

NEW HANOVER COUNTY

BOARD OF HEALTH

RULES GOVERNING THE OPERATION OF

RETAIL SEAFOOD MARKETS AND VEHICLES

IN

NEW HANOVER COUNTY

NORTH CAROLINA

EFFECTIVE OCTOBER 1, 1993

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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 supercede 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. Seafood markets existing and holding a valid operation permit prior to January 5, 1983 may request exemption from equipment and/or structural requirements. The Director of New Hanover County Health Department may grant variance from equipment and/or structural requirements provided practices and procedures demonstrate that: (1) the establishment has and can continue to be operated in a sanitary manner; (2) equipment has and can continue to be kept clean and maintained in good repair; and, (3) food contact surfaces have and can continue to be properly cleaned and sanitized, are nontoxic and unlikely to be a source of contamination. New equipment and replacement equipment acquired after the effective date of these Rules shall meet all herein required construction standards.

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 consumption; 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.

Food/seafood which complies with requirements of the North Carolina Department Of Agriculture or United States Department Of Agriculture and the requirements of these Rules shall be considered as approved.

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

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

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

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

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.

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.

Refrigerated means capable of maintaining product temperature at forty-five (45) 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 bacteria 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 market means any establishment, place or vehicle from, in or on which any seafood product is stored, handled and/or offered for retail sale.

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

Vehicle means and includes every device in, upon, or by which any person or property is or may be transported or drawn upon a highway.

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 reinspected 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 quarterly basis 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 Environment, Health And Natural Resources-Division Of Marine Fisheries.

Section 2004 Construction And Operation Standards

(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 stored; 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 fifty (50) 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 fifteen (15) inches above the floor or otherwise arranged so as to facilitate through 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 which have been approved 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 130 degrees F (54 degrees C) 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 Wastes** 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 or other approved facilities or methods. If containerized systems are used for garbage storage, then facilities shall be provided for the cleaning of such systems.

(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 under control of the proprietor 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 harborage 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) **Miscellaneous** 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. Process sinks shall only be used for dressing, scaling, washing and cutting fish or other seafood. Wash sinks shall only be used for cleaning equipment and utensils. Ready-to-eat foods shall be handled, displayed and stored in a manner so as to prevent contamination of these items. Mop water shall only be discarded in a mop sink or garbage can wash facility. Operations shall not be conducted in any room used for domestic purposes.

(j) **Employees** 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.

(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. Food contact surfaces shall, in addition, be easily accessible for cleaning, nonabsorbent, noncorrosive and nontoxic. Stainless steel, phenolic resin, marble slabs or tight wood in which there are no open cracks or joints meet the requirements of these Rules. 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. These facilities shall consist of: (1) at least a one (1) compartment stainless steel sink with two (2) sloped drainboards that are an integral part of and continuous with the sink; (2) a flexible hand sprayer with hot and cold running water; (3) a crumb-cup strainer in the absence of a garbage disposal unit; and, (4) a sand-trap drain.

(m) **Refrigeration** Seafood shall be kept at or below a temperature of forty-five (45) 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-five (45) 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 nonabsorbent boxes or cases of sufficient depth and size to allow thorough icing at all times. Display boxes or cases shall be insulated to conserve ice and assure effective refrigeration. The inside and outside of display boxes or cases shall be kept clean. The drain or drip from any box or case shall be elevated above the floor to allow thorough cleaning and ventilation. Walk-in refrigerators or freezers shall be equipped with shelves, movable pallets or dollies at least four (4) 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 flies, 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. 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**. If the source of cooked crustacea meat is outside the state, the packer shall be certified by the regulatory authority in the state or territory of origin. Certification of a cooked crustacea meat packer shall be attested by the presence of an official certificate/permit number on the container in which the product is packed and sold. Shucked shellfish and cooked crustacea meat shall be obtained and stored in the single-service container in which packed at the source. Each unit container shall be clearly identified with the name and address of the packer, repacker or distributor; certification/permit number of the packer or repacker; and, abbreviated name of the state or territory of origin. 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. Each unit container shall be clearly identified with a uniform label or tag bearing the shipper's name and address; the certificate/permit number issued by the regulatory authority; abbreviated name of the state or territory of origin; date of harvesting; date of shipment and/or reshipment; name of waters from which the shellstock were harvested; kind and quantity of shellstock in the container; and, name and address of the consignee. After each container has been emptied, the proprietor shall remove and retain the tag stub for a period of at least sixty (60) days. Shellstock shall be stored at forty-five (45) degrees Fahrenheit or below in clean, well drained bins or enclosures provided for this exclusive purpose, that are protected against contamination and equipped with a thermometer. The proprietor shall retain bills of sale for all shellfish and cooked crustacea meat purchased for a period of at least sixty (60) days.

