

CODIFIED ORDINANCES OF YORK
PART ELEVEN - HEALTH AND SANITATION CODE

TITLE ONE - Food and Food Establishments

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ARTICLE 1105
Licensing

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| 1105.01 | General food license required. | 1105.06 | Standards for food products. |
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| 1105.04 | Licensing each business location. | 1105.99 | Penalty. |
| 1105.05 | Fee payment; certificate to be displayed. | | |

CROSS REFERENCES

- General food provisions - see 31 P.S. §1 et seq.; 7 Pa. Code Ch. 45
- State license required - see 35 P.S. §655.3
- Bakery license - see HLTH. & SAN. 1109.02 et seq.

1105.01 GENERAL FOOD LICENSE REQUIRED.

No person, firm or corporation shall produce, transport, process, sell, dispose of or offer for sale as human food any milk or milk products, meat or meat products, fish or other foods and food products within the City without first obtaining a general food license therefore, in accordance with the provisions of this article and the food regulations of the Bureau of Health. (Ord. 7-1971 Sec. 1.)

1105.02 INSPECTION AND APPROVAL FOR COMPLIANCE.

The Bureau of Health shall not issue any general food license until after receiving a written report from the Food Inspector certifying approval of the sanitary conditions of the places where the food is produced, handled or sold and the Bureau is satisfied with the Food Inspector's recommendation that the care and handling of such food shall be in accordance with the provisions of this article and the food regulations of the Bureau. (Ord. 7-1971 Sec. 2.)

1105.03 LICENSE AND INSPECTION FEES.

All license and inspection fees shall be established by resolution of Council. (Ord. 19-97. Passed 12-2-97.)

1105.04 LICENSING EACH BUSINESS LOCATION.

If any person, firm or corporation conducts a business at more than one location in the City the business conducted at each location shall be considered as a separate and independent business and shall be subject to the imposition of a license fee and the appropriate inspection fee. All license fees for each business location shall be established by resolution of Council. (Ord. 7-1971 Sec. 4; Ord. 19-97. Passed 12-2-97.)

1105.05 FEE PAYMENT; CERTIFICATE TO BE DISPLAYED.

The license fee and inspection fee shall be due and payable at the office of the City Treasurer January 1, annually, and the Treasurer shall register the name of the licensee in a register to be kept for that purpose and designated general food licenses. The Bureau of Health shall furnish each licensee with a certificate showing the number of the license and the year for which it is granted, which certificate shall be displayed by the licensee in some conspicuous place in his, theirs or its place of business where it may be readily observed. (Ord. 7-1971 Sec. 5.)

1105.06 STANDARDS FOR FOOD PRODUCTS.

The standards for processing, delivery and sale of all food products shall be in accordance with regulations of the Bureau of Health and the laws of the Commonwealth of Pennsylvania, and specifically in accordance with the following mentioned Acts of Assembly and rules and regulations promulgated thereunder, which by reference are incorporated herein:

Food Act, as amended (31 P.S. §§ 20.1 et seq.); Pa. Dept. of Agriculture Regulations - The Food Code (7 Pa. Code Chapter 46) as amended.

Public Eating and Drinking Places Law, as amended (35 P.S. §§ 655.1 et seq.); Pa. Dept. of Agriculture Regulations - The Food Code (7 Pa. Code Chap. 46) as amended.

Frozen Dessert Law: (Act of September 1, 1965, P.L. 420) as amended (31 P.S. §417.1 et seq.); Pa. Dept. of Agriculture Regulations (7 Pa. Code Chap. 39) as amended.

Frozen Foods: (Act of May 13, 1909, P.L. 520) as amended (31 P.S. §1 et seq.); Pa. Dept. of Agriculture Regulations (7 Pa. Code Chap 37) as amended.

Milk and Dairy Product Labeling: (Act of August 8, 1961, P.L. 975) as amended (31 P.S. §520 et seq.); Pa. Dept. of Agriculture Regulations (7 Pa. Code §57.41 et seq.) as amended.

Milk and Sanitation Standards: (Act of July 2, 1935, P.L. 589), as amended (31 P.S. §645 et seq.); Pa. Dept. of Agriculture Regulations (7 Pa. Code Chap. 59) as amended.

Shellfish: Pa. Dept. of Health Regulations (25 Pa. Code Chap. 153) as amended.

Public Eating and Drinking Places: (Act of May 23, 1945, P.L. 926) as amended (35 P.S. §655.1 et seq.) as amended; Pa. Dept. of Health Regulations (Ord. 1-2004. Passed 1-20-04.)

1105.07 FOOD INSPECTORS' DUTIES.

The Mayor shall appoint a sufficient number of competent inspectors of foods and food products to the Bureau of Health, who shall inspect or cause to be inspected, tested, examined or analyzed, samples of all meat, fish, bakery products and other foods sold or offered for sale in the City, as frequently as may be necessary to maintain the required standards thereof. The inspectors shall also inspect at least once a year, or more often as may be necessary, all places where foods and food products are produced, handled or sold in the City and shall, upon orders from the Bureau of Health, condemn and forbid the sale of any food or product produced or handled under unsanitary conditions or otherwise found detrimental to the public health. (Ord. 9-1999. Passed 6-1-99.)

