

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