

REGULATIONS

**REGULATIONS OF THE WEST VIRGINIA
BOARD OF HEALTH**

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- CHAPTER 3. VITAL STATISTICS**
- CHAPTER 4. STATE HYGIENIC LABORATORY**
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**ARTICLE 3. SANITATION OF EATING AND DRINKING
ESTABLISHMENTS; INCLUDING PARTS OF
THE CODE FOR INTERPRETATION THEREOF**

Sec.

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Sec. 1. Definitions.—The following definitions shall apply in the interpretation and the enforcement of these regulations:

(a) **Restaurant:** The term "restaurant" shall mean restaurant, coffee shop, cafeteria, short order cafe, luncheonette, school lunchroom, tavern, sandwich stand, soda fountain, drink stand, and all other public eating establishments where food is prepared, handled, and served to the public, as well as kitchens and other places in which food is handled or prepared for sale elsewhere to the public.

(b) **Itinerant Restaurant:** The term "itinerant restaurant" shall mean any eating or drinking establishment where food is offered for sale, to be used, eaten, drunk, or consumed in or at such place operating for a temporary period in connection with a fair, carnival, circus, public exhibition, or similar gathering, and shall also include kitchens operated under the same control whether on the same premises as such eating establishments, or on separate premises.

(c) **Employees:** The term "employee" shall mean any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils.

(d) **Utensils:** "Utensils" shall include any kitchenware, tableware, glassware, cutlery, utensils, containers, or other equipment with which food or drink comes in contact during storage, preparation, or serving.

(e) **Health Officer:** The term "health officer" shall mean the State Director of Health of the State of West Virginia,* or his authorized representative.

(f) **Person:** The word "person" shall mean person, persons, firm, corporation, or association.

Sec. 2. Permits.—Twelve months from the date on which these regulations take effect, it shall be unlawful for any person to operate a restaurant

*For local adoption, delete words State Director of Health and insert local enforcement authority; State of West Virginia, and insert the city of _____, whenever it appears in the regulation.

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in the State of West Virginia, who does not possess an unrevoked permit. Permits shall be issued annually by the health officer, valid for a period of one year, and such permits shall be posted in a conspicuous place. Only persons who comply with the requirements of these regulations shall be entitled to receive and retain such a permit. A person conducting an itinerant restaurant shall be required to secure a permit.

In the event of reasonable certainty of an outbreak of highly infectious disease in an eating and drinking establishment such place or places, will, upon order of a qualified health official be closed immediately.

A permit may be temporarily suspended upon the violation by the permit holder of any of the terms of these regulations, or permanently revoked upon serious or repeated violations after once having been granted an opportunity for hearing.

Sec. 3. Placarding or Public Display of Grade Certificate.—In each locale where the grading regulation is in force, every restaurant shall display at all times in a place designated by the health officer, a placard or certificate approved by the health officer, stating the grade of the establishment.

Sec. 4. Examination and Condemnation of Unwholesome or Adulterated Food or Drink.—Samples of food, drink, and other substances may be taken and examined or caused to be examined by the health officer as often as may be deemed necessary for the detection of unwholesomeness or adulteration. The health officer may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which is unwholesome or adulterated.

Sec. 5. Inspection of Restaurants.—At least once every 6 months the health officer shall inspect every restaurant located within the State of West Virginia. In case the health officer discovers the violation of any item of sanitation (required for the grade then held), he shall make a second inspection after the lapse of such time as he deems necessary for the defect to be remedied, and the second inspection shall be used in determining compliance with the (grade) requirements of these regulations. Any violation of the same item of these regulations on such second inspection shall call for immediate degrading and/or suspension of permit.

One copy of the inspection report shall be posted by the health officer upon an inside wall of the restaurant, and said inspection report shall not be defaced or removed by any person except the health officer. A copy of the inspection report shall be filed with the records of the health department.

The person operating the restaurant shall upon request of the health officer permit access to all parts of the establishment and shall furnish information necessary to make the inspection complete.

Sec. 6. The Standards for Grading of and/or the Issuance of Permits to Restaurants Shall be as follows: (This section also includes parts of the code for reasons of Interpretation)

Item 1. Floors: The floors of all rooms in which food or drink is stored, prepared, or served, or in which utensils are washed, shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair.

Public Health Reason: Properly constructed floors which are in good repair can be more easily kept clean than improperly constructed floors. Kitchen floors having an impervious surface can be cleaned more easily than floors constructed of a pervious or easily disintegrated material, will not absorb organic matter, and are, therefore, more likely to be kept clean and free of odors. Clean floors are conducive to clean food-handling methods.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) The floors of all rooms in which food or drink is stored, prepared, or served are of such construction as to be easily cleaned, are smooth, and are in good repair. Floors may be of concrete, terrazzo, tile, etc., or wood covered with linoleum, or tight wood. Wooden floors containing cracks, holes, or broken or poorly fitting planks, or which otherwise fail to be tight, do not comply with this item. If floor drains are used, they shall be provided with proper traps and so constructed as to minimize clogging, and the floor should be graded to drain.

