

10-144
DEPARTMENT OF HUMAN SERVICES
BUREAU OF HEALTH
DIVISION OF HEALTH ENGINEERING

Chapter 206

RULES RELATING TO LODGING ESTABLISHMENTS

EATING AND LODGING PROGRAM
11 STATE HOUSE STATION
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Chapter 1: Purpose and Definitions

1-A Rules Relating to Lodging

These provisions shall be known as the Rules Relating To Lodging, hereinafter referred to as "Lodging Rules." These rules shall be liberally interpreted and applied to promote their underlying purpose of protecting the public health.

1-B Applicability and Terms Defined

- 1) APPROVED means acceptable to the Department, based on its determination as to conformance with appropriate standards and good public health practice.
- 2) BED AND BREAKFAST see LODGING PLACES
- 3) BUNKHOUSE see LODGING PLACES
- 4) COMMON AREAS are parts of an establishment which are open to all guests. The term includes, but not by way of limitation, hallways, stairways, and vending areas.
- 5) COMMON DRINKING CUPS are cups that are shared by two or more individuals or by all members of a group.
- 6) COMMON TOWELS are towels that are shared by two or more individuals or by all members of a group.
- 7) CORROSION-RESISTANT MATERIALS means those materials that maintain their original surface characteristics under prolonged normal use of cleaning compounds, bactericidal solutions, and other normal uses.
- 8) COTTAGE see LODGING PLACES
- 9) CRITICAL VIOLATION means a violation of these rules which is more likely than other rule violations to present a clear risk of contamination, illness, or environmental health hazard.
- 10) DEPARTMENT means the Department of Human Services.
- 11) DORMITORY see LODGING PLACES
- 12) EASILY CLEANABLE means that surfaces which are readily accessible and made of such materials and finish, or so fabricated, that materials may be effectively removed by normal cleaning methods.

- 13) EATING AND LODGING PLACE see LODGING PLACES
- 14) EMPLOYER means the license holder or individual having supervisory or managerial duties at the licensed establishment.
- 15) FOOT CANDLE is a standard unit, established as a point of reference, which is used when measuring quantity of light. One Foot Candle equals the total intensity of light which falls upon a one square foot surface placed 1 foot away from a point source of light that equals 1 candle power.
- 16) GUEST HOME see LODGING PLACES
- 17) HOTEL see LODGING PLACES
- 18) LODGING PLACES means every building or structure, or any part thereof, used, maintained, advertised or held out to the public as a place where sleeping accommodations are furnished to the public for business purposes. The term includes, but not by way of limitation, hotels, motels, guest homes and cottages. A Lodging License is required for any person or entity which rents out four or more rooms or cottages. For exceptions to this definition, please refer to 22 M.R.S.A. §2501.

The term LODGING PLACES include:

- a) BED AND BREAKFAST is a unique eating and lodging establishment where the general public can stay overnight, and are provided with a "limited menu," serving only a breakfast meal. This meal can be either a full breakfast or a continental breakfast. Unlike other food establishments, the meal is prepared in the private home. A lodging license is required regardless of the number of rooms;
- b) BUNKHOUSE means and includes a rough simple building providing sleeping quarters, with or without bedding; or any other similar rustic dwelling which provides lodging. Bunkhouses that are part of a licensed campground or recreational camp are not lodging places;
- c) COTTAGE means a single structure where sleeping accommodations are furnished to the public as a business for day, week, or month, but not for more than the entire summer season;
- d) DORMITORY means a room in any establishment used for sleeping purposes by four (4) or more unrelated persons;

