

Virginia Temporary Food Establishment Regulations
Effective July 1, 2011

Administrative Procedures:

A. Permit

1. Persons responsible for the operation of temporary food establishments are required to submit a completed health department application prior to issuance of a temporary food establishment permit. Separate permits are required for each temporary food establishment (12 VAC 5-421-3680).
2. Application forms should be submitted to the health department at least **ten** days prior to the event (12 VAC 5-421 and 12 VAC 5-421-3670). A \$40.00 permit fee will be charged to the temporary food establishment permit applicant for the first permit he or she acquires during the calendar year. Owners with multiple units will pay only one \$40.00 fee. If a fee(s) has been paid in a different health district the applicant must provide a copy of their receipt to verify payment.
3. A health department permit is not transferable to another party and shall be posted in the facility. A permit is valid only for the specified date, time, and location (12 VAC 5-421-3750-60).
4. Food to be sold or served should be approved in advance by the local health department and shall be in compliance with the requirements set forth in Part A of the Standards section of this policy. Only those food items listed on the application and approved by the local health department may be sold or served.
5. Temporary food establishments shall not operate until a permit is issued (12 VAC 5-421-3660).
6. Local health departments have discretion to issue temporary food permits prior to conducting an opening inspection based on the foods being served (i.e., no potentially hazardous foods or low hazard foods such as hot dogs) and the inspection history of the vendor from previous operations.

B. Application Review

1. The Coordinator's Check List for a Temporary Food Event Form (Appendix A) may be used in the processing of the temporary food establishment permit application. This form is submitted by the organizer or coordinator of an event to alert the LHD of the dates and times of a proposed event, how many food

vendors will be invited, and important event issues such as the provision of potable water and wastewater disposal.

2. If an application is approved, the applicant shall be notified of such and the completed Application for a Temporary Food Establishment shall be entered into VENIS.

3. If the permit application is not approved, the applicant shall be notified in writing of the reasons for denial (12 VAC 5-421-3730).

4. When compliance is achieved, a permit shall be issued. The Temporary Food Establishment Inspection Report(s) shall be entered into VENIS either during the time of the event or immediately following the event.

C. Inspection

1. The number and frequency of inspections of the temporary food establishment shall be determined by the local health department (12 VAC 5-421-3800). Based primarily on the types of food served (i.e., no potentially hazardous foods or low hazard foods such as hot dogs) and the performance of the vendor on previous occasions, it is not necessary to inspect every temporary food establishment every day during an event or even anytime during the event at all. Resources should be focused on those temporary food establishments serving higher hazard potentially hazardous foods, those establishments that are conducting a significant amount of preparation on site, and those establishments whose performance history shows frequent violations.

2. All inspection findings shall be recorded on a Temporary Food Establishment Inspection Report Form. The operator is requested to post a copy of each report in the facility during the event.

3. The department shall review previous inspection reports recorded in VENIS prior to conducting an inspection. Uncorrected violations from previous inspections shall be so identified on the inspection reports. The operator shall be advised that continuing or flagrant violations are grounds for denial or revocation of the permit. All violations shall be corrected within a maximum of twenty-four hours or the permit shall be suspended (12 VAC 5-421-3870). The department shall conduct a follow-up visit to determine compliance. If violations are not corrected, the establishment shall immediately cease food service operations until authorized to resume by the director or his or her designee.

D. Enforcement

When the inspection reveals the presence of substantial or imminent health hazards, including, but not limited to, inadequate facilities to maintain required temperatures for food, the presence of home-prepared food, contaminated or adulterated food, ill employees, or continuing/flagrant sanitary violations, the temporary food establishment shall immediately cease food service operations. Operations shall not resume until all corrections have been implemented and authorization has been granted by the director or his or her designee (12 VAC 5-421-3910).

Standards

A. Personal Cleanliness and Hygiene

1. Food employees shall keep their hands and exposed portions of their arms clean by vigorously rubbing together the surfaces of their lathered hands and arms for at least 15 seconds and thoroughly rinsing with clean, running water (12 VAC 5-421-130 and 140).
2. Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough. While preparing food, food employees may not wear artificial fingernails or fingernail decorations other than nail polish (12 VAC 5-421-190).
3. While preparing food, food employees may not wear jewelry on their arms and hands. This section does not apply to a plain ring such as a wedding band (12 VAC 5-421-200).
4. Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles (12 VAC 5-421-210).
5. An employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food, clean equipment, utensils, and linens, unwrapped single-service and single-use articles, or other items needing protection cannot result (12 VAC 5-421-220).
6. Food employees shall be excluded and/or restricted from food handling activities as per Sections 12 VAC 5-421-80 and 90.
7. Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food, clean equipment, utensils, linens, or single-service or single-use articles (5-421-230).