(2) All floors are kept clean and free from litter during the hours of preparing, cooking, and serving of food. Saw dust shall be considered as litter. Dustless methods of floor cleaning shall be used, or dust-arresting sweeping compounds and push-brooms employed; and all except emergency floor cleaning shall be done during those periods when the least amount of food and drink is exposed, such as after closing or between meals.

Item 2. Walls and Ceilings: Walls and ceilings of all rooms shall be kept clean and in good repair. All walls and ceilings of rooms in which food or drink is prepared shall be finished in a light color. The walls of all rooms in which food or drink is prepared or utensils are washed shall have a smooth, washable surface up to the level reached by splash or spray.

Public Health Reason: Painted or otherwise properly finished walls and ceilings are more easily kept clean and are therefore more likely to be kept clean. A light-colored paint or finish aids in the even distribution of light and the detection of unclean conditions. Clean walls and ceilings are conducive to clean food-handling operations.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) Walls and ceilings of all rooms in which food or drink is stored, prepared, or served are clean and in good repair.

(2) Walls and ceilings of all rooms in which food or drink is prepared or utensils are washed are painted or finished in light color and refinished as often as necessary in a manner approved by the health officer.

(3) The walls of all kitchen and sculleries have a smooth, washable surface up to the level reached by splash or spray, especially splash or spray from the dishwashing vats or machine.

(4) The walls and ceilings are free of grease marks, dirt, dust, filth, and cobwebs. Torn and ragged wallpaper, broken wall board, wooden walls with open cracks, excessive calendars, advertising posters, streamers, and other unused and unnecessary articles of decoration on or behind which dust and dirt may accumulate shall be deemed a violation of this item.

Item 3. Doors and Windows: During fly season or when flies are prevalent, all openings to the outer air shall be effectively screened and doors shall be self-closing, or other effective means be provided to prevent the entrance of flies.

Public Health Reason: Flies may contaminate the food with disease organisms thus nullifying the effectiveness of all other public-health safeguards.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) All openings to the outer air are effectively screened with not less than 16-mesh wire or plastic cloth; and all doors are self-closing and screen doors to the outer air open outward; or

(2) Fans of sufficient power to prevent the entrance of flies are in use at all otherwise ineffectively protected openings, or

(3) Flies are absent.

Windows and door screens must be tight-fitting and free of holes. This includes the screens for skylights, transoms, and fans to the outside air.

This item must be satisfied during the seasons of the year when flies are prevalent.

Item 4. Lighting: All rooms in which food or drink is stored or prepared or in which utensils are washed shall be well lighted.

Public Health Reason: Ample light, either natural or artificial, reasonably well distributed to points of important activities, promotes better methods of food handling and cleanliness.

Satisfactory Compliance: This item shall be deemed to have been satisfied:

(1) When the natural light through windows or skylights of all kitchens and dining rooms, or when artificial light, adequate for the necessary operations, is provided.

(2) When the windows are clean and in good repairs.

(3) When all pantries and storage rooms are adequately lighted.

The usual standards for judgment of adequate lighting is 10 foot candles in use on all working surfaces in rooms where food is prepared.

Item 5. Ventilation: All rooms in which food or drink is stored, prepared, or served or in which utensils are washed, shall be well ventilated.

Public Health Reason: Proper ventilation reduces bacterial concentration in the air, odors, condensation upon interior surfaces which may drop into food or utensils, smudging of walls and ceilings, excessive heat, and the concentration of toxic gases produced as a by-product of combustion or otherwise. Moisture promotes mold development.

Satisfactory Compliance: This item shall be deemed to have been satisfied if all rooms are adequately ventilated so as to be reasonably free of disagreeable and objectionable odors and condensation. Ventilation equipment supplementary to windows and doors, such as adequate exhaust fans or stove-hoods,

shall be provided if necessary. This requirement shall not apply to cold storage rooms.

Item 6. Toilet Facilities: Every restaurant shall be provided with adequate and properly located toilet facilities for the employees thereof. In restaurants hereafter constructed, toilet rooms shall not open directly into any room in which food or drink is prepared or stored. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, in good repair, and well lighted and ventilated. Hand-washing signs shall be posted in each toilet room used by employees. In all establishments where beer is sold for consumption on the premises, public toilets are to be provided. In localities where privies or earth closets are permitted and used, they shall be separate from the restaurant building, and shall be of a sanitary type constructed and operated in conformity with the standards of the State Board of Health.