1105.08 FOOD PREPARATION AND SALES ON PUBLIC STREETS, RIGHT-OF-WAYS AND SIDEWALKS.

No person shall sell, process, prepare, cook, or offer for public consumption any food products on the public streets, right-of-ways and sidewalks within the City of York without first obtaining the proper permits and licensing and undergoing an inspection.
(Ord. 56-2006. Passed 9-5-06.)

1105.99 PENALTY.

Whoever violates any provision of this Title One of the Health Code or is required by the provisions of this article to pay a license fee and fails or refuses to pay the same, and any person who sells or offers for sale any meat or other food or food products, below the standards provided by this article or refuses to comply with the orders of the Food Inspectors, or violates any of the provisions of this article, shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000) and costs of prosecution, and in default of payment thereof shall be imprisoned for not more than thirty days.
(Ord. 48-1989 §1. Passed 5-2-89.)

ARTICLE 1109
Rules and Regulations

EDITOR'S NOTE: This article contains Bureau of Health rules and regulations adopted pursuant to Sections 1105.01 and 1105.02.

1109.01	Farmers.	1109.07	Location of facility of licensee is not controlling factor.
1109.02	Retail bakery license.	1109.08	License nontransferable.
1109.03	Revocation of license.	1109.09	Definitions.
1109.04	Test samples.		
1109.05	Correction of license class.		
1109.06	Overpayment refunds or credits.		

CROSS REFERENCES

Bakeries and bakery products - see 43 P.S. §403 et seq.;
7 Pa. Code Ch. 31

General licensing provisions - see HLTH. & SAN. Art. 1105

Bakeries to comply with State laws - see HLTH. & SAN. 1121.01

1109.01 FARMERS.

(a) The City shall not levy or collect any license fee from any farmer upon his sales of his own produce in or about the streets of the City, but this provision shall not be deemed to restrict in any way a City's power to regulate the conduct of such business.

(P. L. 662, Act of June 28, 1951, Sec. 2610)

(b) A farmer handling, vending or otherwise disposing of his own produce only, is not to be charged the annual license fee of one dollar (\$1.00) per classification of license. However, he must pay the inspection fees applicable to the class, and if he also resells or offers for sale other produce or items not of his own production, he shall also pay the license fee applicable to the class.

1109.02 RETAIL BAKERY LICENSE.

Retail bakery licenses shall be required whether products to be sold are wrapped or open, and subject to contamination by improper storage and/or handling, or where the product to be sold has a cream, custard or other filling of a perishable nature.

(Ord. 3-1984 §1. Passed 2-7-84.)

1109.03 REVOCATION OF LICENSE.

The Food Inspector is empowered to recommend to the Bureau of Health the revocation of any license in any instance in which the standards are not met, for repeated violations of standards or regulations, or for any infractions which remain uncorrected, after warning of violation is given. No refund of license or inspection fees will be made in such instance.

1109.04 TEST SAMPLES.

The Food Inspector may take samples of products to determine condition and fitness for human consumption in such size and amount as deemed necessary for testing.

1109.05 CORRECTION OF LICENSE CLASS.

If upon inspection the Food Inspector determines that an incorrect license has been issued for the class of business being operated, or that operations are being conducted under another section of this Health Code, he shall be empowered to require the acquisition of the correct license therefore, and in the absence thereof, may order cessation of business of the unlicensed operation and bring prosecution under the provisions of this Code.

1109.06 OVERPAYMENT REFUNDS OR CREDITS.

The Food Inspector shall certify for refund purposes, any overpayment of license and fees, produced by any application for license under an incorrect class. If an incorrect class license is replaced by a new license of proper class, credit may be taken for the payments of the cancelled incorrect license fee against the fee(s) due for the corrected license. The incorrect license certificate must be surrendered to receive credit except in the instance of a multiple class license certificate, in which case the Food Inspector shall cancel out and initial the incorrect class and certify the credit or refund without surrender of the corrected license certificate.

1109.07 LOCATION OF FACILITY OF LICENSEE IS NOT CONTROLLING FACTOR.

Any vendor of food or food products, whose product is vended to, or delivered to a vendor, either for consumption or resale, when such vendee is located in the City, shall have the requisite license pertinent to his operation, notwithstanding the fact that such vendors plant or principal place of business is not within the City.

1109.08 LICENSE NONTRANSFERABLE.

A license issued under this Health Code is not transferable from owner to owner, or location to location.