8. Food employees shall wear hair restraints, such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food, clean equipment, utensils, and linens, and unwrapped single-service and single-use articles (5-421-240).

9. Food employees may not care for or handle animals that may be present such as patrol dogs, support animals, or pets (5-421-250).

10. Food employees shall not contact ready-to-eat foods with their bare hands.

B. Food and Beverages

1. Source

a. All food products including beverages, ice and water shall come from an approved source that complies with law. Food prepared in a private home may not be used or offered for human consumption (12 VAC 5-421-270). Exception: Prepackaged non-potentially hazardous foods that have been prepared in a VDACS approved kitchen.

b. Fluid milk and milk products shall be obtained from sources that comply with Grade A standards as specified in law and be obtained pasteurized. Frozen milk products, such as ice cream, shall be obtained pasteurized in accordance with 21 CFR Part 135 Frozen Desserts (12 VAC 5-421-290 and 12 VAC 5-421-370).

c. Fish that are received for sale or service shall be commercially and legally caught or harvested (12 VAC 5-421-300).

d. All shellfish, such as oysters, clams, and mussels, shall be identified by the Interstate Certified Shellfish Shippers List Certification Number (12 VAC 5-421-310).

e. Shell stock shall be obtained in containers bearing the legible source identification tags or labels that are affixed by the harvester (12 VAC 5-421-410).

f. Molluscan shellfish may not be removed from the container in which they were received other than immediately before sale or preparation for service (12 VAC 5-421-430).

2. Transportation

Food shall be transported in a sanitary manner which protects it from contamination. The temperature of potentially hazardous foods shall be maintained at 41°F or below or at 135°F or above at all times except as otherwise provided in the regulations. Frozen food shall be received and maintained frozen (12 VAC 5-421-340).

3. Storage

a. All food products, storage containers, single service items, kitchenware and equipment and utensils shall be stored a minimum of six (6) inches above the ground level or floor surface, except as provided in the regulations (12 VAC 5-421-610). As an alternative, pallets and empty boxes may serve as storage racks.

b. Commercially packaged foods, canned foods, and bottled containers may be stored on drained ice. Beverage containers are not to be submerged in ice. Packaged food (such as sandwiches) may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water (12 VAC 5-421-530).

c. Equipment for cooling and heating food, and holding cold food, shall be sufficient in number and capacity and capable of providing food temperature as specified under Part III of the Regulations (12 VAC 5-421-1450).

d. Working containers holding food or food ingredients that are removed from their original packages, such as cooking oil, flour, salt, spices, and sugar, shall be identified with the common name of the food (in English and the common language of the food workers), except for containers holding food that can be readily and unmistakably recognized (12 VAC 5-421-480).

e. Food shall be protected from cross contamination by:

i. Separating raw animal foods during storage, preparation, holding, and display from:

- a. Raw ready-to-eat food including other raw animal food.
- b. Cooked ready-to-eat food.

ii. Except when combined as ingredients, separating different types of raw animal foods from each other such as

beef, fish, lamb, poultry during storage, preparation, holding and display by:

- a. Using separate equipment for each type of food.
 - b. Preparing each type of food at different times or in separate areas.
 - iii. Cleaning equipment and utensils as specified under 12 VAC 5-421-1780 A, and sanitizing as specified under 12 VAC 5-421-1900.
 - iv. Cleaning hermetically sealed containers of food of visible soil before opening (12 VAC 5-421-470).
- f. Wiping cloths that are used for wiping food spills shall be used for no other purpose. Cloths used for wiping food spills shall be:
- i. Dry and used for wiping food spills from tableware and carry-out containers; or
 - ii. Wet and cleaned as specified under 12 VAC 5-421-1920 D, stored in a chemical sanitizer at a concentration specified in 12 VAC 5-421-3380, and used for wiping spills from food-contact and nonfood-contact surfaces of equipment.
 - iii. Dry or wet cloths that are used with raw animal foods shall be kept separate from cloths used for other purposes, and moist cloths used with raw animal foods shall be kept in a separate sanitizing solution (12 VAC 5-421-570).
- g. If used, single-use gloves shall be used for only one task, such as working with ready-to-eat food or raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation (12 VAC 5-421-580).
- h. In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.
- i. Except for units where it is not practical to place a temperature measuring device such as a steam table, cold or hot holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least

one integral or affixed temperature measuring device that is located to allow easy viewing of the devices temperature display (5-421-1320).