- e) **EATING AND LODGING PLACE** or **LODGING PLACE** means every building or structure or any part thereof kept, used as, maintained as, advertised as or held out to the public to be a place where eating and sleeping or sleeping accommodations are furnished to the public as a business, such as hotels, motels, guest homes and cottages;
 - f) **GUEST HOMES, HOTELS, and MOTELS** are business establishments where sleeping accommodations are furnished to the public; and,
 - g) **RECREATIONAL CAMP** means and includes day camps, boys' and girls', family, hunting, fishing and similar camps.(Day camps and boys and girls camps, as defined in the Rules Relating to Boy's, Girl's, Boy's and Girl's, Day Camps, and Primitive and Trip Camping 10-144 CMR Chapter 208, are not lodging places subject to these rules.)
- 19) **MOTEL** see **LODGING PLACES**
- 20) **PLUMBING FIXTURE** means a receptacle or device that (1) is permanently or temporarily connected to the water distribution system of the premises and which requires a water supply from the system or (2) which discharges used water, waste materials, or sewage directly or indirectly into the drainage system of the premises.
- 21) **PLUMBING SYSTEM** means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.
- 22) **PRIVATE FACILITY** is a facility funded by an individual, partnership or corporation, and which is not a public facility.
- 23) **PROPRIETOR** means any person 18 years or older, corporation, partnership, firm, organization or municipality which operates or is responsible for the operation of a lodging establishment or eating and lodging establishment.
- 24) **PUBLIC FACILITY** is any facility funded in whole or part by municipal, state or federal funds. These facilities shall include but not be limited to public schools, state controlled universities, mental and correctional facilities, etc.
- 25) **RECREATIONAL CAMP** see **LODGING PLACES**

- 26) **SANITARIAN** means a person whose education and experience in the biological and sanitary sciences qualify him to engage in the promotion and protection of the public health. He applies technical knowledge to solve problems of a sanitary nature and develops methods and carries out procedures for the control of those factors of man's environment which affect health, safety and well-being.
- 27) **SANITIZATION** means effective bactericidal treatment by a process that provides enough accumulative heat or concentrations of chemicals for a time sufficient to reduce the bacterial count, including pathogens, to a safe level on surfaces of utensils and equipment.
- 28) **SERVICE ANIMAL** means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.
- 29) **SHALL** means that which is required; or the only acceptable method under these rules.
- 30) **SHOULD** means the most preferable procedure or alternative under these rules.
- 31) **SINGLE-SERVICE ARTICLES** shall mean cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, placemats, napkins, doilies, wrapping materials, toothpicks and similar articles which are constructed wholly or in part from paper, paper board, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and which are designed by the manufacturers and used by the public as for one-time, one-person use and then discarded.
- 32) **TABLEWARE** shall mean all multi-use eating and drinking utensils, including flatware (knives, forks, spoons, dishware), and ice containers.

2 § 2501. Exceptions

Private homes shall not be deemed or considered lodging places and subject to a license where not more than 3 rooms are let. A license shall not be required from dormitories of charitable, educational or philanthropic institutions, fraternity and sorority houses affiliated with educational institutions, or from private homes used in emergencies for the accommodation of persons attending conventions, fairs or similar public gatherings, nor from temporary eating and lodging places for the same, nor from railroad dining or buffet cars, nor from construction camps, nor from boarding houses and camps conducted in connection with wood cutting and logging operations, nor from any boarding care facilities or

children's homes which are licensed under section 7801. [1977, c. 78, §148 (amd).]

Chapter 2: Rooms

2-A Guest Rooms

- 1) Sleeping rooms and bathrooms shall provide adequate lighting and ventilation.
- 2) Windows and glass doors shall be kept clean and properly maintained.
- 3) Where natural ventilation only is provided, outside openings shall be adequately screened.
- 4) In the absence of windows, air conditioning and artificial lighting constitutes satisfactory compliance.
- 5) Where it is impossible to provide ventilation by means of a window in an external wall or where storm windows are installed incapable of being opened, some artificial or mechanical means of ventilation capable of recirculating the air in the room at least six times per hour shall be provided.
- 6) Window coverings shall be kept clean and properly maintained.
- 7) Sheets and pillow cases, when provided, shall be clean. In no case shall sheets or pillow cases, after once being used by any guest, be used for or by another guest without having been thoroughly cleaned. **(Critical Violation)**
- 8) Any torn and/or soiled bedding, mattresses, sheets or pillow cases shall not be used.
- 9) The floors, walls, and ceilings of bedrooms, closets, and storage areas shall be kept clean and properly maintained.
- 10) Furniture, fixtures, carpets and other accessories shall be kept clean and properly maintained.
- 11) All lodging establishments shall be kept free of roaches, flies, vermin, and other pests.
- 12) If cooking and multi-use eating and drinking tableware are provided for use by guests, the lodging establishment shall wash, rinse and sanitize the

cooking and multi-use eating and drinking tableware, prior to use by succeeding guests. **(Critical Violation)**