1109.09 DEFINITIONS.

The following words and terms, when used in this Health Code and these regulations, shall have the following meanings, unless the context clearly indicates otherwise:

- (a) "Bakery" means all buildings and parts thereof, cellars and basements, or vehicles used for the manufacture of bakery products intended for sale, in which products flour, flour substitute, flour mixture or potatoes are used in the preparation of the products.

- (b) "Bakery products" include, but are not limited to, bread, rolls, cakes, cookies, crackers, ice cream cones, crullers, doughnuts, biscuits, pies, pizza, macaroni, spaghetti, noodles, alimentary pastes, pretzels, potatoe chips, dough and all other products whatever manufactured in a bakery and intended for human consumption whether such products are baked, partly baked or unbaked, dried, canned, fried or frozen.
- (c) "Wholesale dealer" means a dealer, producer or vendor who sells chiefly to retailers, other merchants or industrial, institutional and commercial users, primarily for resale or business use.
- (d) "Retail dealer" means a vendor who dispenses or sells goods, in large or small quantities, to ultimate consumers.
- (e) "Food" means any raw, cooked or processed edible substance, beverage or ingredient intended in whole or in part for human consumption.
- (f) "Food vending machine" means any self-service device, which upon insertion of a coin, token or combination thereof, or by other similar operational means, dispenses food or beverage items, either in bulk or packaged, without the necessity of replenishing the device between each vending operation.
- (g) "Kitchen" means any building, parts of building, cellar, basement or vehicle, equipped with facilities, in which is prepared, mixed, compounded, produced or cooked, any food product for human consumption.
- (h) "Mobile food dispenser" means any vehicle, whether self-propelled, or in other manner transported, with self-contained or built-in cooking, storage or holding facilities, in which is prepared, stored or manufactured, and from which is dispensed, any food items for human consumption.
- (i) "Potentially hazardous food" means any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

ARTICLE 1113
Food Establishments

- 1113.01 Definitions.
 1113.02 General health provisions. Restaurant facilities.
 1113.03 Overall cleanliness. Washing facilities.
 1113.04 Protection from dust and dirt. Toilet facilities.
 1113.05 Cleaning of equipment and utensils. Sidewalk cafe guidelines and requirements.

CROSS REFERENCES

- Food adulteration or misbranding - see 31 P. S. §1 et seq.
 Public eating and drinking places - see 35 P. S. §655.1 et seq.;
 HLTH. & SAN. Art. 1117
 Food establishments - see 25 Pa. Code Ch. 151
 Common drinking vessels and towels - see HLTH. & SAN. 1117.03

1113.01 DEFINITIONS.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise:

- (a) "Food" means any articles used by man for food, drink, confectionery or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation of sale thereof.
- (b) "Market house" means any building or structure which is used for the sale or exchange of food or food products and the facilities of which are shared by a number of vendors who lease portions thereof.
- (c) "Meat and meat food products" mean the carcasses or parts of carcasses of cattle, sheep and other reinnants, rabbits, game, swine, poultry and the flesh or meat of such animals and meat products of such animals or parts thereof intended for human consumption.
- (d) "Person" means a natural person, partnership, association or corporation.
- (e) "Proprietor" means any person, partnership, association or corporation conducting or operating a food establishment within the City.
- (f) "Vendor" means any person selling or assisting in the sale of any products in a food establishment or any employee of such person engaged in the handling of food or food products within the confines of such establishment.
(Ord. 36-1948 §1.)
- (g) "Food establishment" means any place where food is sold or offered for sale in any form.

1113.02 GENERAL HEALTH PROVISIONS.

Every building or portion thereof within the City occupied or used as a food establishment shall be provided with adequate light, drainage, plumbing and ventilation, and shall be conducted with due regard for the purity and wholesomeness of the food sold or stored therein and with strict regard to the health of the patrons and vendors. All vendors shall comply with the requirements of the laws of the Commonwealth and with City ordinances which govern food handling and food handlers.
(Ord. 36-1948 §2.)

1113.03 OVERALL CLEANLINESS.

The floors, side walls, ceilings, stands, display counters, shelves and equipment of every food establishment shall at all times be maintained in a clean, healthful and sanitary condition, shall be kept in good repair, and shall be free from litter and rubbish. Where practicable, the floors, of such food establishment shall be made of suitable nonabsorbent material which can be flushed and washed clean with water.
(Ord. 36-1948 §3.)

1113.04 PROTECTION FROM DUST AND DIRT.

All food intended for sale, offered for sale, or exposed for sale shall be securely protected from flies, dust, dirt and contamination. All food ready for consumption without further cleaning or preparation and all meat or meat products, shall be protected from purchaser handling and shall be covered by some permanent means, such as glass cases or wood, metal or pasteboard covers, or shall be completely packaged or wrapped in transparent paper or other suitable material approved by the City Director of Health in such a way as to protect it from flies, dust, dirt and contamination.
(Ord. 36-1948 §4.)

