

NEW HANOVER COUNTY

BOARD OF HEALTH

RULES GOVERNING THE OPERATION OF

RETAIL SEAFOOD MARKETS AND VEHICLES

IN

NEW HANOVER COUNTY

NORTH CAROLINA

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Section 2000 Purpose

To establish standards for the operation of retail seafood markets and vehicles, and to minimize the risk of disease transmission through the handling, processing and sale of seafood, the New Hanover County Board of Health declares that the following rules for protection of the public health are hereby adopted pursuant to authority granted by Chapter 130A Section 39 of the North Carolina General Statutes, and shall apply throughout New Hanover County, North Carolina.

Section 2001 General Provisions

- (a) Scope No person shall construct, operate or renovate or cause to be constructed, operated or renovated any retail seafood market or vehicle contrary to the provisions of these Rules. These Rules supersede regulations, requirements, rules and standards relative to seafood markets and vehicles previously adopted by the New Hanover County Board of Health.
- (b) Conflict The provisions of any federal, state or municipal law, ordinance, regulation or rule establishing requirements and standards affording greater protection to the public health, safety and welfare shall prevail within the jurisdiction of such agency or municipality over requirements and standards established by these rules.
- (c) Permits No person shall operate a retail seafood market or vehicle until such market or vehicle has been: 1) inspected 2) found to comply with these Rules and 3) permitted by the New Hanover County Health Department.
- (d) Exemptions
 - a. Commercially packaged, shelf stable seafood can be offered without a permit.
 - b. Any or all food service establishments that fall under NC General Statutes §130A-247.
 - c. Any permanent commercial establishment that sells or offers for sale frozen and/or mechanically refrigerated prepackaged seafood products, from approved sources.

Section 2002 Definitions

The following definitions shall apply in the interpretation and enforcement of these Rules:

Adulterated means the condition of seafood: 1) if it bears or contains any poisonous or deleterious substance which may render it injurious to human health; 2) if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by federal/state laws, regulations and/or rules, or in excess of such tolerance if so established; 3) if it contains in whole or in part any filthy, putrid or decomposed substance, or if it is otherwise unfit for human consumptions; or, 4) if it has been processed, prepared, packed or held under unsanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to human health.

Approved means determined by the Department to be in compliance with these Rules and/or acceptable to the Department based on a determination of conformity with principles, practices and generally recognized standards that protect public health. Food/seafood which complies with requirements of the North Carolina Department of Agriculture or United States Department of Agriculture or United States Department of Health and Human Services - Food and Drug Administration, and the requirements of these Rules shall be considered as approved.

Board of Health means the New Hanover County Board of Health.

Crustacean meat means and includes the meat of crabs, crayfish, lobsters and shrimp.

Department means the New Hanover County Health Department or its representative.

Director means Director of the New Hanover County Health Department or his(her) authorized representative.

Equipment means an article that is used in the operation of a seafood market or seafood vehicle such as coolers, scales, reach-in refrigerators, sinks, or tables. All equipment must be in good repair, cleanable and free from rust and corrosion.

Eviscerated fish means the removal of the head and/or internal organs.

Fish means fresh or saltwater finfish and crustaceans.

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

Molluscan shellfish means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

Packaged means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packed in a permitted food establishment or an approved food processing plant, and properly labeled. Packaged does not include re-sealable sandwich bags, wrappers, carry-out boxes, or other nondurable containers used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

Permit means written authorization granted by the Health Director to operate a seafood market or vehicle and sell or offer for sale seafood products as defined in these rules.

Person means any individual, firm, association, organization, partnership, business trust, corporation or company.

Processed means the handling and preservation of raw fish to retain a desirable quality and nutritional product. Levels of processing includes:

- (1) Whole fish – no physical processing;
- (2) Drawn fish – whole fish which has been deheaded and/or eviscerated;
- (3) Dressed fish – whole fish that has been scaled and eviscerated and ready-to-cook;
- (4) Pan dressed fish – head, tail and fins have been removed and ready-to-cook
- (5) Filleted fish – flesh of the fish has been cut away from the bone and ready-to-cook.

Refrigerated means capable of maintaining product temperature at forty-one (41) degrees Fahrenheit or less.

Sanitize means the effective bactericidal treatment of clean surfaces and utensils by a process which has been approved by the North Carolina Commission for Health Services through adoption of 15A NCAC 18A .2619. The sanitizing process shall be effective in destroying vegetative cells of pathogenic bacterial and in substantially reducing the population of other microorganisms. Sanitization treatment shall be safe for the consumer and shall not adversely affect the product.