Section 2006 **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 2007 **Sales From Vehicles**

Selling or offering seafood for sale from a vehicle shall be restricted to the following conditions:

- (a) **Permit** An application, plan review, inspection and permit as setforth in Section 2003 (a), (b) and (c) shall be obtained prior to selling or offering seafood for sale.
- (b) **Location** A vehicle shall not be located on public land or right-of-way for the purpose of conducting seafood sales or related activities. Sufficient parking space shall be available so as to avoid the creation of a traffic hazard.
- (c) **Limitations** Cooked or processed seafood products shall not be sold or offered for sale from a vehicle.

(d) **Lavatory And Toilet Facilities** Lavatory and toilet facilities as specified in Section 2004 (d) and (g) of these Rules shall be accessible and located within fifty (50) yards of the vehicle. If the proprietor of the vehicle does not control the premises where lavatory and toilet facilities are located, then he/she shall obtain a written contract with the owner assuring availability for use anytime the vehicle operates from a specific location. If more than one (1) seafood product is sold or offered for sale, then the vehicle shall be equipped with a lavatory as specified in Section 2004 (d) and (g) of these Rules.

(e) **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.

(f) **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.

(g) **Display** Seafood shall be displayed in labeled, nonabsorbent boxes or cases of sufficient volume to maintain complete icing of the product. Boxes or cases shall be well insulated so as to conserve ice and assure effective refrigeration at all times. Seafood shall not be stored in water produced from melting ice.

(h) **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-dip sanitizer of at least fifty (50) ppm residual chlorine shall be utilized prior to handling seafood. It shall be applied in a basin large enough to submerge and bring both hands at once into contact with an approved sanitizer.

(i) **Single-Service** Containers and wrapping materials used for the storage of seafood shall be sanitary, nontoxic and food grade quality.

(j) **Disposal Of Wastes** All liquid waste generated from the sale of seafood including the liquid waste generated 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 a vehicle shall be disposed in a manner approved by the Department. All solid waste collection and storage containers shall be constructed of leak-proof, nonabsorbent material and covered with tight-fitting lids.

(k) **Records** The owner shall maintain records disclosing the source of seafood sold for a period thereafter of at least sixty (60) days.

Section 2008 Right Of Entry

Pursuant to authority granted by North Carolina General Statute 130A-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.

Section 2009 Appeals Procedure

(a) **Director Appeals** concerning interpretation and enforcement of these Rules shall be made by written petition to the Director and shall be made within fifteen (15) days of the challenged action. The Director may require the appellant to submit such information as deemed necessary to make a decision concerning interpretation and enforcement. The Director shall respond to affirm, modify or reverse the challenged action. When granting variance from these Rules, the Director may impose such conditions as deemed necessary to protect the public health.

(b) **Board Of Health Appeals** concerning decisions of the Director shall be made by written petition to the Board Of Health and shall be made within fifteen (15) days of the challenged action. The Board Of Health shall conduct a hearing within forty-five (45) days after receipt of an appeal petition and shall give the appellant not less than fifteen (15) 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. When granting variance from these Rules, the Board Of Health may impose such conditions as deemed necessary to protect the public health.

Section 2010 Remedies

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 2011 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 2012 Effective Date

Adopted September 1, 1993 by the New Hanover County Board Of Health, these Rules shall be effective on and after October 1, 1993.

Signed _____
Chairman
New Hanover County Board Of Health

Signed _____
Director
New Hanover County Health Department