1113.05 CLEANING OF EQUIPMENT AND UTENSILS.

All racks, tables, shelves, receptacles, utensils and other equipment used in moving, handling or processing of foods or food products shall be thoroughly cleaned daily, or more often when necessary for the preservation of health.
(Ord. 36-1948 §5.)

1113.06 SCREENING.

The doors, windows and other openings of every food establishment shall be fitted with self-closing screen doors and wire window screen of not coarser than fourteen mesh wire gauge. In lieu of self-closing screen doors effective mechanical forced air current insect repellants may be installed which shall prevent insects from entering through the doors thereof.
(Ord. 10-1990 §1. Passed 8-7-90.)

1113.07 RESTAURANT FACILITIES.

Where restaurants or eating places are provided in any food establishment such restaurants or eating places shall comply with the requirements of the sanitation laws of the Commonwealth of Pennsylvania and of the City governing restaurants and eating places, and shall be subject to the same inspection as are all other eating and drinking establishments in the City. (Ord. 36-1948 §7.)

1113.08 WASHING FACILITIES.

Washing facilities ample for the use of vendors shall be provided, and at all times shall be maintained in a clean and sanitary condition. Running water, including both hot and cold water, soap and individual clean towels or sanitary paper towels shall be provided for the use of vendors, and no vendor shall engage in work following a visit to the toilet without thoroughly washing his or her hands. The use of any common towel is prohibited, and, where individual towels are provided these shall be laundered after each separate use. (Ord. 36-1948 §8.)

1113.09 TOILET FACILITIES.

In every food establishment there shall be provided adequate toilet facilities of sanitary construction including separate facilities for men and women. Each toilet shall be entirely separate and apart from any room used for the handling of food products, shall be provided with self-closing doors, and shall at all times be kept in a sanitary condition. (Ord. 36-1948 §9.)

1113.10 SIDEWALK CAFE GUIDELINES AND REQUIREMENTS.

(a) Serving of alcoholic beverages shall be investigated on an individual basis once a sidewalk café is permitted. Prior to approval from Council to serve alcohol, the applicant shall make application to the Liquor Control Board for permit approval.

(b) There shall be no outside food preparation, displaying or maintaining of foods.

(c) A sidewalk café shall be in conjunction with an already established restaurant, not to exceed the existing building or property width.

(d) A sidewalk café shall be sit-down dining oriented.

(e) A sidewalk café shall have no less than five feet of passable sidewalk for pedestrian use. Sidewalks that include a tree and/or any other permanently affixed objects shall be measured from the building side of the object.

(f) A sidewalk café shall be an established and recognizable area, but not necessarily surrounded by a fence or barrier.

(g) A sidewalk café may not exceed the total capacity of one person per seven square feet of occupied area.

(h) The hours of operation shall be from 6:00 a.m. to 12:00 a.m.

(i) A sidewalk café area shall be cleaned during non-operating hours unless specified within an approved encroachment agreement.

(j) Property and liability insurance in the sum of five hundred thousand dollars (\$500,000) shall be provided from the owner or lessee of the establishment. The City shall be named as an additional insured.

(k) Boundaries where sidewalk cafés shall be permitted are the area bounded by North Street to the north, College Avenue to the south, Duke Street to the east, and Penn Street to the west.

(l) A sidewalk café shall follow any regulations in the Zoning Ordinances, health ordinances and/or any other ordinances of the City.

(m) Exterior alterations of a permanent nature shall be approved through HARB.

(n) A sidewalk café shall meet licensing and inspection requirements regulated by the City's Bureau of Permits and Health Licensing.

(o) All establishments having sidewalk cafes are responsible for keeping the area clean of all spilled foods, liquids and debris. Trash containers shall be furnished and maintained.

(p) All establishments having sidewalk cafes shall have two restrooms.

(q) Applicants shall present two copies of a detailed plot plan to the Bureau of Permits and Health Licensing showing all of the above requirements are met. All applicable dimensions shall be shown, along with the café's layout and design, pedestrian walkways and existing building. The plot shall be accompanied by a brief narrative of the proposed operation, a copy of an insurance rider for property and liability coverage for the use.

(r) Fees: No fee established.

(s) Once it is determined all requirements are met, the City Bureau of Permits and Health Licensing shall place a revocable encroachment agreement on Council's agenda to permit the encroachment into the public right of way. At the time such agreement is approved and executed, a permit shall be issued for the sidewalk café by the Building Official. The encroachment may be revoked at any time by Council.

(t) This use permit may be revoked at any time for any violation of the sidewalk café guidelines and requirements.

(u) These requirements shall be followed and met on a calendar year basis. Each permit and each encroachment is valid for only the current calendar year during which it was issued.

(v) Sidewalk cafes may operate from April 1 to October 31.
(Ord. 13-2000. Passed 7-5-00.)

(b) No person who is a carrier of any communicable disease, such as typhoid fever, diphtheria, septic sore throat, scarlet fever, etc., shall be an employee in any public eating or drinking place after written notice that such employee is a carrier of a communicable disease has been served upon the proprietor by a physician or by the Board of Health or by any officer thereof or of the State Department of Health. (1944 Code Ch. 13 §22.)