Seafood means fish, crustacean meat and shellfish used for food.

Seafood Market means a structure with a permanent foundation, constructed, renovated or up-fitted to operate as a commercial establishment.

Seafood Vehicle means and includes an enclosed mobile vehicle that is able to be transported on the highway such as a truck with an enclosed truck bed, van, or enclosed trailer.

Shellfish means an aquatic invertebrate with a shell including but not limited to all varieties of oysters, clams, mussels and scallops.

Shellstock means raw, in-shell molluscan shellfish.

Shucked shellfish means molluscan shellfish that have one or both shells removed.

Section 2003 Permits

- (a) Application A person seeking permission to operate a retail seafood market or vehicle shall make written application, and shall submit plans and specifications to the Department. A person seeking reissue of his(her) permit to operate a retail seafood market or vehicle shall make written application to the Department.
- (b) Plan Review Plans and specifications proposed for new construction, conversion or remodeling of a retail seafood market or vehicle shall be submitted to the Department for review and approval prior to commencing any new construction, conversion or remodeling activity. Plans shall consist of at least a scaled floor layout type drawing of the proposed market or vehicle, and a listing and description of all equipment. Construction, conversion and remodeling shall comply with approved plans and specifications.

- (c) Inspection A permit to operate a retail seafood market or vehicle shall not be issued nor reissued until the market or vehicle has been inspected or re-inspected by the Department, and found to comply with these Rules. After issue of a permit, the Department shall conduct an unannounced inspection during normal operating hours on at least a three times per year for markets and two times per year for vehicles to determine compliance with these Rules. Any violation of these Rules shall constitute cause and may subject the proprietor to revocation of his(her) permit. Permits shall expire on January 31 of the succeeding calendar year. Permits may be reissued if the proprietor maintains and operates the market or vehicle in compliance with these Rules, and makes written application to the Department. Permits shall be posted in a conspicuous place so as to be readily visible by the public at the entrance of the market or on the vehicle. Prior to beginning operation, the proprietor shall submit to the Department copies of permits necessary from any other regulatory agency such as the North Carolina Department of Environmental Quality.

Section 2004 Construction and Operation Standards for Markets

- (a) Floors Floors shall be constructed so as to be easily cleanable and shall be kept clean and in good repair. Where seafood is handled, processed or stores; where equipment or utensils are washed; in walk-in freezers and refrigerators; and in dressing, locker and toilet rooms; floors shall be constructed of nonabsorbent materials such as concrete, terrazzo, tile or a commercial grade of linoleum. Where water is routinely discharged to the floor or where the floor is subjected to flood-type cleaning: (1) floors shall be constructed of concrete, terrazzo, tile or equal, and slope to drains; and (2) a hot and cold water mixing bibb shall be located so that a hose may be connected for washing and rinsing floors. Floors shall be constructed so as to be free of cleaning obstacles. Floor area shall be sufficient to accommodate all activities necessary and relevant to operation of a seafood market.
- (b) Walls and Ceilings Walls and Ceilings shall be constructed so as to be easily cleanable, and shall be kept clean and in good repair. Where seafood is handled, processed or stored; where equipment or utensils are washed; in walk-in freezers and refrigerators; and in dressing, locker and toilet rooms, walls and ceilings shall be constructed of nonabsorbent materials, and walls shall have washable surfaces to the highest level reached by splash or spray of water (to a minimum height of six (6) feet from the floor surface).
- (c) Lighting and Ventilation Lighting and ventilation equipment shall be constructed so as to be easily cleanable, and shall be kept clean and in good repair. Areas where seafood is handled and processed; and areas where equipment or utensils are washed; shall be provided with at least thirty (30) foot-candles of light on the preparation or work surface. In all other areas, at least ten (10) foot-candles of light at a height thirty (30) inches above the floor shall be provided. Where seafood is exposed for display, handling, preparation or other purposes, light bulbs shall be shatter-proof or shielded so as to preclude the possibility of broken glass falling into product.
- (d) Lavatory and Toilet Facilities Seafood markets shall have adequate, conveniently located and readily accessible toilet facilities. Toilet rooms shall be provided with self-closing doors, and kept free of flies and storage. Windows located in toilet rooms shall be screened.