- 13) All drinking glasses furnished and used by guests shall be washed and sanitized after each day of occupancy. Clean glasses, not otherwise protected, shall be inverted on a clean surface. **(Critical Violation)**
- 14) Any and all appliances provided shall be properly maintained and cleaned.

2-B Common Areas Associated with Sleeping Rooms

- 1) Floors, walls, ceilings, windows and ventilation shall be kept clean and properly maintained.
- 2) Furniture, fixtures, draperies, and other accessories shall be clean and properly maintained
- 3) Exterior common areas shall be kept clean and free of litter.

2-C: Toilet and Bath Rooms

- 1) Floors, walls, ceilings, and all fixtures shall be smooth, durable and easily cleanable.
- 2) Carpeting is prohibited in all bath and toilet facilities.
- 3) An adequate supply of hand soap or detergent shall be available at each lavatory.
- 4) Lavatory facilities shall be located within or immediately adjacent to all toilet rooms or vestibules.
- 5) An adequate supply of sanitary paper or cloth towels, or an approved hand drying device, shall be available and conveniently located near the lavatory.
- 6) Common towels and common drinking cups are prohibited.
- 7) Toilet facilities, including the toilet room and fixtures, shall be kept clean and properly maintained, free of objectionable odors and shall be adequately vented.
- 8) A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials, and such receptacles in toilet rooms for women shall be covered. Such receptacles

shall be emptied at least once a day, and more frequently when necessary, to prevent excessive accumulation of waste material.

- 9) Signs requiring employees to wash their hands after using the toilet shall be posted in all toilet rooms open to the public and employees.
- 10) Toilets and associated plumbing shall be installed in accordance with applicable state and local laws, ordinances, and regulations.

2-D Employee Toilet Facilities

- 1) Toilet facilities shall be adequate and conveniently located, and shall be accessible to the employees at all times.
- 2) Signs requiring employees to wash their hands after using the toilet shall be posted in all employee toilet rooms.

2-E Guest Toilet/Bath Facilities

- 1) Baths, lavatories, and toilets shall be provided and conveniently located for each room or unit.
- 2) Fixtures shall be cleaned and disinfected after each check-out.
- 3) Rooms equipped with showers shall be provided with hot and cold water under pressure.
- 4) During same stay occupancy, fixtures should be cleaned daily and disinfected at least every three days.

Chapter 3: Gas Appliances

3-A Gas Appliances in Sleeping Rooms

- 1) All gas appliances, such as hot water heaters, space heaters, domestic clothes dryers, floor furnaces or similar appliances, shall not be installed or used in sleeping rooms, or in a room generally kept closed, unless vented to an effective flue or vent and equipped with an automatic pilot and an automatic control valve. **(Critical Violation)**
- 2) All gas refrigerators, ranges, and hot plates are hereby prohibited in sleeping rooms. **(Critical Violation)**

Chapter 4: Life Safety Codes

4-A Life Safety Code Requirements

- 1) In order to have a license for an eating and lodging, or lodging establishment, the establishment shall be in compliance with the appropriate chapter(s) of the NFPA 101 Life Safety Code. The applicant may be required to submit verification from the State Fire Marshal's office confirming the applicant is in compliance with the appropriate chapter of the NFPA 101 Life Safety Code. **(Critical Violation)**
- 2) All new construction or extensively renovated establishments should comply with the current edition of the "Life Safety Code." (NFPA 101 Life Safety Code)

4-B Application

The following codes should be complied with in new construction and extensive renovation of lodging places.