1117.03 COMMON DRINKING VESSELS AND TOWELS.

(a) No proprietor of any public eating or drinking place shall furnish-or keep in or about such place any common drinking vessel for common use. However, this section shall not preclude the use of vessels which are cleansed by washing with soap and water having a temperature of above 130 degrees Fahrenheit, or after cleaning, by being placed in a closed container and exposed and heated to at least 300 degrees Fahrenheit for a sufficient time to effect disinfection of the vessel, or which are destroyed after individual use.

(b) No proprietor of any public eating or drinking place having and maintaining in connection therewith any washroom for public use or for the use of patrons or customers shall furnish or maintain in such washroom any towel, unless such towel be laundered or discarded after each individual use. (1944 Code Ch. 13 §23.)

1117.04 GARBAGE CONTAINERS; SCREENS.

(a) Every proprietor of a public eating place shall provide and maintain in a suitable location a sufficient number of garbage containers of watertight construction made of nonabsorbent material and provided with handles and close-fitting covers and all garbage shall be kept therein, pending its removal and disposal. Filled garbage containers shall not be allowed to remain in any room where food is prepared or eaten.

(b) All doors, windows and other openings of any public eating or drinking place shall be provided with screens or netting so constructed and maintained as to prevent the ingress of flies or other insects. (1944 Code Ch. 13 §24.)

1117.05 CROCKERY AND UTENSILS.

All cups, dishes, spoons, knives, forks, finger bowls or other eating utensils used in any public eating place shall be thoroughly cleansed by washing with soap and water having a temperature above 130 degrees Fahrenheit after each individual use. (1944 Code Ch. 13 §25.)

1117.06 CLEANLINESS.

(a) Every proprietor of a public eating or drinking place shall keep the place and all substances used therein for food or drink in a clean, wholesome and sanitary condition free from dust, flies, insects and animals.

(b) All employees in such places shall keep themselves and their clothing in a clean condition.

(c) No employee shall handle any food or drink after having visited a toilet without having thoroughly washed the hands with soap and water.
(1944 Code Ch. 13 §25a-25c.)

ARTICLE 1121
Bakeries

1121.01 Compliance with law.

1121.02 Vehicles and containers.

CROSS REFERENCES

Bakeries and bakery products - see 43 P.S. §403 et seq.;
7 Pa. Code Ch. 31

Cream-filled and custard-filled products - see 7 Pa. Code §31.39

Bakery licensing - see HLTH. & SAN. Art. 1109

1121.01 COMPLIANCE WITH LAW.

All buildings or rooms in the City occupied as biscuit, bread, pretzel, pie or cake bakeries, or macaroni establishments, shall be conducted in strict accordance with the laws of the Commonwealth.

(1944 Code Ch. 11 §23.)

1121.02 VEHICLES AND CONTAINERS.

All vehicles from which any biscuit, bread, pretzel or other bakeshop product is sold in the City, shall be kept in a clean and sanitary condition, and all baskets, boxes or other receptacles in which any of such products are conveyed through the streets, shall be closely covered in a way and manner that will protect them from any pollution whatsoever. Vehicles shall at all times be subject to the inspection by Bureau of Health Inspectors.

(1944 Code Ch. 11 §24.)

ARTICLE 1125
Mobile Catering Trucks

1125.01	Definitions.	1125.05	Compliance with other laws.
1125.02	License required.	1125.06	Operating restrictions.
1125.03	License fee.	1125.99	Penalty.
1125.04	Display of license.		

1125.01 DEFINITIONS.

As used in this article, the following terms shall have the meaning indicated:

- (a) "Mobile catering truck" includes all self-propelled vehicles from which hot and cold food, and/or hot and cold drinks, served for immediate consumption, are offered for sale or delivery to buyers, consumers or other persons on the public streets, highways, and/or construction sites.
- (b) "Construction site" means the real property on which the erection, alteration, repair, renovation, demolition or removal of any building or structure is currently under way.
(Ord. 10-2001. Passed 11-20-01.)

1125.02 LICENSE REQUIRED.

No person shall offer any food for sale from a mobile catering truck in the City without first obtaining a license therefore in accordance with the Codified Ordinances.
(Ord. 10-2001. Passed 11-20-01.)

1125.03 LICENSE FEE.

City Council shall establish, from time to time, by resolution, the annual license fee for mobile catering trucks. (Ord. 10-2001. Passed 11-20-01.)

1125.04 DISPLAY OF LICENSE.

The license shall be displayed in a conspicuous place on the mobile catering truck.
(Ord. 10-2001. Passed 11-20-01.)

1125.05 COMPLIANCE WITH OTHER LAWS.

No license shall issue unless and until it is established that the mobile catering truck and its food handlers comply fully with all ordinances and state codes appertaining to the sale, preparation, and protection of food and foodstuffs.
(Ord. 10-2001. Passed 11-20-01.)