Public Health Reason: Human excreta is potentially dangerous and must be properly disposed of. The organisms causing typhoid fever, paratyphoid fever, and dysentery may be present in the body discharges of cases or carriers. Sanitary toilet facilities are necessary to protect the food and utensils from fecal contamination carried by flies, other insects, hands, or clothing. When the toilet facilities are of a satisfactory type and are kept clean and in good repair, the opportunities for the spread of contamination by the above means are minimized.

Where pit privies are used, it is essential that these be of a sanitary type in which the excreta is protected from flies and other agents of transmission, and that they be not rendered ineffective by improper operation.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) Adequate toilet facilities conveniently located and complying with the recommended standards of the State Board of Health or the articles contained in a plumbing code where in effect are provided for employees.

(2) Those establishments serving beer for consumption on the premises, are required to provide toilet facilities in accordance with the regulations of the state Beer Commission.

(3) The toilet-room doors are provided with springs or checks to make them self-closing.

(4) The toilet room and fixtures are kept clean, sanitary, in good repair, and free from flies.

(5) The toilet room is well lighted, and ventilated to the outside air.

(6) Durable, legible signs are posted or stencilled conspicuously in each toilet room directing employees to wash their hands before returning to work.

(7) In establishments hereafter constructed, toilet rooms shall not open directly into any room where food is prepared or stored, or utensils are washed.

(8) In establishments where toilets are furnished to be used by the public, the toilet shall be located in a manner that does not require the public to traverse the kitchen.

A booth open at the top or bottom shall not qualify as a toilet room.

Privies shall be constructed and operated in accordance with the standards of the State Board of Health.

Item 7. Water Supply: Running water under pressure shall be accessible to all rooms in which food is prepared or utensils are washed, and the water supply shall be adequate, and of a safe, sanitary quality.

Public Health Reason: Running water under pressure should be accessible so as to encourage its use in cleaning operations; it should be adequate so that cleaning and rinsing will be thorough; and it should be of safe, sanitary quality in order to be suitable for drinking and to avoid the contamination of food and utensils.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) Running water under pressure is easily accessible to all rooms in which food is prepared or utensils are washed.

(2) The water supply is ample in quantity to insure proper cleaning of floors, equipment, and utensils.

(3) The water supply conforms with the construction, operation, and sanitation standards of the State Board of Health.

(4) A water supply other than an approved public water system is used and the proprietor has on file a safe bacteriological report made within the previous twelve months from the State Hygienic Laboratory or other approved laboratory.

(5) There is no physical connection between the protected water supply and an unsafe or unprotected water source through which it is possible to contaminate the protected supply, and when all fixtures are of a type that makes back-siphonage into the protected supply impossible.

Item 8. Lavatory Facilities: Adequate and conveniently located hand-washing facilities shall be provided, including hot and cold running water, soap, and approved sanitary towels. The use of a common towel is prohibited. No employee shall resume work after using the toilet room without first washing his hands.

Public Health Reason: The use of washing facilities and sanitary towels is essential to the personal cleanliness of food handlers.

Satisfactory Compliance: This item shall be deemed to have been satisfied if hand-washing facilities, including hot and cold running water, soap, and individual cloth or paper towels, are provided. Washing facilities must be adequate and convenient to the toilet room. Utensil-washing vats shall not be accepted as washing facilities for personnel. Hot water must be on hand at all times or within a reasonable time after opening the faucets. Soap and towels should be provided by the management. No employee shall return from a toilet to a room where food, drink, or utensils are handled or stored, without first having washed his hands. Although not specifically required by the wording of this article, it is urged that all establishments provide hand-washing facilities for the use of the public.

Item 9. Construction of Utensils and Equipment: All multi-use utensils and all show and display cases or windows, counters, shelves, tables, refrigerating equipment, sinks, and other equipment or utensils used in connection with the operation of a restaurant shall be so constructed as to be easily cleaned and shall be kept in good repair. Utensils containing cyanide or plated with cadmium or lead shall not be used: *Provided*, That solder containing lead may be used for jointing. The health officer may condemn the use of any utensil or item of equipment when the design or repair of such utensil or item of equipment makes it difficult to thoroughly clean and is likely to harbor disease producing organisms.

Public Health Reason: If the utensils and equipment are not so constructed that they can easily be cleaned, and are not kept in good repair, it is unlikely that they will be properly cleaned. Cadmium and lead poisoning outbreaks have been reported from the ingestion of acid food or drink which had been in contact with utensils containing or plated with cadmium and lead.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) All surfaces with which food or drink comes in contact consist of smooth, not readily corrodible material.