- 1) The electrical system or electrical equipment shall comply with applicable state standards and regulations. (Title 32 M.R.S.A. Chapter 17)
- 2) Installation of oil burning equipment, tanks, and centralized fuel supply systems shall comply with the applicable state standards and regulations. (Title 32 M.R.S.A. Chapter 33)
- 3) All installation of gas appliances and gas piping shall comply with the most recent edition of National Fire Protection Association standard adopted by the State of Maine.

Chapter 5: Ice

5-A Ice for Consumer Use

- 1) Ice shall be made from potable water whose source meets the Primary Drinking Water Standards. The ice making machine shall be located, installed, operated and maintained so as to prevent contamination of the ice. To minimize human contact, ice machines should be self dispensing.
- 2) Ice shall be handled, transported, and stored in such a manner as to be protected against contamination.
- 3) If ice crushers are used, they shall be maintained in a sanitary condition.

- 4) Utensils shall be provided for storing and serving ice in a sanitary manner. Ice containers, other containers, and scoops, unless they are of the single-service type, shall be of a smooth, impervious material and designed to facilitate cleaning.
- 5) Ice scoops shall be kept in a stainless steel, impervious plastic, or fiberglass container in an area which is free from contamination. The container and ice scoop shall be washed and sanitized daily, or mounted inside the machine so that the handle will not come in contact with ice.
- 6) Ice containers provided in lodging rooms shall be cleaned and sanitized between each check-in.
- 7) If plastic bags are used as liners, they shall be of food grade quality.
- 8) Ice not made on the premises shall be obtained from a source approved by the Department.
- 9) If ice is packaged on the premises to be sold to the public, a license from the Department of Agriculture is required.

Chapter 6: Water

6-A Water Supply

- 1) Water from a public water system, as defined under Maine law, shall meet the federal water standards established under the National Primary Drinking Water Rules, 40 CFR Part 141, and the Department of Human Services Rules Relating to Drinking Water, 10-144 CMR, Chapter 231 **(Critical Violation)**
- 2) Water from a licensed establishment that does not meet the definition of a regulated public water system shall meet state drinking water quality standards. **(Critical Violation)**
- 3) Drinking water acquired from a surface water source shall be adequate, of a safe, sanitary quality, approved by the Department, and properly disinfected with chlorine. **(Critical Violation)**
 - a) Ground water sources required to be chlorinated and surface water sources shall maintain a chlorine residual, after 30 minutes contact time, of 0.25 ppm free chlorine or 1.0 ppm total chlorine.
 - b) A written daily record of chlorine residuals shall be maintained and available to the Department upon request. A bacteriological

analysis and test for turbidity shall be conducted monthly when the establishment is in operation.

- 4) All water, not piped into the lodging establishment directly from the source, shall be transported, handled, stored and dispensed in a sanitary manner. **(Critical Violation)**
- 5) Bottled and packaged potable water shall be obtained from a source that complies with all laws and meets the State of Maine Rules Relating to Bottling Water and the Primary Drinking Water Standards. Such bottled and packaged water shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container. **(Critical Violation)**
- 6) Hot and cold water under pressure shall be provided at all sinks, lavatories, and/or dishwashers during the hours of operation in all lodging places and in locations where equipment and tableware are washed. An applicant may be relieved of this requirement upon a demonstration of good cause, approved by the Department.
- 7) All private water supplies shall be subject to inspection by the Department at all times. Water from such sources shall not be used or supplied to the public unless samples therefrom have been tested and approved within the preceding twelve (12) month period by the Department, or other certified laboratories approved by the Department. Establishments which operate seasonally shall obtain a sample prior to the start of the season. Additional tests may be required by the Drinking Water Program. A copy of the water analysis, and other supporting documentation, shall be available for inspection by the Department at all times. **(Critical Violation)**