4. Preparation and handling.

a. All food preparation shall be done on site or properly transported from an approved or permitted food facility (12 VAC 5-421-640 and 12 VAC 5-421-690).

b. Only potentially hazardous food requiring limited preparation shall be prepared and served on site, unless extensively prepared food can be safely prepared, served, and stored on site.

c. Potentially hazardous food, including but not limited to meat, fish, shellfish, poultry, dairy products, eggs, etc., shall be maintained at 41°F or below, or 135°F or above.(12 VAC 5-421-820).

d. Food that has been cooked and refrigerated at proper temperature, if reheated, shall be reheated rapidly (within two hours) to 165°F for 15 seconds before service (12 VAC 5-421-750).

e. Food temperature measuring devices that are scaled only in Fahrenheit or dually scaled in Fahrenheit and Celsius shall be scaled in 2° increments and accurate to $\pm 2^\circ\text{F}$ in the intended range of use (12 VAC 5-421-1180). Food temperature measuring devices may not have sensors or stems constructed of glass (12 VAC 5-421-1090).

f. Precaution shall be taken to minimize food contamination from coughing, sneezing, etc., by consumers. Food on display shall be protected from contamination by the use of packaging, counter, service line, or salad bar food guards, display cases, or other effective means (12 VAC 5-421-650). All cooking and food preparation shall be separated from public access.

g. Overhead protection shall be wind resistant, waterproof and extend over all food preparation, storage and service areas. Exception: Cooking equipment such as grills and BBQ cookers that sit outside the confines of a tent or mobile unit shall be lidded to protect food from possible contamination while foods are cooking.

h. Condiments shall be protected from contamination by being kept in dispensers that are designed to provide

protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions (12 VAC 5-421-660).

i. Ice for human consumption shall be stored in cleanable, covered, self-draining containers and dispensed with handled scoops, tongs, or other approved methods (12 VAC 5-421-690 and 550).

5. Destruction of Organisms of Public Health Concern (12 VAC 5-421-700).

a. Raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with 12 VAC 5-421-700 of the Regulations.

b. Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature as specified in 12 VAC 5-421-720.

6. Limitations of Growth

a. Potentially hazardous food shall be thawed as specified under 12 VAC 5-421-790.

b. Cooked potentially hazardous food shall be cooled as per 12 VAC 5-421-800.

C. Equipment and Utensils

1. Materials for Construction

a. Materials that are used in the construction of utensils and food-contact surfaces shall meet the intent of 12 VAC 5-421-960.

b. Only plastic bags intended for food storage shall be used and shall be discarded after single-use. Single-service and single-use articles may not be reused (12 VAC 5-421-1750). The use of plastic “garbage/trash” bags as a food storage container is prohibited (12 VAC 5-421-960).

2. Design and Construction

a. Equipment and utensils shall be designed and constructed as specified under 12 VAC 5-421-1080.

b. Multiuse food-contact surfaces shall be as specified under 12 VAC 5-421-1100.

c. Beverage tubing and cold-plate beverage cooling devices shall be installed in accordance with 12 VAC 5-421-1260.

d. A properly plumbed three compartment sink with hot and cold running water or three containers of adequate size shall be provided for washing, rinsing, and sanitizing food contact surfaces of equipment (12 VAC 5-421-1460). Enough hot water for these purposes shall be provided (12 VAC 5-421-2120). A test kit shall be provided for testing sanitizer concentration (12 VAC 5-421-1530). Off-site cleaning and sanitizing of equipment at a central facility may be approved on an individual basis. Adjacent permit holders may share three compartment sink set ups. Also, permit holders may provide multiple sets of utensils to offset the need to wash and sanitize dirty utensils.

3. Cleaning and Sanitizing of Equipment

a. Single service utensils shall be required where there is no effective way of cleaning and sanitizing utensils (12 VAC 5-421-1740).

b. Equipment food-contact surfaces and utensils shall be sanitized as specified as 12 VAC 5-421-1880 and 1890. After cleaning and sanitizing, equipment and utensils shall be air dried (12 VAC 5-421-1960).

c. Equipment food-contact surfaces and utensils and non-food contact surfaces of equipment shall be cleaned to sight and touch as per 12 VAC 5-421-1780.

