

|                                                                                    |           |
|------------------------------------------------------------------------------------|-----------|
| <b>.01 Scope.</b>                                                                  | <b>2</b>  |
| <b>.02 Definitions.</b>                                                            | <b>2</b>  |
| <b>.03 Compliance with Other Chapters</b>                                          | <b>3</b>  |
| <b>.04 General License Provisions.</b>                                             | <b>4</b>  |
| <b>.05 Universal Facility Requirements.</b>                                        | <b>5</b>  |
| <b>.06 Endorsements.</b>                                                           | <b>7</b>  |
| <b>.07 License Endorsement A.</b>                                                  | <b>7</b>  |
| <b>.08 License Endorsement B.</b>                                                  | <b>8</b>  |
| <b>.09 License Endorsement C.</b>                                                  | <b>9</b>  |
| <b>.10 Portable Toilets and Convenient Lavatories.</b>                             | <b>10</b> |
| <b>.11 Outdoor Food Preparation and Cooking.</b>                                   | <b>10</b> |
| <b>.12 Enforcement, Penalties, and Food Sampling, Detention, and Condemnation.</b> | <b>11</b> |

*Regulation draft text begins on the next page*

## .01 Scope.

- A. This chapter describes the Maryland Department of Health requirements for food service facilities on working farms. Other requirements, such as local zoning and permitting, Fire Marshal regulations, the local and state environmental law and regulation, and requirements of the Maryland Department of Agriculture, may also apply and are not covered in this chapter.
- B. This chapter specifically covers food service for the purpose of consuming food onsite, and does not address or cover sales for off-site consumption.
- C. This chapter does not apply to open air markets where only raw agricultural products and potentially hazardous prepackaged foods are sold to the public from a structure that is not enclosed, retail bakery outlets, or other food service facilities licensed under COMAR 10.15.03.

## .02 Definitions.

- A. In this chapter, the following terms have the meaning indicated. Terms not defined in §B of this regulation have the meaning stated in [COMAR 10.15.03.02B](#) when used in this chapter.
- B. Terms Defined.
  - (#) “Approving authority” has the meaning stated in COMAR 10.15.03.02B.
  - (#) “Approved source” has the meaning stated in COMAR 10.15.03.02B.
  - (#) “Commercial-grade equipment” means food equipment that meets recognized public health standards for commercial design certification (such as NSF), structural integrity, durability, and sanitation.
  - (#) Farm.
    - (a) “Farm” means a place where agricultural commodities are grown, raised, or harvested for commercial purposes.
    - (b) “Farm” includes a place where, for commercial purposes:
      - (i) Crops are grown and harvested;
      - (ii) Fruit, nuts, or other agricultural commodities are harvested from trees; or
      - (iii) Animals are raised, fed, and managed for meat or other agricultural commodities.
  - (#) Food Safety Plan.
    - (a) “Food Safety Plan” means a written document covering an entire facility's operations in relation to food handling, cooking, etc.
    - (b) “Food Safety Plan” includes sanitation, allergen management, and food source verification.
  - (#) Food Service.
    - (a) “Food service” means an operation that prepares foods and serves them directly to patrons to consume onsite as its primary function.