Fixtures shall be kept clean and in good repair. Durable, legible signs stating that employees must wash their hands before returning to work shall be posted in toilet rooms. Process areas shall be equipped with adequate, conveniently located and readily accessible lavatories. Lavatories shall have a mixing faucet, hot and cold running water, and be provided with soap and sanitary towels or an approved hand-drying device. Lavatories shall be kept clean and in good repair. Neither equipment/utensil washing sinks nor processing sinks shall be approved as employee handwashing facilities.

- (e) [Storage Spaces](#) Storage spaces shall be kept clean and free from unnecessary articles and offensive or musty odors. All items shall be stored on shelves located at least six (6) inches above the floor or otherwise arranged so as to facilitate thorough cleaning of the room or space. Unless tightly sealed, shelves shall be constructed approximately one (1) inch from the wall to eliminate cracks for roaches. Shelves shall not be covered with paper, cardboard, oilcloth nor any other absorbent material. Wooden cabinets and shelves shall be finished with a clear or light colored material so as to produce smooth, nonabsorbent and easily cleanable surfaces. Single-service containers, wrapping paper, etc. shall be: (1) purchased only in sanitary containers 2) stored so as to prevent contamination by dust, splash and vermin, and, 3) handled in a sanitary manner. Shipping boxes, crates or other containers shall be washed and rinsed immediately after emptying and prior to storing. Food and food containers, wrapping paper, etc. shall not be stored under exposed sewer lines.
- (f) [Water Supply](#) The water supply shall be located, constructed, maintained and operated in accordance with standards recognized by the North Carolina Commission for Health Services through adoption of 15A NCAC 18A .1720. Areas where seafood is handled or processed; where equipment or utensils are washed; can wash facilities; dressing, locker and toilet rooms; and, any other areas where water is required for cleaning shall be provided with hot and cold running water under pressure. The capacity of hot water heating equipment shall be based on the number and size of sink compartments, the number of lavatories, a can wash facility, and the volume of hot water required to conduct other processing and cleaning activities. Heating equipment shall deliver hot water at a minimum temperature of 110 degrees Fahrenheit to each point of use. Cross-connections with unapproved water supplies are prohibited. If potential backflow conditions exist, then an approved prevention device shall be provided.
- (g) [Disposal of Waste](#) Sewage and other liquid wastes shall be disposed of in a public sewer system or, in the absence of a public sewer system, by an approved, properly operating sanitary wastewater treatment and disposal system. Garbage and other solid wastes including by-products shall be collected and stored in cans constructed of leak-proof, nonabsorbent material with tightfitting lids or in other approved containers or methods. Lids shall be kept in place except for cans located inside the establishment and frequently used. Facilities shall be provided for cleaning and storing garbage cans and mops. Cleaning facilities shall include a hot and cold water mixing bibb, hot and cold running water, threaded nozzle and curbed impervious pad sloped to drain other approved facilities or methods. If containerized systems are used for garbage storage a cleaning contract must be provided.

(h) Insect and Rodent Control The establishment shall be kept free of flies, roaches, rodents, ants and other vermin. All openings to the outside shall be protected against the entrance of flies by self-closing doors, screened windows, controlled air currents or other effective means. The premises shall be kept neat and clean at all times. Waste material, tin cans, rubbish and other litter shall not be allowed to accumulate on the premises. There shall be no fly or mosquito breeding places, rodent harborages or undrained areas on the premises. Only pesticides which have been properly labeled and approved for the specific purpose intended shall be used. Such pesticides shall be used in accordance with the manufacturer's directions, and shall be handled and stored so as to prevent any contamination of equipment, utensils and edible products.

(i) Food Handling Dressed, pan dressed, fillet fish and/or ready-to-eat seafood shall be handled, displayed and stored in a manner so as to prevent contamination of these items from the public (example-mechanical refrigeration display case).

Soiled aprons, clothing and linen shall be kept in containers provided for this purpose. Suitable storage spaces shall be provided for brooms, brushes, hoses, mops, cleaning compounds and other items in routine use. (relocate to Section e)

Process sinks shall only be used for dressing, scaling, washing and cutting fish or other seafood. (Relocate to Section l)

Utensil sinks shall only be used for cleaning equipment and utensils. (relocate to Section l)

Mop water shall only be discard in a mop sink or can wash. (relocate to Section g)

Operations shall not be conducted in any room used for domestic purposes. (relocate to Section g)

(j) Employees shall wear clean outer clothing, such as caps, aprons, coats, etc. Employees shall be clean, and shall handle seafood, equipment and utensils in a safe and sanitary manner. No tobacco products shall be used while handling and processing seafood. Employees shall scrupulously wash their hands prior to beginning work, prior to any direct hand contact with product, between handling or processing different type products so as to prevent cross contamination, after each visit to the toilet and otherwise as necessary to promote sanitation in the establishment. All employees must be in good health as per current NC Food Code.