(2) All surfaces with which food or drink comes in contact are in good repair, free of breaks, corrosion, open seams, cracks, and chipped places. This requirement precludes the use of any type of equipment so designed as to permit food or drink routinely to come in contact with V-type threaded surfaces. In all cases where a rotating shaft is inserted through a surface with which food or drink comes in contact, the inspector shall assure himself that the joint between the moving and stationary surface is close fitting.

(3) All surfaces with which food or drink comes in contact are easily accessible for cleaning, and are self-draining.

(4) All display cases, windows, counters, shelves, tables, refrigeration equipment, stoves, hoods, mixers, meat grinders and other equipment are so constructed as to be easily cleaned, and are in good repair. Paper, oilcloth, and other non-permanent or any absorbent material used for covering on work surfaces or storage area is not accessible.

(5) No utensils containing or plated with cadmium or lead are used, provided that solder containing lead may be used for jointing. Tests for the presence of cadmium or lead in utensils or utensil plating shall be made in accordance with directions of the State Hygienic Laboratory or the Bureau of Industrial Hygiene.

Item 10a. Cleaning of Equipment and Utensils: All equipment including display cases, windows, counters, shelves, tables, refrigerators, stoves, hoods, sinks, meat blocks, potato peelers, grinders, slicing machines, saws, can openers, mixers, etc., shall be kept clean and free from dust, dirt, insects, or any contaminating material. All multi-use eating and drinking utensils shall be thoroughly cleaned after each usage. A suitable detergent shall be used. All cloths used by waitresses, chefs, and other employees shall be clean. No article, polish, or other substance containing any cyanide or other poisonous material shall be used for cleaning or polishing utensils.

Public Health Reason: Food cannot be kept clean and safe if permitted to come in contact with containers, utensils, and equipment which have not been properly cleaned and given bactericidal treatment. The diseases which this item is intended to guard against are those in which the ineffective agent appears in the saliva or other body discharges.

According to various investigators, eating and drinking utensils may be responsible for the transmission of influenza, tuberculosis, diphtheria, pneumonia, scarlet fever, whooping cough, trench mouth, typhoid fever, diarrhea, dysentery, and the common cold. The organisms of these diseases are transmitted by direct and indirect contact from an infected case or carrier among the patrons or employees. The organisms may be coughed or sneezed on food, dishes, and utensils; they may be left on glasses, cups, spoons, and forks by mouthing; they may reach the dishwasher from washers or handlers or indirectly from dishes infected by the users; or they may reach cleaned dishes exposed to contamination by handling or droplet infection. It has been shown that disease organisms can be transferred from infected persons to eating and drinking utensils and that pathogens may survive poor dishwashing methods. Pathogens have been found on restaurant tableware which had not been effectively washed and "sterilized." Although some investigators believe that eating and drinking utensils constitute a major avenue for the spread of the respiratory diseases, it has not been possible to determine the actual extent to which these diseases are so spread.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) All equipment, including display cases and windows, counters, shelves, tables, meat-blocks, refrigerators, stoves, and hoods, are kept clean and free from dust, dirt, insects, and other contaminating material.

(2) All multi-service eating and drinking utensils are thoroughly cleaned after each usage, and all multi-use utensils used in the preparation or serving of food and drink are thoroughly cleaned immediately following the day's operation, in such manner as to be clean to the sight and touch. A suitable detergent shall be used.

(3) All tablecloths, napkins, and cloths used by waitresses, chefs, and other employees are clean.

(4) No article, polish, or other substance containing any cyanide preparation or other poisonous material is used for the cleansing or polishing of utensils. Tests for the presence of cadmium or lead in utensils or utensil plating shall be made in accordance with directions of the State Hygienic Laboratory or the Bureau of Industrial Hygiene.

The cleaning may be accomplished by the use of warm water containing an adequate amount of an effective soap or detergent to remove grease and solids, and the rinsing in clear clean water. The wash water should be changed at sufficiently frequent intervals to keep it reasonably clean. Careful scraping or prerinsing of dishes to remove the gross food particles before washing will make it possible to keep the wash water clean for a longer time between changes and to maintain a sufficient concentration of the detergent. In machine washing, dishes should be stacked in the racks or trays so as to avoid overcrowding and so as to permit the wash and rinse waters to reach all surfaces of each article.

Item 10b. Bactericidal Treatment of Equipment and Utensils: All multi-use eating and drinking utensils shall be subject to an approved bactericidal process after each use. All multi-use utensils and equipment shall be subject to an approved bactericidal process following each day's operation or oftener if necessary. Drying cloths if used must be clean and shall be used for no other purpose. Single-service containers shall be used but once.