1125.06 OPERATING RESTRICTIONS.

(a) Operation of a mobile catering truck in the Central Business District shall occur on a construction site.

(b) Mobile catering trucks may operate in the Central Business District only between the hours of 9:30 a.m. to 11:30 a.m. and between the hours of 1:30 p.m. to 3:30 p.m.

(c) The operation of a mobile catering truck in the CBD shall be for the sole benefit and use of persons associated with the construction site for which it is catering.
(Ord. 10-2001. Passed 11-20-01.)

1125.99 PENALTY.

Any person who violates any provision of this article shall be fined not less than one hundred dollars (\$100.00) per offense nor more than one thousand dollars (\$1,000) per offense, plus the costs of prosecution and, in default of payment thereof, shall be imprisoned for not more than ninety days.
(Ord. 10-2001. Passed 11-20-01.)

(EDITOR'S NOTE: The next printed page is page 21.)

TITLE THREE - Sanitation and Health
Art. 1139. Lead Hazards.

ARTICLE 1139
Lead Hazards

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| 1139.01 | Definitions. | |
| 1139.02 | Prohibited use of lead paint. | Disposal of hazard reduction |
| 1139.03 | Prohibited distribution of toys, furniture, food containers, utensils, tableware. | waste.
Exemptions.
Procedures related to inspection |
| 1139.04 | Labeling of substances having lead content. | of the hazard reduction.
Reports. |
| 1139.05 | Hazardous condition and notice for hazard reduction. | Sale of property.
Liability of the office. |
| 1139.06 | Hazard reduction procedures. | Penalty. |
| 1139.07 | Prohibition of eviction of occupants with children by owner or landlord. | |

CROSS REFERENCES

Dwelling, proper paint - see HSG. 1763.05(d)

1139.01 DEFINITIONS.

For the purpose of this article, the following words and phrases shall have the meanings ascribed to them by this section.

- (a) "Approval" means satisfactory compliance as determined by the Office of Economic Development.
- (b) "Chewable surfaces" includes but is not limited to window sills, banisters, chair rails, furniture or other areas that the Office determines to be accessible to a child.
- (c) "Dwelling" includes unit, rooming house and rooming unit, and shall mean a building or structure which is wholly or partly used for living, sleeping, or recreation, by human occupants.
- (d) "Extractable or leachable lead" means the quantity of lead in solution form applied to food containers, cooking, eating or drinking utensils, toys, furniture, or tableware and shall not exceed 0.7 micrograms per milliliter.
- (e) "Facility" means any building or structure and equipment therein.
- (f) "HEPA vacuum" means a high efficiency particle accumulator vacuum.

- (g) "Hazard reduction" means the appropriate reduction of, removal of, or encapsulation of lead followed by thorough clean-up and post clean-up treatment of the surfaces and sources that promote exposure resulting in the possibility of lead toxicity or poisoning.
- (h) "Lead violation" means the violation of any state or local law regulation concerning lead on the interior and exterior surfaces of any property or on any toy, appliance, item of furniture, or other household item that is easily accessible to a child; or that is cracking, peeling, chipping, blistering, or flaking or is in an otherwise deteriorated condition; or that is chalking so that the lead dust generated therefrom is determined by the Office to pose a health hazard.
- (i) "Lead paint" means any pigmented, liquid substance applied to surfaces by brush, roller, or spray or other means in which total nonvolatile ingredients contain no more than six one-hundredths of one percent (0.06%) of lead by weight calculated as dried film applied.
- (j) "NIOSH" means National Institute of Occupational Safety and Health.
- (k) "Office" means the Office of Economic Development of the City of York.
- (l) "Owner" means any person, firm, corporation, guardian, conservator, receiver, trustee, executor, agent, manager, or others, who owns, holds, or controls the whole, or any part, of the freehold or leasehold title to any property thereof, with or without accompanying actual possession thereof, and shall include in addition to the holder of legal title, any vendee in possession thereof. In case of a toy, appliance, item of furniture or other household item which is the property of a tenant for the sole purpose of the reduction of a lead violation existing therein.
- (m) "OSHA" means Occupational Safety and Health Administration.
- (n) "Premises" means a lot, plot, or parcel of land including all facilities therein.
- (o) "Secondary residence" means a care giver's home, day care center, or other dwelling, institution or property frequented by an elevated blood lead child.
- (p) "Substance" shall include but not be limited to lead bearing putty, ceramics, plumbing, sealers, paint, vinyl products, soil, and similar items.
- (q) "Surfaces" includes but is not limited to such areas as window sills, window frames, doors, door frames, walls, ceilings, porch, stairs, handrails, toys, furniture, food utensils, and other appurtenances.
- (r) "XRF" means a radioisotope x-ray fluorescent analyzer in place determinations of lead content. This records the weight of lead (in milligrams - mg) in a particular area (1 cm²). Readings in excess of 0.6 mg per cm² indicate a hazardous concentration of lead in the area where the reading is taken.
(Ord. 5-98. Passed 6-2-98.)