(k) Equipment and Utensils Equipment and utensils shall be so constructed as to be easily cleanable, and shall be kept clean and in good repair (NSF, ANSI or equivalent). Food contact surfaces shall, in addition, be easily accessible for cleaning, nonabsorbent, noncorrosive, rust free and nontoxic. Equipment and utensils used in the handling and processing of seafood shall be thoroughly cleaned after each use, rinsed with hot water and subjected to an approved sanitizing treatment. Cleaned and sanitized equipment and utensils shall be stored so as to drain, dry and be protected from splash, dust and other contamination.

- (l) Processing and Utensil Sinks Seafood markets shall be equipped with facilities for scaling, drawing and washing fish and for cleaning and sanitizing utensils. These facilities shall consist of:

Processing Sink(s):

- (1) At least a one compartment stainless steel sink with one drain board;
- (2) A flexible hand sprayer with hot and cold running water;
- (3) A crumb-cup strainer

Utensil Sink:

- (1) at least a three compartment stainless steel sink with two sloped drain boards that are an integral part of and continuous with the sink;
- (2) a combination faucet with a flexible hand sprayer with hot and cold running water;
- (3) a crumb-cup strainer.

- (m) Refrigeration Seafood shall be kept at or below a temperature of forty-one (41) degrees Fahrenheit except when being processed. Mechanical refrigerators shall be equipped with an air temperature thermometer accurate to ± 3 degrees Fahrenheit. Seafood shall be thawed under refrigeration at a temperature not to exceed forty-one (41) degrees Fahrenheit or under cold running water no warmer than seventy (70) degrees Fahrenheit. Fish and similar products for display and sale shall be stored in cases of sufficient depth and size to allow thorough icing at all times. Display or cases shall be insulated to conserve ice and assure effective refrigeration. The inside and outside of display or cases shall be kept clean. The drain or drip from any case shall be elevated above the floor to allow thorough cleaning and ventilation and indirectly drained to approved waste disposal. Walk-in refrigerators or freezers shall be equipped with shelves, dunnage racks or dollies at least six (6) inches above the floor, and shall be kept clean. Refrigeration shall not be required for salted or brine processed fish. Containers with covers adequate to prevent the entrance of files, dust, splash and other contamination shall be used for the display, sale and storage of salted and brine processed fish. The cover, inside and outside of these containers shall be kept clean. Metal containers subject to chemical change as a result of contact with salt (NaCl) or any of its chemical by-products shall not be used for the display, handling or storage of salted or brine processed fish.

- (n) Shellfish and Crustacea Shellfish and crustacea meat shall be obtained from an approved source and stored in mechanical refrigeration. If the source of oysters, clams or mussels is outside the state of North Carolina, the shipper's name shall be listed in the current United States Department of Health and Human Services-Public Health Service-Food and Drug Administration Interstate Certified Shellfish Shippers List and North Carolina Department of Environmental Quality – Division of Marine Fisheries - Shellfish Sanitation. Single-service shipping containers shall not be reused for the storage of any food including seafood or any single-service item. Shellstock shall be obtained and stored in the container in which packed at the source. After each container has been emptied, and discarded the proprietor shall remove and retain the tag stub for a period of at least ninety (90) days. Sale of shellstock will require separate cleaning facilities that are protected from environmental

contamination and stored above the ground i.e. shellstock tumblers or shellstock sink with spray arm.

Section 2005 Delivery Vehicles

All seafood delivery vehicles shall be completely enclosed, painted if constructed of wood, refrigerated and kept clean. If transported on the same vehicle, then shellstock shall be stored separately so as to avoid contamination from other products.

Section 2006 Sales from Vehicles

Selling seafood from a vehicle shall be restricted to the following:

- (1) Whole raw and uncooked fish and/or shrimp;
- (2) Drawn, raw fish and/or deheaded shrimp with receipts;
- (3) Unshucked, whole raw shellstock harvested, permitted and properly tagged according to applicable federal or state regulatory agency and shall be held under mechanical refrigeration.