- (b) "Food service" includes the activities of storing, preparing, cooking, cooling, holding hot or cold, and serving of foods.
- (#) "Hazard Analysis and Critical Control Point (HACCP) plan" has the meaning in [COMAR 10.15.03.02B](#).
- (#) "High frequency operation" means a facility regulated under this chapter that operates more than 160 but fewer than 270 days during a license period.
- (#) "Household or residential-grade equipment" means equipment that is not intended by the manufacturer for use in food service facilities and is not certified by NSF-sanitation or other agencies as meeting commercial standards.
- (#) "Low frequency operation" means a facility regulated under this chapter that operates 160 days or fewer during a license period.
- (#) "Made-to-order" means food prepared or assembled onsite that is intended to be consumed immediately by patrons.
- (#) Mobile On-farm Unit.
- (a) "Mobile On-farm Unit" means a unit that is not a permanent or temporary structure that can be mechanically, electrically, manually, or an otherwise propelled unit operating on land or water that can be moved and is approved by the approving authority.
- (b) "Mobile On-farm Unit" includes food trucks, food carts, mobile trailers, and boats that operate under this chapter only on the licensed premises.
- (c) "Mobile On-farm Unit" does not include coolers with wheels or a mobile food service facility with or without reciprocity.
- (#) "Permanent structure" means a weather-proof structure which has four walls, a ceiling, and a solid, non-porous cleanable floor.
- (#) Portable Unit.
- (a) "Portable unit" means a transportable, self-contained potable water supply or sewage collection device as defined in [COMAR 26.04.02](#).
- (b) "Portable unit" includes a water buffalo, a mobile water storage tank or trailer, a chemical toilet, a restroom mounted on a trailer, or a similar device as defined in [COMAR 26.04.02.01](#).
- (c) "Portable unit" does not include a vehicle that is used solely for the delivery of potable water or the transportation of sewage.
- (#) Temporary Structure.
- (a) "Temporary structure" means a structure with a ceiling that is enclosed on all sides by any combination of walls, windows, or doorways, whether open or closed, or other physical barriers extending from floor to the ceiling that can be easily moved or disassembled.
- (b) "Temporary structure" has no footings, foundations or cement bases and an installation that can be removed at short notice.
- (c) "Temporary structure" includes any non-permanent, seasonal, or other temporarily erected structures including but not limited to tents, kiosks, stands, huts, or booths.
- (#) Water Under Pressure.

- (a) "Water under pressure" means water continuously piped at a pressure greater than the atmospheric pressure.
- (b) "Water under pressure" does not include gravity fed water.

### .03 Compliance with Other Chapters

- A. The person-in-charge shall design, operate, and maintain a food service facility operated in compliance with this chapter.
- B. Facilities licensed under this chapter shall comply with the requirements set forth in:
  - (1) COMAR [10.15.03.04](#) for general food supplies and sources requirements;
  - (2) COMAR [10.15.03.05](#) for requirements related to eggs and egg products;
  - (3) COMAR [10.15.03.06](#) for food protection requirements during storage, service, and transport;
  - (4) COMAR [10.15.03.08](#) for use of time-only while holding or preparing a potentially hazardous food;
  - (5) COMAR [10.15.03.09](#) for temperature and cross-contamination control requirements for food preparation;
  - (6) COMAR [10.15.03.10](#) for food preparation cooking requirements;
  - (7) COMAR [10.15.03.11](#) for food preparation cooling and reheating requirements for potentially hazardous foods;
  - (8) COMAR [10.15.03.13](#) for food protection from poisonous or toxic materials requirements;
  - (9) COMAR [10.15.03.14](#) for health and sanitation requirements for personnel;
  - (10) COMAR [10.15.03.15](#) for food equipment and utensil requirements;
  - (11) COMAR [10.15.03.16](#) for requirements related to cleaning and sanitizing equipment and utensils;
  - (12) COMAR [10.15.03.17](#) for requirements related to storage and handling of cleaned equipment and utensils;
  - (13) COMAR [10.15.03.19](#) for garbage and rubbish disposal requirements;
  - (14) COMAR [10.15.03.20](#) for vermin control requirements;
  - (15) COMAR [10.15.03.21](#) for Building - Floors, Walls, and Ceilings;
  - (16) COMAR [10.15.03.22](#) for Building - Lighting and Ventilation;
  - (17) COMAR [10.15.03.23](#) for Building - Cleanliness and Operations;
  - (18) COMAR [10.15.03.28](#) for requirements related to licenses;
  - (19) COMAR [10.15.03.29](#) for requirements associated with general food service facility inspections;
  - (20) COMAR [10.15.03.30](#) for types of inspections;
  - (21) COMAR [10.15.03.31](#) for requirements for time periods for the correction of violations; and
  - (22) COMAR [10.15.03.33A](#) and B for general plan review provisions.