1139.02 PROHIBITED USE OF LEAD PAINT.

No person in the City of York shall use or apply or cause to be used or applied, lead paint as defined in this article, or any substance containing lead in excess of six one hundredths of one percent (0.06%) by weight to interior surfaces and to those exterior surfaces accessible to children of any premises, dwelling, or facility occupied or used by children.
(Ord. 5-98. Passed 6-2-98.)

1139.03 PROHIBITED DISTRIBUTION OF TOYS, FURNITURE, FOOD CONTAINERS, UTENSILS, TABLEWARE.

No person shall sell, transfer, give or deliver any toy, furniture, food container, cooking, eating or drinking utensil or tableware having extractable or leachable lead on it or in it. (Ord. 5-98. Passed 6-2-98.)

1139.04 LABELING OF SUBSTANCES HAVING LEAD CONTENT.

Containers in which substances having lead content are stored, sold, transferred or added for wholesale or retail purposes shall be labeled in conformance with state and federal laws and regulations and recommended standards of the Federal Hazardous Substances Labeling. (Ord. 5-98. Passed 6-2-98.)

1139.05 HAZARDOUS CONDITION AND NOTICE FOR HAZARD REDUCTION.

(a) For the purpose of determining the presence of lead within the City, a trained lead technician from the Health Bureau, operating under the Office of Economic Development, shall use an XRF instrument. This instrument is approved by the United States Department of Housing and Urban Development for the Childhood Lead Poisoning Prevention Program within the City and the test results obtained by a representative of the Health Bureau when using this instrument shall be conclusive as to the question of presence or absence of lead paint.

(b) When the Office determines that the presence of lead paint or lead bearing substance upon any premises creates a health hazard to children or other persons, they shall issue a thirty (30) day notice to the owner or occupant to eliminate the hazard; however, at the discretion of the Office additional time may be granted to remove, reduce or remedy such condition. Lead paint shall be completely removed from any surface which can be chewed or eaten by children. Loose, cracked, chipped, blistered, peeling lead paint or other accessible surfaces shall be covered with an approved, durable, protective material.

(c) The methods used for the removal of lead paint shall not present a hazard to health from fumes, dust or vapors by inhalation or absorption through the skin and mucous membranes and shall be in accordance with all applicable laws, ordinances, regulations and safety standards and practices of the City and state and federal agencies. (Ord. 5-98. Passed 6-2-98.)

1139.06 HAZARD REDUCTION PROCEDURES.

(a) Methods of Hazard Reduction.

- (1) Furnishings must be removed from each room or area as it is prepared for reduction. Those furnishings that cannot be removed must be covered with plastic and sealed with tape. Furnishings should be thoroughly cleaned to remove lead dust before returning them to a room that has undergone hazard reduction.
- (2) Each area that is to be reduced shall be sealed with plastic and taped prior to hazard reduction in order to contain the reduction residue.

- (3) Dry sanding, heat guns, the use of an open flame torch and chemical strippers containing methylene chloride are prohibited reduction techniques. Methylene chloride based strippers may be used, if necessary, in small quantities as a final touch-up.
 - (4) The entire floor of the work area shall be covered with plastic and all seams and edges secured with tape and staples.
 - (5) All reduced surfaces must be inspected within a reasonable time frame.
 - (b) Walls/Ceilings.
 - (1) If a defective area of a wall or ceiling is localized, only the defective area should be scraped and repaired to create a smooth surface. The entire wall or ceiling must then be repainted with a paint containing less than six one hundredths of one percent (0.06%) lead in the final dried state.
 - (2) If the walls or ceilings are determined by the Office to be suitable for repainting, covering with fiberglass, vinyl, sheetrock, and/or any type of paneling or other covering which seals the seams and edges will be satisfactory.
 - (c) Woodwork and woodtrim.
 - (1) Nonchewable surfaces. Approved methods of hazard reduction are wet scraping until smooth, replacement, covering with new wood and sealed and caulked seams, and/or paint removal using chemical strippers, which do not contain methylene chloride. Methylene chloride based strippers may be used, if necessary, in small quantities as final touch-up method. Off-site chemical stripping of woodwork and wood trim is also acceptable. All reduced surfaces must be repainted with paint containing less than six one hundredths of one percent (0.06%) lead in the final dried state.
 - (2) Chewable surfaces. Approved methods of hazard reduction are wet scraping, replacement, covering with new wood with sealed and caulked seams, and/or paint removal using chemical strippers may be used, if necessary, in small quantities as a final touch-up method. Off-site chemical stripping of woodwork and wood trim is also acceptable. All reduced surfaces must be repainted with paint containing less than six one hundredths of one percent (0.06%) lead in the final dry state.
 - (d) Floors. Coated with lead paint must be encapsulated using a quarter inch tempered hard board or plywood underlayment or vinyl tile or linoleum flooring. Upon written request from the owner, the Office may consider other appropriate means of reducing surfaces.
 - (e) Exterior. Approved methods are wet scraping, water blasting, or encapsulation. All reduced surfaces must be repainted with paint containing less than six one hundredths of one percent (0.06%) lead in the final dried state.
 - (f) All reduced surfaces must be inspected by the Office prior to the painting or coating of said surfaces.