4. Storage and handling

a. Clean equipment and utensils and single-service and single-use articles shall be stored as specified in 12 VAC 5-421-2000.

b. Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed as per 12 VAC 5-421-2020.

D. Water, Plumbing and Waste

1. Water

- a. Water shall be obtained from an approved source (12 VAC 5-421-2050).
- b. The water source and system shall be of sufficient capacity to meet the water demands of the food establishment (12 VAC 5-421-2120).
- c. Water shall be received from the source through the use of (12 VAC 5-421-2150):
 - i. An approved public water main; or
 - ii. One or more of the following that shall be constructed, maintained, and operated according to law;
 - a. Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances;
 - b. Water transport vehicles;
 - c. Water containers;
- d. A water tank, pump, and hoses shall be flushed and sanitized before being put into service after construction, repair, modification, and periods of nonuse (12 VAC 5-421-2460); or,
- e. Water meeting the requirements specified under 12 VAC 5-421-2050 through 12 VAC 5-421-2130 shall be made available for a temporary food establishment without a permanent water supply through:
 - 1. A supply of containers of commercially bottled drinking water;
 - 2. One or more closed portable water containers;
 - 3. An enclosed vehicular water tank;
 - 4. An on-premises water storage tank; or
 - 5. Piping, tubing, or hoses connected to an adjacent approved supply (12 VAC 5-421-2160).

2. Plumbing

- a. At least one handwashing lavatory and not fewer than the number required by law shall be provided. All handwashing lavatory set-ups shall be capable of providing tempered water through a mixing valve (12 VAC 5-421-2190) and must be located in all areas where there is direct handling and/or preparation of food. If approved, when food exposure is limited, employees may use chemically treated towlettes for handwashing (12 VAC 5-421-2230). An alternative

handwashing lavatory may be used, such as a container of tempered water with a dispensing valve and a supply of hand cleaner and single use paper towels (5-421-3020 and 3030). Minimum requirements should include: a 5 gallon insulated container with a spigot which can be turned on to allow potable, clean, water to flow over one's hands into a waste receiving bucket or container of equal or larger volume.

Hand wash stations are not required if the only food items offered are commercially pre-packaged foods that are dispensed in their original containers.

b. A handwashing facility shall be readily accessible for use by employees in food preparation, food dispensing, and warewashing areas (12 VAC 5-421-2280).

c. A sign or poster that notifies food employees to wash their hands shall be provided and be clearly visible to food employees (12 VAC 5-421-3045).

d. At least one toilet and not fewer than the toilets required by law shall be provided (12 VAC 5-421-2240). Temporary chemical toilets can be used.

e. A plumbing system shall be installed to preclude backflow of solid, liquid, or gas contaminants into the water supply system at each point of use at the food establishment (12 VAC 5-421-2260).

3. Sewage and Waste

a. Sewage shall be disposed of through an approved facility that is:

i. A public sewage treatment plant; or

ii. An individual sewage disposal system that is sized, constructed, maintained, and operated according to law (12 VAC 5-421-2570).

iii. Temporary collection containers for the disposal of wastewater can be provided if they are leak-proof, covered and emptied so as not to create a nuisance.

b. Receptacles and waste handling units for refuse, recyclables, and returnables shall meet the specifications outlined in 12 VAC 5-421-2620.

c. A receptacle shall be provided in each area of the food establishment or premises where refuse is generated or commonly discarded as specified in 12 VAC 5-421-2650.

E. Physical Facilities

1. In a temporary food establishment a floor may be concrete (if graded to drain), machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other suitable approved materials that are effectively treated to control dust and mud (12 VAC 5-421-2790).
2. Walls and ceilings (if provided) may be constructed of a material that protects the interior from the weather and windblown dust and debris (12 VAC 5-421-2790). An example would be a canvas canopy or plywood roof.
3. Light bulbs shall be shielded, coated, or otherwise shatter-resistant as specified in 12 VAC 5-421-2890.
4. The light intensity shall be as specified in 12 VAC 5-421-3080.
5. Insect control devices shall be designed and installed as specified in 12 VAC 5-421-2910.

F. Poisonous or Toxic Materials

Poisonous or toxic materials will be labeled, stored and used as per 12 VAC 5-421-3320 through 12 VAC 5-421-3380.

G. Animals

1. Live animals may not be allowed in food preparation or service area premises of a food establishment (12 VAC 5-421-3310). However, animals may be permitted in food dining areas of temporary food establishments if accompanied by the animal owner and with the consent of the permit holder.
2. Animals on display should be prohibited within 50 feet of any temporary food establishment.