Satisfactory Compliance: This item shall be deemed to have been satisfied when:

(1) After cleaning, the eating and drinking utensils are effectively subjected to one or more of the following approved bactericidal processes:

a. Immersion for at least two minutes in clean, hot water at a temperature of at least 170° F., or for ½ minute in boiling water. An approved thermometer shall be available, convenient to the vat. The pouring of scalding water over washed utensils shall not be accepted as satisfactory compliance.

It is recommended that, whenever practicable, bactericidal treatment should be obtained through the use of hot water in the manner above described. For this method of bactericidal treatment two adjacent deep metal vats should be provided and fitted with a porcelain, metal, or other impervious drainboard. If difficulty is experienced in obtaining clean-looking glasses, it is recommended that the rinse water be changed more frequently, or that a three-compartment vat be used or that a different washing compound be tried. After washing, the glasses, dishes, etc., should be placed in metal baskets and immersed in the hot water for the required period of time. Upon removal from the hot water they should remain in the baskets until dry and then be stored in such a manner as not to become contaminated before being used. It is considered that even in the case of roadside stands, hot water may be obtained through the use of gasoline, bottled gas, or kerosene stoves, which may, if the wash and rinse vats are correctly constructed, be placed directly thereunder.

Care should be taken in the bactericidal treatment of containers by immersion to prevent the trapping of air in the container, thus preventing contact with the entire surface. This may be accomplished by placing all glasses, cups, etc., in a venting position.

b. Immersion for at least two minutes in a luke warm chlorine rinse solution containing at least 100 p.p.m. of free chlorine.

When chlorine treatment is used, an approved three-compartment vat is required, the first compartment to be used for washing, the second for plain rinsing, and the third for chlorine immersion. This will prevent the excessive consumption of chlorine by organic matter and washing compound carried over from the washing compartment. Upon removal from the chlorine rinse the utensils may be rinsed in running water, if desired, and allowed to dry either in a basket or inverted on a drain shelf or tray. The drain shelf shall be smooth, of a non-corrosive material, and easy to keep clean.

Silver and silver-plated tableware should not be treated with chlorine as silver salts are formed which tarnish the silver.

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c. Exposure in a steam cabinet to at least 170° F. for at least fifteen minutes or to at least 200° F. for at least five minutes.

d. Exposure in an oven or hot-air sterilizer to hot air at a temperature of at least 180° F. for at least twenty minutes. Equipment that is too large to immerse may be treated (1) with live steam from a hose, in the case of equipment in which steam can be confined, (2) by boiling water, or (3) by spraying or swabbing with chlorine solution of 100 p.p.m. strength.

e. Any other method may be accepted which is approved by the Division of Sanitary Engineering.

(2) Drying cloths, if used, shall be clean, and shall be used for no other purpose. It is recommended that wherever possible utensils be permitted to drain dry without the use of drying cloths.

(3) Single-service articles, such as paper cups, plates, straws, and milk bottle caps, are used once only.

(4) Dishwashing machines are equipped with thermostatic water heating devices, gauges, thermometers, detergent dispensers, or other necessary devices to assure proper operation. The standards for bactericidal treatment given in paragraph 1, Section a to d, shall not apply. The cleansing efficiency shall be determined by methods specified by the Division of Sanitary Engineering or the State Hygienic Laboratory.

The health officer shall determine by frequent tests that the bactericidal process employed by the establishment complies with these regulations or standards specified by the Division of Sanitary Engineering.

Item 11. Storage and Handling of Utensils and Equipment: After bactericidal treatment, utensils shall be stored in a clean, dry place protected from flies, dust, dirt, and other contamination, and shall be handled in such a manner as to prevent contamination as far as practicable. Single-service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until used, and shall be dispensed and handled in a sanitary manner.

Public Health Reason: If utensils and equipment are not protected from contamination the value of bactericidal treatment may be nullified.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) All containers and utensils are stored at a sufficient height above the floor in a clean, dry place protected from flies, splash, dust, overhead leakage and condensation, and other contamination. Wherever practicable, containers and utensils shall be covered or inverted.

(2) Drain racks, trays, and shelves are made of not readily corrodible material, and are kept clean.

(3) Containers and utensils are not handled by the surfaces which come in contact with food or drink. Fingers should not touch the inside surfaces of glasses, cups, dishes, etc., nor the bowls of spoons, the tines of forks, or the blades of knives. Any equipment touched by the inspector shall be again subjected to bactericidal treatment before being used.

(4) Paper cups, plates, straws, spoons, forks, and other single-service containers and utensils are purchased in sanitary cartons and stored therein in a clean, dry place until used, and after removal from the cartons these articles are handled in a sanitary manner. Laundered cloths and napkins shall be stored in a clean place until used.