(g) Clean-up.

- (1) At the end of each work day, rooms or areas in which hazard reduction in complete shall be thoroughly cleaned in conformance with this section, or properly sealed from the remainder of the dwelling or secondary residence.
- (2) Before unsealing each room or area, it should be thoroughly cleaned, inspected by the Office within a reasonable time frame, surface recoated and then cleaned again. Once a room has received clean-up it should not be reentered by the workers.
- (3) In absence of a HEPA vacuum, two thorough washings using a strong detergent, as prescribed by the Office, with frequent changes of water, each followed by two additional treatments after repainting or coating, will be considered satisfactory.
- (4) Use of an ordinary vacuum for clean-up of reduction debris is prohibited. Sweeping should be limited to preliminary cleanings only. (Ord. 5-98. Passed 6-2-98.)

1139.07 PROHIBITION OF EVICTION OF OCCUPANTS WITH CHILDREN BY OWNER OR LANDLORD.

No owner or landlord, found to be in violation of Section 1139.05 may evict, or cause to be evicted, occupants with children for the purpose of avoiding corrective maintenance order by the Office of Economic Development, court or other appropriate authority to eliminate hazardous lead exposures. Further, the families with children shall be permitted to continue their occupancy in accordance with their lease or rental agreement executed prior to corrective maintenance.

(Ord. 5-98. Passed 6-2-98.)

1139.08 SAFETY OF WORKERS.

Persons carrying out hazard reduction activities shall wear NIOSH or OSHA approved respirators. Shoes and clothing shall be removed in the room or area being reduced. The clothing shall be washed separately.

(Ord. 5-98. Passed 6-2-98.)

1139.09 DISPOSAL OF HAZARD REDUCTION WASTE.

Lead hazard reduction waste shall be transported and disposed of in a manner to prevent lead from becoming airborne. Waste shall be disposed of in accordance with current Pennsylvania Department of Environmental Protection regulations.

(Ord. 5-98. Passed 6-2-98.)

1139.10 EXEMPTIONS.

The Office may on a case-by-case basis, approve an alternative procedure for hazard reduction of a lead violation, provided that the owner submits a written description of an alternative procedure to the Office and demonstrates that compliance with these procedures are not practical or feasible, or that the proposed alternative procedure provides the equivalent control and removal.

(Ord. 5-98. Passed 6-2-98.)

1139.11 PROCEDURES RELATED TO INSPECTION OF THE HAZARD REDUCTION.

(a) The Office may inspect any dwelling or secondary residence at any time during the hazard reduction to determine compliance with hazard reduction standards.

(b) When hazard reduction has been completed, the Office shall perform a follow-up environmental inspection to determine if hazard reduction has been completed in conformance with this regulation. This determination shall be made based on one or more of the following:

- (1) Reading of the XRF instrument.
- (2) Dust sample analysis.
- (3) Paint sample analysis.
- (4) Visual inspection.

(c) If hazard reduction is determined to have been in compliance with any notice to reduce, and in conformance with this regulation, the Office shall issue a written statement to the owner that the lead violation notice has been satisfied. Such statement shall not preclude the Office from the issuing future notices of lead violations against the same dwelling or secondary residence in accordance with this regulation.

(Ord. 5-98. Passed 6-2-98.)

1139.12 REPORTS.

Every public health official, physician or director of a laboratory, hospital or other treatment facility who diagnoses or suspects the existence of lead poisoning in any person shall immediately notify, in writing, the Office of such fact. Notification shall include name and age of the individual, name or parents or employer if person is an adult, and present address.

(Ord. 5-98. Passed 6-2-98.)

1139.13 SALE OF PROPERTY.

If a lead violation is known to exist at a dwelling, then upon the sale of said property, the owner shall notify the potential buyer of the existing condition.

(Ord. 5-98. Passed 6-2-98.)

1139.14 LIABILITY OF THE OFFICE.

The issuance of a statement by the Office to an owner that a lead violation notice has been reduced does not subject the Office to any claims for liability if the issuance of the statement was made in good faith.

(Ord. 5-98. Passed 6-2-98.)

1139.99 PENALTY.

In addition to any other sanction or remedial procedure, any owner, landlord, occupant or other person who violates any provision of this article upon conviction thereof, shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) or be confined in jail not exceeding thirty (30) days, or both. Each day's continuance of a violation shall constitute a separate offense. (Ord. 5-98. Passed 6-2-98.)