Chapter 7: Wastewater

7-A Sewage Disposal

- 1) Water-Carried Sewage: All water-carried sewage shall be disposed of by means of:
 - a) Public sewage system; or
 - b) An approved sewage disposal system that is designed, constructed, and operated in conformance with the State of Maine Subsurface Wastewater Disposal Rules, CMR 10-144 Chapter 241; **(Critical Violation)**; or

- c) A wastewater discharge system licensed by the Department of Environmental Protection under Title 38 M.R.S.A. §413 & §414-A as amended.
- 2) Non-Water Carried Sewage: Non-water carried sewage disposal facilities shall not be used, except where water carried disposal methods have been determined by the Department to be impractical. Under such conditions, only facilities that have been approved by the Department shall be used, and operation of these facilities shall be in conformance with applicable State and local laws, ordinances and regulations. **(Critical Violation)**

Chapter 8: Rubbish

8-A Garbage and Trash

- 1) All garbage and trash shall be collected and stored in covered containers in such a manner as not to create a nuisance. Garbage and trash storage containers shall be kept clean, safe and properly maintained. **(Critical Violation)**
- 2) There shall be no fly or mosquito breeding places, rodent harborages, or undrained areas on the premises. The premises shall be kept neat and clean. Rubbish, litter and other items not used in the operation of the establishment shall not be permitted to accumulate on the premises, except when deemed impractical by the Department.
- 3) Facilities shall be provided for the washing and storage of garbage and trash containers, mops, mop buckets, mop wringers, and any other equipment used in the cleaning of the lodging establishment. Cleaning facilities shall include combination faucet, hot and cold water under pressure, hose bib with a backflow prevention device and curbed impervious pad sloped to drain or other equivalent facilities or methods, except when deemed impractical by the Department.
- 4) Garbage containers outside the establishment shall be stored either on an easily cleaned concrete slab, dense sealed bituminous surface, or a rack which is at least 12 inches above the ground.

Chapter 9: Laundry & Storage Facilities

9-A Storage

- 1) Storage rooms or cabinets shall be provided for all supplies, linens, and equipment.
- 2) Clean linen and supplies shall be stored in cabinets, or on shelves at least six inches off the floor in linen and supply storage rooms. Cabinets, shelves, and storage rooms shall be constructed to facilitate cleaning, and be kept clean.
- 3) Soiled linen shall be so handled and stored as not to come in contact with clean linen.
- 4) A separate storage area shall be provided for building and ground maintenance equipment and supplies.
- 5) Items on housekeeping carts shall be arranged in a manner to prevent cross-contamination between soiled and cleaned items. Housekeeping carts shall be kept clean and stored in a clean area.
- 6) Cleaning/disinfecting compounds shall have a Material Safety Data Sheet available on the premises for inspection by the Department.
- 7) Toxic materials shall be properly labeled and stored. **(Critical Violation)**
- 8) Lights shall be shielded in the laundry areas and the linen storage facilities.

Chapter 10: Records

10-A Register

- 1) In accordance with the provisions of 30-A M.R.S.A. §3821 the proprietor of any lodging place shall keep and maintain on premises, or cause to be kept and maintained on premises, a register containing the true names of each guest who has rented, or is renting a room(s), camp(s), and or cottage(s).
 - a) Every person operating any hotel or lodging house shall have a register kept and maintained in the hotel or lodging house at all times. The name of every guest or person renting or occupying a room or rooms in the hotel or lodging house shall be written in the

register. The person renting the room or rooms, or someone under that person's direction shall sign the register. The proprietor of the hotel or lodging house, or the proprietor's agent shall then write the number of each room assigned to and occupied by each guest, together with the date that room is rented, opposite the name or names so registered.

- b) The proprietor or the proprietor's agent shall keep and maintain a record showing the date when the occupant of each room surrenders the room. This record may be made a part of the register.
 - c) Both the register and the record must be kept for 2 years and be available at all reasonable times to the inspection of any lawful agent of the licensing authority or any full-time law enforcement officer as defined in Title 25, section 2805. The guest register may be "kept," within the meaning of this section, when reproduced on any photographic, microfilm or other process that reproduces the original record.
- 2) Any person who intentionally or knowingly violates this section is guilty of a Class E crime and shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 90 days for each offense, or both.

