



Attachment 2

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Date: April 27, 2015
Memo to: Tompkins County Board of Health
From: C. Elizabeth Cameron, P.E., Director of Environmental Health

Subject: Temporary Food Service Program Permit Structure–revised version

The NYSDOH reviewed our proposed Temporary Food Service Program Permit Structure and commented on the "instant permit" for incidental food service. NYSDOH representatives stated that it is not the intent of the NYS Sanitary Code to cover these types of events. At this time, the primary goal of the Environmental Health Division is to establish the structure for our 2016 fees. We did not intend to charge fees for the "instant permits." The "instant permit" section has been removed from the attached revised document pending further discussions with NYSDOH on this issue. A proposed "final" version and a version showing changes in track changes mode are attached.

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Rev draft April 22, 2015

TEMPORARY FOOD SERVICE PROGRAM REVISED PERMIT STRUCTURE –

REVISED DRAFT

BACKGROUND INFORMATION

The Temporary Food Service Program provides the opportunity for food service events of limited scope and duration to occur in a manner that protects public health. Typical events in Tompkins County include chicken barbeque fundraisers, vendors at festivals, and activities by Cornell University organizations. In 2014 we issued almost 400 permits. Many permit applications we received included highly ambitious schemes and menus for banquets with a significant number of guests.

STATE REGULATIONS AND GUIDANCE

Subpart 14-2 of the NY State Sanitary Code regulates Temporary Food Service Establishments. It includes the following definition of a temporary food service establishment:

“A ‘temporary food service establishment’ means a place where food is prepared or handled and served to the public, with or without charge, and which operates at a fixed location in conjunction with a single event or celebration of not more than 14 consecutive days duration.”

Subpart 14-2 requires that, *“A temporary food service establishment shall obtain and display a valid permit from an issuing official authorized by the State Commissioner of Health.”*

The NYS Department of Health (NYSDOH) has provided guidance stating that this can be interpreted as:

- 1) A specific event not exceeding 14 consecutive days;
- 2) Multiple specified dates when the operator prepares and serves a similar menu at the same location for multiple events during the year; or
- 3) Multiple specified dates and locations within the jurisdiction of the permit issuing official when the menu and the temporary food service establishment design and construction are not subject to change.

Further, the permit issuing official can issue one permit with non-consecutive dates for up to a one-year term. The total number of operating days can exceed 14 (as long as there are no more than 14 consecutive days). Permit terms are at the discretion of the permit issuing official and must take into account an operator’s record of compliance and potential health risks.

CURRENT PERMIT STRUCTURE

The current Temporary Food Permit structure provides one permit type, allowing on-site food preparation and valid at one location for 1-14 days. This permit is issued for all temporary food service operations ranging from a straightforward, half-day chicken barbeque with baked beans and cole slaw to a four-day

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field kitchen installation at the GrassRoots Festival serving fried alligator, rice and multiple choices of side dishes.

The permit fee is the same (currently \$65) for all permits, and the fee is waived for not-for-profit operations. Cornell University groups are considered not-for-profit. Some of their events are the most complex and require the most Health Department education and oversight. We currently recover about 6% of the costs of the Temporary Food Service Program. This is the lowest recovery rate for any of our permitted programs that do not have state-mandated fees.

PROPOSED PERMIT STRUCTURE

The proposed structure was developed to allow for the additional education and oversight needed for the more complex temporary food events. The structure was also developed to be able to more equitably recover costs for this program while accommodating the not-for-profit and/or low-risk nature of many events. Not-for-profit organizations would continue to be fee exempt unless they had a complex menu.

1. **1 day, Simple Menu.** A Simple Menu is defined as an uncomplicated offering of limited ingredients in a manageable quantity. Examples include a festival vendor that serves cotton candy and fountain drinks, a chicken barbeque with coleslaw and a roll, or a Spaghetti Dinner Fundraiser. This category would also include serving delivered food with hot or cold holding requirements. We issued 304 permits meeting this definition in 2014.
2. **Multiple Non-Consecutive Days, Simple Menu.** This permit allows for multiple dates (up to 8) in any 120-day period for the same or similar menu at the same or similar venue - for example, the Rotary Club holding four chicken BBQs on different parking lots over the summer. The operating dates and locations would have to be specified upon permit application. Food must be prepared on-site or in an acceptable commissary, and food must be obtained the day of the event. No between-event storage of potentially hazardous food would be permitted. Development of this permit category is expected to eliminate the need for about 50 separate permits (based on permits issued in 2014).

Vendors operating on a routine basis at events such as the Ithaca Farmers market where they operate at least weekly for an extended period of time will be required to have a 14-1 Food Service permit.

3. **Multiple Consecutive Days, Simple Menu.** This category covers festival vendors at events like GrassRoots, Ithaca Festival, and Apple Harvest Festival. The extended duration of these events creates the need for food storage. Additional inspections may be required for some of these vendors. There were 27 permits meeting this definition in 2014.
 - a. **1-day, Complex Menu.** A Complex Menu is defined as an offering with numerous or difficult to prepare selections. An example might include a vendor with numerous menu items (potato pancakes, tofu scramble, various sandwiches, burgers, chili dogs, etc) or a cultural showcase where the event sponsors would like to prepare several food items from their native countries (sushi, noodle soups, kabobs, stews, etc.). Many times these events require cooking and cooling and reheating, resulting in more than one passage through the temperature danger zone.

TCHD staff time for these permits would generally involve a 1-hour preparation session with the event sponsors to ascertain that they will be able to prepare and serve the food safely for a large number of people. On-site inspection time could range from 20 minutes to an hour, compared to a quick 10 minutes for some other temporary food permits. Current examples of this type would be permits issued to the CU Indonesian Students Association and the CU Japan-US Association.