### .04 General License Provisions.

- A. General Elements. A license under this chapter:
  - (1) Shall be valid for 12 months;

- (2) Shall allow for the serving of unpackaged food; and
- (3) May not be issued if the property on which the facility is proposed:
  - (a) Does not meet the definition of a farm as defined in Regulation .02B of this chapter; or
  - (b) Is zoned such that the proposed on-farm food service facility would not be allowed.
- B. License Fees. The license fee for a license issued under this chapter:
  - (1) May not exceed \$100; and
  - (2) May be in addition to other fees charged by the approving authority, such as for facility plan review, re-inspection, HACCP or other required fees under Health-General Article, Title 21, Annotated Code of Maryland or local ordinance.
- C. Application for Licensure. A person-in-charge may apply for a license under this chapter in accordance with Health-General Article, §§[21-306](#) and [21-307](#), Annotated Code of Maryland.
- D. License Issuing and Renewal. The approving authority shall issue and renew licenses in accordance with Health-General Article, §§[21-309](#) and [21-310](#), Annotated Code of Maryland, and this chapter.
- E. Application Denial. The approving authority may deny an application for a food service facility license in accordance with Health-General Article, §[21-311](#), Annotated Code of Maryland, and this chapter.
- F. License Required for Operation. A person:
  - (1) Shall obtain a food service facility license before the person operates a food service facility; and
  - (2) May not operate a food service facility under this chapter if the person does not have a current and valid license issued under this chapter by the approving authority.
- G. Endorsements and Conditions. A license issued under this chapter shall:
  - (1) Bear an endorsement defined in this chapter to indicate the allowed activities under the license; and
  - (2) Include any additional conditions on the operation of the licensee, which may be on the license or an accompanying document.
- H. Transfer of License. A license may only be transferred under the conditions set forth in COMAR [10.15.03.28\(I\)](#).

## **.05 Universal Facility Requirements.**

### **A. Time Thresholds.**

- (1) A low frequency operation may not operate more than 160 days per license period unless the facility:
  - (a) Submits and receives approval for a new or revised plan reviewed by the approving authority;
  - (b) Submits and receives approval for a new or revised application to the approving authority; and
  - (c) Receives a high frequency operation license.

- (2) A high frequency operation may not operate more than 270 days per license period.
- (3) Regardless of the actual number of days of operation, a farm shall only operate in accordance with its approved plan.
- B. Authorized Methods of Operating. A facility shall operate in accordance with:
- (1) Its license endorsements;
  - (2) Any license conditions; and
  - (3) Its plan as approved by the approving authority, including the elements listed in §C of this regulation.
- C. Required Written Standard Operating Procedures. A facility shall operate in accordance with the following written standard operating procedures (SOPs) as approved by the approving authority:
- (1) Cleaning and sanitization;
  - (2) Food safety or HACCP plan;
  - (3) Wastewater management plan to include disposal agreement;
  - (4) Portable potable water;
  - (5) Pest management plan;
  - (6) Grease management as applicable;
  - (7) Portable toilet procedures and agreements;
  - (8) Trash and garbage collection procedures and agreements; and
  - (9) Any other SOP the approving authority requires.
- D. Prior Approval Requirement. The person-in-charge shall ensure that plans and specifications are submitted to and approved by the approving authority before a food service facility is:
- (1) Constructed;
  - (2) Remodeled; or
  - (3) Materially altered.
- E. Water.
- (1) Potability. Water used for food service, hand washing, and warewashing shall:
    - (a) Be obtained from a water supply system that complies with [Environment Article, Title 9](#), Annotated Code of Maryland, and [COMAR 26.04.01](#) and [26.04.04](#); and
    - (b) Meets or exceeds the standards for potability specified in [Environment Article, Title 9](#), Annotated Code of Maryland, and [COMAR 26.04.01](#) and [26.04.04](#).
  - (2) Water Under Pressure and Portable Systems.
    - (a) A low frequency operation shall use water under pressure or portable units that comply with [COMAR 26.04.02](#).
    - (b) A high frequency operation shall:
      - (i) Use water under pressure; or
      - (ii) Use portable units only if approved by the approving authority.
    - (c) The use of portable units shall be subject to the approval of the approving authority pursuant to §L of this regulation.

(d) Water stored in unauthorized portable units shall be considered not potable.