(5) Spoons, spatulas, dippers, scoops, etc., used for dispensing frozen desserts, are, when not in use, stored either in running water or other approved method.

Item 12. Disposal of Wastes: All wastes shall be properly disposed of and all garbage and trash shall be kept in suitable receptacles, in such a manner as not to become a nuisance or a public health menace.

Public Health Reason: All garbage, refuse, and liquid wastes resulting from the normal operation of a food or drink establishment should be properly disposed of so as not to become a nuisance or a public health menace.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) All liquid wastes resulting from the cleaning and rinsing of utensils and floors, from flush toilets, and from lavatories are disposed of in a public sewer or in the absence of a public sewer, by a method approved by the State Board of Health. Grease traps are recommended where much grease is discharged.

(2) All plumbing complies with recognized plumbing ordinances or codes and is so designed and installed as to prevent contamination of the water supply through inter-connections and back-siphonage.

(3) All garbage is kept in tight, non-absorbent, and easily washable receptacles which are covered with close-fitting lids while pending removal.

(4) All garbage, trash, and other waste material are removed from the premises as frequently as may be necessary to prevent nuisance and unsightliness, and are disposed of in a manner approved by the health officer.

(5) All garbage receptacles are washed when emptied, and treated with a disinfectant if necessary, to prevent nuisance.

Item 13. Refrigeration: All readily perishable food or drink shall be kept at or below 50° F. except when being prepared or served. Waste water from refrigeration equipment shall be disposed of in an approved manner.

Public Health Reason: Usually the bacteria in food are harmless, and if this were always true there would be no reason to refrigerate food except to prevent spoilage. There is, however, no way to be sure that pathogenic bacteria have not entered the food (even though observance of the other items of this ordinance will much reduce this likelihood). The likelihood of contracting disease may be increased when the food contains large numbers of disease producing organisms or their toxins. For this reason perishable foods should be kept cold so that any small number of disease producing bacteria which *may* have entered will not be permitted to multiply. It should be recalled that bacteria are microscopic plants and that most plants do not grow in cold weather.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) All readily perishable food or drink is kept at or below 50° F. except when being prepared or served. This shall include all custard-filled and cream-filled pastries, milk and milk products, egg products, meat, fish, shellfish, gravy, poultry, stuffing, and sauces, dressings, and salads containing meat, fish, eggs, or milk or milk products, and wrapped sandwiches containing perishable filling.

(2) All ice used is from a source approved by the health officer and is stored and handled in such manner as to prevent contamination. Water used to wash ice shall comply with the safety standards of item 7.

(3) To prevent contamination of the refrigerator contents by possible sewage backflow, all waste water from refrigeration equipment drains into an open sink or drain properly trapped and sewer connected; provided that where sewer connections are not available clean, adequate, water-tight drip pans may be used, or the drainage is disposed of in an approved manner.

Item 14. Wholesomeness of Food and Drink.—All food and drink shall be clean, wholesome, free from spoilage, and so prepared as to be safe for human consumption. All milk, fluid milk products, ice cream, and other frozen desserts served shall be from approved sources. Milk and fluid milk products shall be served in the individual original containers in which they were received from the distributor or from a bulk container equipped with an approved dispensing device; *Provided*, That this requirement shall not apply to cream, which may be served from the original bottle or from a dispenser approved for such service. All oysters, clams, and mussels shall be from approved sources, and if shucked shall be kept until used in the containers in which they were placed at the shucking plant.

Public Health Reason: Food may be harmful or distasteful to the consumer unless it is clean, wholesome, free from spoilage, and so prepared as to be safe for human consumption.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) All food and drink are clean, wholesome, free from spoilage, and so prepared as to be safe for human consumption. The term "food and drink" shall include condiments, dressings, and sauces.

(2) No part or parts of any food previously served to a customer is again served in any form to other customers.

(3) All custard-filled and cream-filled pastries served have been rebaked, after filling, at an oven temperature of at least 425° F. for at least 20 minutes and cooled to 50° F. or less within 1 hour after rebaking; or the filling has been heated before the pastry shells were filled, so that every particle of the mix was held at a temperature of at least 190° F. for at least 10 minutes and cooled, either before or after filling the pastry shells, to 50° F. or less within 1 hour after heating.

Where the pastries used by a restaurant are obtained from outside sources, it is required that pastries be wrapped or packaged at the place of manufacture and labeled with the name and address of the manufacturer.

(4) All milk, fluid milk products, ice cream, frozen custard, sherbet, ices, and similar frozen desserts served are from sources approved by the health officer. Pasteurized milk and milk products should be used where available.