10-B License

- 1) No person, corporation, firm or co-partnership may conduct, control, manage or operate, for compensation, directly or indirectly, any lodging place unless the same shall be licensed by the Department.
- 2) Any person, corporation, firm or co-partnership desiring a license shall submit satisfactory evidence of his, her, or its ability to comply with the minimum standards of these rules which include documenting the adequacy of any private wastewater disposal system and/or the quality of the drinking water.
- 3) Each new application for, or renewal of, an annual license to operate a lodging place, shall be submitted to the Department no sooner than 45 days from the renewal date or opening date. Such application shall be accompanied by:
 - a) a non-refundable fee, appropriate to the size of the establishment, and
 - b) the date and serial number of the last water analysis, if applicable. No license may be assignable or transferable.

- 4) Pursuant to State Law, the fee for eating establishments in South Portland, Lewiston, and Auburn is \$10.00, regardless of the number of seats. This fee shall apply only to those eating establishment which the municipality inspects for conformance with these rules or equivalent municipal rules or ordinances. All other establishments must pay the full fee as determined by the rules administered by the Department.

10-C Posting of License

Licenses issued shall be displayed in a place readily visible to customers or other persons using the licensed establishment at all times.

10-D Issuance of licenses

- 1) New licenses: When any applicant is found, based upon an inspection by the Department or by municipal inspection, to not be in compliance with the requirements of Departmental regulations the Department may refuse issuance of the initial license, but shall issue a conditional license for up to 90 days, except when conditions are found which present a serious danger to the health and safety of the public. Failure by the conditional licensee to meet the conditions specified by the Department shall permit the Department to void the license. If conditional licenses are revoked, all fees shall be retained by the Department.
- 2) Within thirty days of submission of an application therefore, and upon payment of the prescribed fee and receipt of required water test results, and subject to the applicant's compliance with these rules, the Department shall issue a renewal license to operate an eating and lodging place or lodging place.
- 3) The issuance of the license does not provide exemption from other state or local laws, ordinances or regulations, notwithstanding any other provision of law.
- 4) Licenses erroneously issued by the Department are void and shall be returned to the Department on demand, in a notice delivered by hand or by certified mail to the licensee. Pursuant to the provisions of Title 22, Chapter 562 of the Maine Revised Statutes, the Department may either file a complaint seeking suspension or revocation of a license it has issued pursuant to these rules or, if conditions are found which may endanger the life, health or safety of persons living in or attending the licensed establishment, the Department may request an emergency suspension of license in the District Court.

Chapter 11: Vermin & Animal Control

11-A Insect And Rodent Control

- 1) Effective control measures shall be utilized to eliminate the presence of rodents, flies, cockroaches and other vermin on the premises. **(Critical Violation)**
- 2) Screening material shall be not less than 16 mesh to the inch or equivalent.
- 3) Screen doors to the outer air shall be self-closing; and screens for windows, doors, skylights, transoms, and other openings to the outer air shall be tight-fitting and free of breaks.
- 4) All openings to the outside shall be effectively protected against the entrance of rodents. **(Critical Violation)**
- 5) The premises shall be kept in such condition as to prevent the harborage or feeding of vermin. **(Critical Violation)**
- 6) Any application(s) of insecticides, pesticides, or rodenticides must be in compliance with rules of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control.

11-B Animal Control

- 1) Live animals shall be under the animal owner's control at all times and may be allowed in all areas of the establishment except those where food is handled and bedding is stored. **(Critical Violation)**
- 2) Only service animals are allowed in all areas of the business. **(Critical Violation)**

Chapter 12: Plumbing

12-A Potable Water.