F. Wastewater.

- (1) A facility shall have an approved plan for wastewater management.
- (2) Wastewater from hand washing, food preparation, and cleaning shall be disposed of in accordance with [COMAR 26.04.02](#), State and local laws, regulations, and ordinances.
- (3) Portable Wastewater Units. If a facility uses portable wastewater units, the person-in-charge shall:
  - (a) Ensure the portable wastewater units are operated and maintained at all times so as to comply with State and local laws, regulations, and ordinances; and
  - (b) Ensure the portable wastewater unit is sized with equal or greater capacity than the portable water unit or the estimated water demand.
- (4) The following wastewater systems may be used for facilities licensed under this chapter:
  - (a) Low frequency operations may use:
    - (i) Public sewer;
    - (ii) Onsite sewage disposal; or
    - (iii) Portable wastewater units that comply with [COMAR 26.04.02](#);
  - and
  - (b) High frequency operations:
    - (i) May use public sewer or onsite sewage disposal systems; and
    - (ii) May not use portable sanitation units, unless approved by the approving authority pursuant to §L of this regulation.

G. Food Safety Training.

- (1) The person-in-charge shall have a current food safety certification:
  - (a) In accordance with the facility's license endorsement; and
  - (b) In accordance with the approving authority's requirements or within the prior 3 years.
- (2) A license condition or approved plan may include additional training certification requirements.

H. Use of Mobile On-Farm Units and Permanent and Temporary Structures.

- (1) If approved during plan review and subject to §G(2) of this regulation:
  - (a) Low frequency operations shall use for preparation, cooking, and serving of unpackaged food either:
    - (i) Approved permanent structures;
    - (ii) Approved temporary structures;
    - (iii) Approved mobile on-farm units; or
    - (iv) An approved mix of structures in §H(1)(a)(i)–(iii) of this regulation.
  - (b) High frequency operations shall use approved permanent structures or mobile on-farm units for preparation, cooking, and serving of unpackaged food.

(2) Facilities with Endorsement C shall use approved permanent structures for cooling food and keeping food cold.

(3) Temporary structures shall include a solid, nonporous, easily cleanable, and grease resistant floor.

(a) The floor may be attached to the structure.

(b) The sides shall be sized and secured to adequately protect food.

I. Signage. A facility licensed under this chapter shall prominently post:

(1) A copy of the license issued by the approving authority in a prominent location in the facility;

(2) At patron hand washing stations as required in [COMAR 10.15.03.25G\(3\)](#), signs stating “In the interests of public health, please wash your hands thoroughly before entering or handling food.”;

(3) At lavatories and toilets, signs stating “Employees must wash hands before returning to work”;

(4) At the entrance to food preparation and food cooking areas, signs excluding animals;

(5) At the entrance to food serving areas, signs excluding animals except service animals;

(6) In facilities with sit down seating, a diagram or illustrative directions on the use of manual maneuvers to prevent asphyxiation due to choking;

(7) In the food preparation and food cooking areas, a poster related to food allergy awareness that includes information regarding the risk of an allergic reaction in accordance with Health-General Article, §21-330.2(a), Annotated Code of Maryland;

(8) Any additional signage required in the license conditions or approved plan; and

(9) For a facility with Endorsement C, signage indicating what cooling equipment is not for use for cooling or keeping cold any cooked food prepared onsite in accordance with Regulation .09D(4) of this chapter..

J. Cleaning and Sanitizing Surfaces. All surfaces used for food preparation or cooking shall be impermeable, cleanable, and sanitizable.

K. Food from Approved Sources. All food and ingredients shall be obtained from an approved source.

L. Providing Documented Good Cause for Alternative Methods for Potable and Wastewater Standards.

(1) An applicant or facility may apply to the approving authority to use alternative methods for potable and wastewater standards by providing documented good cause justifying the need.

(2) Documented good cause may be shown to the approving authority by providing as appropriate:

(a) Bona fide legal or geographic restrictions;

(b) A detailed plan to meet the standards through alternative methods;

(c) Quotes or contracts for service pursuant to proposed alternative methods; or

- (d) Other documentation requested by the approving authority.
- (3) The approving authority may request additional information from the applicant or facility.
- (4) The approving authority may deny the applicant or facility's request to use alternative methods.