(5) All milk and fluid milk products are served in the individual original container in which they were received from the distributor, or from a bulk container equipped with an approved dispensing device.

In the case of milk drinks mixed at soda fountains, etc., this provision shall be interpreted as requiring that the milk used shall include the entire contents of the original container or shall be from an approved bulk dispenser. An exception may be made in the case of cream served with coffee, cereals, etc., as the distributor cannot deliver cream in the unit sizes that would be required. For such service, the health officer may permit transferring to individual service units from the original bottle, or from pumps, or other approved dispensers. The mixing of cream and milk, or the pouring of either into jars, bottles, or other containers for storage therein, shall be prohibited.

(6) All oysters, clams, and mussels are from a source approved by the State Health Department, provided that if the source is outside the State the shipper's name shall be on the current lists of certified dealers issued by the United States Public Health Service. Shucked shellfish shall be kept until used in the containers in which they were placed at the shucking plant.

Item 15. Storage, Display, and Serving of Food and Drink.—All food and drink shall be stored, displayed, and served as to be protected from dust, flies, vermin, depredation and pollution by rodents, unnecessary handling, droplet infection, overhead leakage, and other contaminations. No animals or fowls shall be kept or allowed in any room in which food or drink is prepared or stored. All means necessary for the elimination of flies, roaches, and rodents shall be used.

Public Health Reason.—Food or drink not properly protected from contamination may become a public health hazard.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) All food and drink are stored and displayed in such a manner as to be protected from dust, flies, vermin, unnecessary handling, droplet infection, overhead leakage and condensation, sewage back-flow, and other contamination. Evidence of the presence of rodents, roaches, ants, or other vermin shall be considered as a violation of this item. Food or drink shall not be stored or prepared beneath overhead sewer or drain pipes unless such pipes are provided with suitable means to carry off possible leakage or condensation. Food or drink shall not be stored on floors which are subject to flooding from sewage back-flow, such as those below street level. On new construction the location of a restaurant in a basement below the surface of the ground shall be discouraged. The pouring lips of bottles containing milk or other beverages in non-leakproof containers shall not be submerged in water for cooling.

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minimize the opportunities for contamination. Serving of sliced butter and cracked ice shall not be by direct contact with fingers or hands, and manual contact with all food and drink shall be avoided insofar as is possible. Sugar shall be served only in covered dispensers or in containers or wrapped packages for individual service; containers should preferably be so designed that a spoon cannot be inserted.

(3) All unwrapped or unenclosed food and drink on display are protected by glass or otherwise from public handling or other contamination, except that approved hand openings for self-service may be permitted on counter fronts.

(4) No animals or fowls are kept or allowed in any room in which food or drink is prepared or stored.

(5) All means necessary for the prevention of the invasion, infestation, and propagation of rats shall be employed.

(6) All supplementary means necessary for the elimination of flies, roaches, and rodents are employed. For the elimination of flies, fly-repellant fans, flypaper, fly traps, or fly-killing sprays or powders may be used. All poisonous compounds used in the extermination of rodents or insects shall be so colored as to be easily identified; however, poisonous substances should be used with extreme caution and compounds harmless to humans should be substituted wherever possible.

(7) Shell oysters and clams are stored in a clean, well drained room or bin provided especially for that purpose.

(8) Open dishes and pans containing food are not stacked in contact with each other.

(9) All sugar bowls, mustard, slaw, and onion containers have covers and are kept covered when not in use.

(10) No food transported to a restaurant shall be received, used, or accepted unless such food is properly wrapped, covered or handled so that it is not exposed to dust, dirt, flies, hands of truck drivers, insanitary containers, or other sources of contamination.

(11) All barbecue served is prepared and handled in an approved manner, or secured from an approved source which shall meet the following requirements:

(a) Barbecue pits shall be enclosed and protected from the weather, dust, flies, and animals, and shall be kept clean and free of garbage, rubbish, and other contaminating substances.

(b) Floors shall be constructed of smooth concrete, or equal, and graded to drain.

(c) Light and ventilation shall be ample to promote cleanliness.

(d) Barbecue may be chopped and handled in the kitchen, or in any room meeting the requirements of sanitation specified for kitchens and the sanitary handling of food therein.

Cutting or chopping of barbecue in an outside pit room shall be prohibited.

Item 16. Cleanliness of Employees: All employees shall wear clean outer garments and shall keep their hands clean at all times while engaged in handling food, drink, utensils, or equipment. Employees shall not expectorate or use tobacco in any form in rooms in which food is prepared.