- (a) Permit An application, plan review, inspection and permit as set forth in Section 2003 (a), (b) and (c) shall be obtained prior to selling or offering seafood for sale.

Location A vehicle shall provide written operation schedules and locations to the Department.

Limitations There shall be no processing of seafood from vehicles.

- (b) Construction Any area of a vehicle used for display, sales, storage and transportation shall be enclosed, constructed of materials so as to be easily cleanable, painted if constructed of wood, maintained in good repair and kept clean.
- (c) Sanitizing Treatment Display, sales, storage and transportation areas of a vehicle shall be thoroughly cleaned and treated with an approved chemical sanitizing product at least daily or more frequently as necessary to assure optimum product quality and sanitation.
- (d) Display Seafood shall be stored in clean coolers, with a drain plug, of sufficient volume to maintain complete icing of the product. Coolers shall be well insulated and in good repair so as to conserve ice and maintain 41°F or below all times. Seafood shall not be stored in water produced from melting ice. All seafood coolers must remain on the seafood vehicle for the duration of the sales.
- (e) Employees Individuals engaged in the sale of seafood from a vehicle shall wear clean outer clothing and handle all products in a sanitary manner. Hand shall be utilized prior to handling seafood. All employees must be in good health as per NC Food Code.

- (f) [Single-Service](#) Containers and wrapping materials used for the storage of seafood shall be sanitary, nontoxic and food grade quality.
- (g) [Disposal of Wastes](#) All liquid waste generated from the sale of seafood from coolers and during cleaning of the vehicle shall be disposed in accordance with Section 2004 (g) of these Rules. All solid waste generated from the sale of seafood off of a vehicle shall be disposed through composting, incinerating or landfilling at a facility/operation permitted by the North Carolina Department of Environment, Health and Natural Resources. All solid waste collections and storage containers shall be constructed of leak-proof, nonabsorbent material and covered with tight-fitting lids.
- (h) [Records](#) The owner shall maintain records disclosing the source of all seafood sold for a period thereafter of at least ninety (90) days.

Section 2007 [Right of Entry](#)

Pursuant to authority granted by North Carolina General Statute 130A Section 17, the Department shall have the right to enter upon the premises of any seafood market, vehicle or other facility for the purpose of conducting an inspection and determining compliance with these Rules.

If upon determination by the Department that an unsanitary practice exists, the seafood market or seafood vehicle permit may be suspended or revoked.

Section 2008 [Appeals Procedure as per NC G.S. 130A-24.](#)

Appeals concerning decisions of the department or its authorized representative shall be made by written notice to the local health director thirty (30) days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect. Upon filing the notice, the local health director shall within five (5) working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken. The Board of Health shall conduct a hearing within fifteen (15) days of the receipt of the notice of appeal and shall give the appellant not less than ten (10) days' notice of the date, time and place of the hearing. The Board of Health shall respond to affirm, modify or reverse the challenged action. The local board of health shall issue a written decision based on the evidence presented at the hearing. The decision shall contain a concise statement of the reasons for the decision. A person who wishes to contest a decision based on the local board of health shall have a right of appeal to the district court having jurisdiction within thirty (30) days after the date of the decision by the board.

Section 2009 Remedies

A seafood market or a seafood vehicle permit that has been suspended may be lifted once the violation has been corrected and the Department determines the unsanitary practice has been corrected.

A seafood market or a seafood vehicle permit has been revoked a new permit may be issued once the violation has been corrected, the permit fee has been paid and the Department determines the unsanitary practice has been corrected.

If a person violates any part of these Rules, then he/she shall be guilty of a misdemeanor and shall be subject to the sanctions provided in Chapter 130A Section 25 of the North Carolina General Statutes.

Section 2010 Severability

If any provision of these Rules or the application thereof to any person or circumstance is declared invalid, then the remainder of these Rules or the application of such provision to other persons or circumstances shall not thereby be affected.

Section 2011 Effective Date

Adopted December 1, 1993 by the New Hanover County Board of Health, these rules shall be effective on and after December 1, 1993. These Rules shall be effective on and after November 2, 2017.

Signed _____
Chairman
New Hanover County Board of Health

Signed _____
Director
New Hanover County Health Department

References:

NC Food Code. (2012, September 1). Retrieved September 20, 2017, from <http://ehs.ncpublichealth.com/faf/docs/foodprot/NC-FoodCodeManual-2009-FINAL.pdf>