## .06 Endorsements.

A. Evaluation. The approving authority shall determine which license endorsement is appropriate for a facility during plan review based on:

- (1) Whether the applicant proposes to operate as a low or high frequency operation as defined in Regulation .02B of this chapter;
- (2) Characteristics of structures proposed for use for food service;
- (3) The proposed menu, including particularly whether food is being prepared, cooked, held at temperature, or cooled and stored onsite; and
- (4) Equipment proposed for use for food preparation, cooking, serving, or cooling.

B. Changing Endorsements.

- (1) A facility currently licensed under this chapter shall submit a plan and application to the approving authority to modify the type of endorsement or conditions of the license; and
- (2) A facility may not make material changes to its operation pursuant to the endorsement change until the approving authority has issued written approval.

C. Most Restrictive Conditions. Whichever aspect of the application and plan results in the most stringent requirements and highest endorsement shall determine the appropriate endorsement requirements for the entire application and license.

## .07 License Endorsement A.

A. General Conditions. In addition to the requirements of this regulation, a licensee with Endorsement A is subject to the requirements Regulation .05B of this chapter.

B. Allowed Foods. Facilities licensed with Endorsement A:

- (1) May prepare, cook, and serve non-potentially hazardous unpackaged foods; and
- (2) May not prepare, cook, or serve potentially hazardous unpackaged foods.

C. Training Requirements. In accordance with Regulation .05F of this chapter, the person-in-charge shall:

- (1) Have an:
  - (a) ANSI-accredited food handler certification; or
  - (b) Equivalent certification approved by the approving authority; and
- (2) Have any additional food safety training certification required by the approving authority.

D. Food Service Equipment. For the purposes of food preparing and cooking food, a licensee may use equipment that is:

- (1) Household or residential-grade; or
- (2) Commercial-grade.

E. Location of Food Service.

- (1) For the purposes of preparing and cooking food, a licensee may use:
  - (a) An approved residential kitchen located on the farm; or
  - (b) An approved structure or portion of a structure located on the farm.
- (2) A licensee may not use any portion inside of a residence for serving food.

F. Inspections and Frequencies. Facilities with License Endorsements A shall undergo at least one full comprehensive inspection a year, except that a HACCP compliance inspection is not required.

## .08 License Endorsement B.

A. General Conditions. In addition to the requirements of this regulation, a licensee with Endorsement B is subject to the requirements Regulation .05B of this chapter.

B. Allowed Foods. Facilities with Endorsement B may:

- (1) Prepare, cook, and serve non-potentially hazardous unpackaged foods;
- (2) Prepare, cook, hothold, or serve potentially hazardous unpackaged foods that are made-to-order; and
- (3) Serve ice cream.

C. Training Requirements. The person-in-charge shall:

- (1) Have either an:
  - (a) ANSI-accredited certified food protection manager certification; or
  - (b) Equivalent certification approved by the approving authority; and
- (2) Have any additional food safety training certification required by the approving authority.

D. Food Service Equipment.

(1) For the purposes of preparing, cooking, and keeping food cold, a licensee may use equipment that is:

- (a) Commercial-grade; or
- (b) Household or residential-grade if the conditions in §D(2) of this regulation are met.

(2) If a licensee is utilizing household or residential-grade equipment the approved plan shall include conditions regarding the equipment for:

- (a) Cleaning;
- (b) Sanitizing
- (c) Checking for defects;
- (d) Maintenance;
- (e) Storage;
- (f) Temperature monitoring; and
- (g) Proper functionality.

(3) Keeping Food Hot. For the purposes of keeping food hot, a licensee shall use commercial-grade equipment for foods cooked onsite.

E. Location of Food Service.

- (1) For the purposes of preparing and cooking food, a licensee shall use an approved structure or portion of a structure.

(2) A licensee may not use any portion of a residence for preparing, cooking, or serving food.

F. Inspections and Frequencies. Facilities with License Endorsement B shall undergo:

- (1) At least one full comprehensive inspection during a licensing period; and
- (2) If operating more than 160 days, at least one additional monitoring inspection during a licensing period.

## .09 License Endorsement C.

A. General Conditions. In addition to the requirements of this regulation, a licensee with Endorsement C is subject to the requirements under Regulation .05B of this chapter.