Public Health Reason: Clean clothing and clean hands reduce the likelihood of contaminating food, drink, and utensils during handling. The use of tobacco tends to promote careless food handling methods and may promote spitting and the contamination of the fingers and hands by saliva. Disease organisms present in saliva may be transmitted to food or utensils directly by fingers or indirectly by flies or vermin.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) The outer garments of all persons, including dishwashers, engaged in handling food or utensils are reasonably clean and are used for no other than restaurant duty. Clean uniforms, coats, or aprons shall be considered satisfactory. The use of hair nets, head bands, or caps is recommended.

(2) The hands of all employees handling food, drink, or utensils are kept clean, and are washed before beginning work.

(3) There is no evidence of spitting or of the use of any form of tobacco by employees in rooms in which food is prepared.

Item 17. Miscellaneous: The premises of all restaurants shall be kept clean and free from litter or rubbish. None of the operations connected with a restaurant shall be conducted in any room used as living or sleeping quarters. Adequate lockers or dressing rooms shall be provided for employees' clothing and shall be kept clean. Soiled linens, coats, and aprons shall be kept in containers, or in an area approved by the health officer, provided for this purpose.

Public Health Reason: Accumulations of refuse provide breeding places for flies and harborage for rats. Properly maintained premises add to the attractiveness of the area and eliminate public health hazards.

Satisfactory Compliance: This item shall be deemed to have been satisfied if:

(1) The premises are clean and free of litter and rubbish, which shall be disposed of as required for the restaurant wastes by item 12.

(2) None of the operations connected with the establishment is conducted in any room used as living or sleeping quarters.

(3) Dressing rooms or adequate lockers not located in the kitchen are provided for employees' clothing and are kept clean. Provisions for storing street clothing in the employees' toilet room may be accepted in lieu of a separate dressing room.

(4) Soiled linens, coats, and aprons are stored in a manner that prevents contamination of food.

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Grade B. Restaurants: In each locale when the grading regulation is in force, grade B restaurants are those which fail to comply with items 1, 2, 4, 5, or 17, but which conform with all other items of sanitation required for grade A restaurants.

Grade C. Restaurants: In each locale when the grading regulation is in force, grade C restaurants are those which fail to comply with either grade A or the grade B requirements.

Itinerant Restaurants: Itinerant restaurants shall be constructed and operated in an approved manner.

Sec. 7. Grade of Restaurants Which May Operate.—In each locale where the restaurant grading regulation is in effect, the following grades of restaurants may operate: From and after 12 months from the date on which these regulations take effect, no restaurant shall be operated within the State of West Virginia or its police jurisdiction, unless it conforms with the grade A or grade B, or approved itinerant restaurant requirements of these regulations: *Provided*, That when any restaurant fails to qualify for any of these grades the health officer is authorized to suspend the permit, or in lieu thereof to degrade the restaurant and permit its operation during a temporary period not to exceed 30 days.

Sec. 8. Reinstatement of Permits; Supplementary Regrading.—Any restaurant, the grade of which has been lowered and all grade displays have been changed accordingly, or the permit of which has been suspended, may at any time make application for regrading and/or the reinstatement of the permit.

Within one week after the receipt of a satisfactory application, accompanied by a statement signed by the applicant to the effect that the violated provision or provisions of these regulations have been conformed with, the health officer shall make a reinspection and thereafter as many additional reinspections as he may deem necessary to assure himself that the applicant is again complying with the higher grade and/or permit requirements, and in case the findings indicate compliance, shall award the higher grade and/or reinstate the permit.

Sec. 9. Disease Control.—No person who is affected with any disease in a communicable form or is a carrier of such disease shall work in any restaurant, and no restaurant shall employ any such person or any person suspected of being infected with any disease in a communicable form or of being a carrier of such disease. If the restaurant manager suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the health officer immediately. A placard containing this section shall be posted in all toilet rooms.

All persons employed in restaurants shall comply with the regulation 41 of the State Board of Health.

Sec. 10. Procedure When Infection Suspected.—When suspicion arises as to the possibility of transmission of infection from any restaurant employee, the health officer is authorized to require any or all of the following measures: (1) the immediate exclusion of the employee from all restaurants,

N. H. DYER, M.D., M.P.H.
STATE DIRECTOR OF HEALTH



State of West Virginia

DEPARTMENT OF HEALTH

CHARLESTON 25305

November 28, 1967

Honorable Robert D. Bailey
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Mr. Bailey:

Enclosed are two copies of a Reference Page and two copies of Index Pages for The Public Health Laws of West Virginia and a Manual of Regulations of the West Virginia Board of Health. These Laws and Regulations are filed in the Odd Size File as item number 3.

Sincerely yours,

A handwritten signature in cursive script that reads "N. H. Dyer".

N. H. Dyer, M. D., M. P. H.
State Director of Health

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 11/28/67