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Food service professionals also would require this type of permit if they operated only occasionally (e.g., Travelers Kitchen) or came into the county for special events (e.g., Stonecat Café or PDR's Catering). Total of professional and amateur food permits meeting this definition in 2014 was 31.

Considering the high level of TCHD time and expertise required for these events, it is recommended that this permit fee not be waived for non-profit applicants.

4. **Multi-day, Single Event, Complex Menu.** This category covers the same type of food preparation as the preceding category but the event operates up to 6 consecutive days. A single permit for non-consecutive days will not be issued for complex menus. Individual permits must be obtained.

For a 2-6 day "complex menu" permit for a single event or location, the TCHD work load would be higher because of the increased inspection burden of ascertaining that larger quantity, longer-term food storage would be adequate, as well as the potential for needed re-inspections. Twelve permits met this definition in 2014, including GrassRoots and 3 permits at Trumansburg Fair.

CONCLUSIONS

- The proposed structure reduces the number of permits we are issuing for Not-For-Profits conducting similar operations on multiple occasions throughout the year (Rotary Club Chicken BBQs). It will allow us to concentrate our efforts on events and operators that require more education.
- It increases the amount of revenue the program is generating. Temporary Food Permit fees recover only 6% of the cost of the Temporary Food Service Program based on the time spent inspecting and permitting.
- The new fee structure is more in-line with Food Service Establishment (FSE) permits with different levels for simple and complex events.
- The structure addresses the Temporary Food Service "culture" unique to Tompkins County that may not be as prevalent in other rural counties.
- The proposed structure imposes increased cost to some operators, particularly those with a complex menu.

REFERENCES

1. Subpart 14-2 of the NY State Sanitary Code regulates Temporary Food Service Establishments (1997)
2. NYSDOH Program Guidance (2011)
3. Tompkins County Risk-Based Inspection Matrix (insert date)

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STATE REGULATIONS AND GUIDANCE

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Further, the permit issuing official can issue one permit with non-consecutive dates for up to a one-year term. The total number of operating days can exceed 14 (as long as there are no more than 14 consecutive days). Permit terms are at the discretion of the permit issuing official and must take into account an operator’s record of compliance and potential health risks.

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field kitchen installation at the GrassRoots Festival serving fried alligator, rice and multiple choices of side dishes.

The permit fee is the same (currently \$65) for all permits, and the fee is waived for not-for-profit operations. Cornell University groups are considered not-for-profit. Some of their events are the most complex and require the most Health Department education and oversight.

~~Under our current agreement with NYSDOH, we are required to inspect 33% of our temporary food service operations, with inspections conducted based on the risk of the operation.~~ We currently recover about 6% of the costs of the Temporary Food Service Program. This is the lowest recovery rate for any of our permitted programs that do not have state-mandated fees.

PROPOSED PERMIT STRUCTURE

The proposed structure was developed to allow for the additional education and oversight needed for the more complex temporary food events. The structure was also developed to be able to more equitably recover costs for this program while accommodating the not-for-profit and/or low-risk nature of many events. Not-for-profit organizations would continue to be fee exempt unless they had a complex menu.

~~1. **Instant Permit.** This category addresses simple, self-serve, very low risk food service at a single or multi-day event. This would accommodate groups like the Downtown galleries doing First Fridays and other stores providing incidental items like wine and cheese and crackers for special promotions, refreshments provided at speaking events, and similar operations. Under the NYS Sanitary Code, these events are required to obtain a permit, a requirement that most operators do not currently meet or understand.~~

~~Our main concern with these events is being aware of them so we can provide education so the low-risk foods can be served safely. These permits would be issued immediately upon application with the requirement that specific conditions noting the limited nature of food served are met. We do not anticipate charging a fee for these permits and would only rarely conduct inspections at these events.~~

2.1. **1 day, Simple Menu.** A Simple Menu is defined as an uncomplicated offering of limited ingredients in a manageable quantity. Examples include a festival vendor that serves cotton candy and fountain drinks, a chicken barbeque with coleslaw and a roll, or a Spaghetti Dinner Fundraiser. This category would also include serving delivered food with hot or cold holding requirements. We issued 304 permits meeting this definition in 2014.

3.2. **Multiple Non-Consecutive Days, Simple Menu.** This permit allows for multiple dates (up to 8) in any 120-day period for the same or similar menu at the same or similar venue - for example, the Rotary Club holding four chicken BBQs on different parking lots over the summer. The operating dates and locations would have to be specified upon permit application. Food must be prepared on-site or in an acceptable commissary, and food must be obtained the day of the event. No between-event storage of potentially hazardous food would be permitted. Development of this permit category is expected to eliminate the need for about 50 separate permits (based on permits issued in 2014).

Vendors operating on a routine basis at events such as the Ithaca Farmers market where they operate at least weekly for an extended period of time will be required to have a 14-1 Food Service permit.

4.3. **Multiple Consecutive Days, Simple Menu.** This category covers festival vendors at events like GrassRoots, Ithaca Festival, and Apple Harvest Festival. The extended duration of these events creates

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a. **1-day, Complex Menu.** A Complex Menu is defined as an offering with numerous or difficult to prepare selections. An example might include a vendor with numerous menu items (potato pancakes, tofu scramble, various sandwiches, burgers, chili dogs, etc) or a cultural showcase where the event sponsors would like to prepare several food items from their native countries (sushi, noodle soups, kabobs, stews, etc.). Many times these events require cooking and cooling and reheating, resulting in more than one passage through the temperature danger zone.

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5.4. Multi-day, Single Event, Complex Menu. This category covers the same type of food preparation as the preceding category but the event operates up to 6 consecutive days. A single permit for non-consecutive days will not be issued for complex menus. Individual permits must be obtained.

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