B. Allowed Foods. Facilities with Endorsement C may:

- (1) Prepare, cook, and serve non-potentially hazardous unpackaged foods;
- (2) Prepare, cook, hothold, or serve potentially hazardous unpackaged foods that:
  - (a) Are made-to-order;
  - (b) Have been cooked and cooled;
  - (c) Have been cooked, cooled, and incorporated into a new food item; and
  - (d) Have been cooked, cooled, and reheated; and
- (3) Serve ice cream.

C. Training Requirements. In accordance with Regulation .05F of this chapter, the person-in-charge shall:

- (1) Have either an:
  - (a) ANSI-accredited certified food protection manager certification; or
  - (b) Equivalent certification approved by the approving authority; and
- (2) Have any additional food safety training certification required by the approving authority.

D. Food Service Equipment.

- (1) Preparing and Cooking. For the purposes of preparing and cooking food, a licensee may use equipment that is:
  - (a) Commercial-grade; or
  - (b) Household or residential-grade if the conditions in §D(2) of this regulation are met.
- (2) If a licensee is utilizing household or residential-grade equipment the approved plan shall include conditions regarding the equipment for:
  - (a) Cleaning;
  - (b) Sanitizing
  - (c) Checking for defects;
  - (d) Maintenance;
  - (e) Storage;
  - (f) Temperature monitoring; and
  - (g) Proper functionality.

(3) Keeping Food Cold, Hot, and Cooling. For the purposes of cooling food, keeping food cold, or keeping food hot, a licensee shall use commercial-grade equipment for foods cooked onsite.

(4) Additional Signage. Any household or residential-grade cooling equipment shall have a sign prominently displayed indicating it may not be used to cool or keep cold food that has been cooked onsite.

E. Location of Food Service.

(1) For the purposes of preparing and cooking food, a licensee shall use an approved structure or portion of a structure.

(2) A licensee may not use any portion of a residence for preparing, cooking, or serving food.

F. Inspections and Frequencies. Facilities with License Endorsement C shall under go:

(1) At least one full comprehensive inspection during a licensing period, and

(2) If operating more than 160 days, at least one additional monitoring inspection during a licensing period.

## .10 Portable Toilets and Convenient Lavatories.

A. Applicability. This regulation applies only to facilities listed in [Health-General Article §21-325\(d\)](#), Annotated Code of Maryland.

B. Convenient Lavatory Requirement. A licensee may meet the requirements of having a convenient lavatory and toilet pursuant to Health-General Article [§21-325\(b\)](#), Annotated Code of Maryland by providing a portable toilet if:

(1) It is included in the approved plan;

(2) It includes provisions for handwashing;

(3) The licensee obtains an executed service contract pursuant to the approved plan no later than the pre-opening inspection; and

(3) It meets the requirements of COMAR 26.04.02.

## .11 Outdoor Food Preparation and Cooking.

The person-in-charge shall ensure that:

A. During the use of outdoor cooking equipment, such as a barbeque grill, at a food service facility:

(1) Equipment:

(a) Is used only at the food service facility for service to patrons;

(b) Is located:

(i) On an impermeable surface;

(ii) In close proximity to the food preparation area of the food service facility; and

(iii) Away from parking areas, dumpsters, and patron entrances; and

(2) Food is:

(a) Prepared for outdoor cooking inside the food service facility; and

- (b) Protected from contamination during cooking and service; and
- B. When preparing beverages outdoors:
  - (1) Overhead protection is provided;
  - (2) Protection from contamination during storage is provided for ingredients, including:
    - (a) Ice;
    - (b) Drink mixes; and
    - (c) Condiments;
  - (3) Containers are protected from contamination during storage; and
  - (4) Other than when only beer, wine, or soda is offered, a hand washing sink is provided in accordance with COMAR [10.15.03.18K](#) and [L](#).

## .12 Enforcement, Penalties, and Food Sampling, Detention, and Condemnation.

A facility licensed under this chapter and an approving authority shall comply with the requirements set forth in:

- A. COMAR [10.15.03.35](#) for enforcement procedures;
- B. COMAR [10.15.03.36](#) for foodborne disease investigation and control;
- C. COMAR [10.15.03.37](#) for food sampling, detention, and condemnation; and
- D. COMAR [10.15.03.38](#) for penalty requirements associated with non-compliance with this chapter.