The potable water supply piping shall not be directly connected with any non-potable water supply system, whereby the non-potable water can be drawn or discharged into the potable water supply system. **(Critical Violation)**

12-B Non-Potable Water

A non-potable water system is permitted for air conditioning, equipment cooling, and fire protection, and shall be installed according to law. The piping of any non-potable water system shall be durably identified, so that it is readily distinguishable from piping that carries potable water.

12-C Backflow

The potable water system shall be installed to preclude the possibility of backflow. Devices shall be installed to protect against backflow and backsiphonage at all fixtures and equipment, where an air gap at least twice the diameter of the water system inlet is not provided between the water supply inlet and the fixture's flood level rim. No hose shall be attached to a faucet that is not equipped with a backflow prevention device. **(Critical Violation)**

12-D Plumbing.

All plumbing shall be installed, maintained and comply with applicable state, and local laws, ordinances and regulations.

12-E Water Recreation Facilities

All water recreation facilities shall be maintained and comply with applicable State Rules relating to Public Swimming Pools and Spas.

Chapter 13: Inspections**13-A Establishing Inspection Interval**

- 1) The Department shall inspect lodging establishments upon a regular basis. The frequency of departmental inspections shall be based upon risk factors. At all times, the frequency of departmental inspections shall be in the sole discretion of the Department.
- 2) The Department may, at its discretion, inspect at more frequent intervals as necessary to follow-up on complaints or other problems noted on previous inspections.
- 3) Each violation of these rules shall be denominated either a critical or non-critical violation. A non-critical violation is any violation other than a critical violation.
- 4) Violations are assigned on a room by room and equipment by equipment basis.

- 5) A critical violation is considered the most serious violation.
- 6) All critical violations shall be corrected as soon as possible, but in any event, no later than 10 days.
- 7) Non-critical violations shall be corrected before the next routine inspection.
- 8) Establishments which receive multiple critical violations and/or excessive numbers of non-critical violations may be subject to a follow-up inspection within 30 days. Failure to correct these violations before the follow-up inspection may result in any or all of the following action by the Department:
 - a) Release of information on the results of the inspection to the news media;
 - b) Initiation of a complaint in the District Court seeking either suspension or revocation of license;
 - c) Refusal to renew the license; and,
 - d) Imposition of fines of up to \$100 per violation per day in accordance with the provisions of 22 M.R.S.A. §2498 and the Maine Administrative Procedure Act.

13-B Performance

Based solely upon its discretion, the Department may determine to conduct more frequent inspections of an establishment subject to these rules based upon risk factors including, but not by way of limitation, (1) prior rules violations; (2) frequency of prior rules violations and (3) substantiated complaints which did not result in adjudicated rules violations.

13-C Right of Entry and Inspection

Upon demonstration by the Department, or its authorized representative, of its inspection authority and intent to conduct a compliance inspection, the operator of a lodging establishment shall allow an inspection of the licensed premises, conducted at reasonable times, to assure compliance with these rules. The operator shall allow the Department, or its authorized representative, access to any records or documents required to be maintained by these rules.

13-D Refusal, Notification of Right to Access, and Final Request for Access

In the event a licensee or its agent denies access onto the licensed premises for the purpose of conducting a compliance inspection, the licensee shall be advised of its responsibility under 22 M.R.S.A. §2497 to allow the Department access for the purpose of conducting such an inspection and the options available to the Department to secure access for the purpose of conducting such investigation. In the event the licensee persists in denying access, or prevents the Department from conducting a compliance inspection, the Department may either issue an inspection order, and conduct a compliance inspection during reasonable hours or seek other legal redress including, but not by way of limitation, seeking an administrative warrant to inspect the premises, license suspension or revocation, imposition of a fine, or any other remedies available under law to the Department.

13-E Ceasing Operations and Reporting

- 1) A license holder shall immediately discontinue operations and notify the Department if an imminent health hazard may exist, including circumstances that may endanger public health.
- 2) A license holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.
- 3) The Department may, should conditions warrant, demand that an establishment close if conditions exist that constitute conditions that may endanger public health.

13-F Resumption of Operations

If operations are discontinued as specified under 13-E or otherwise according to law, the license holder shall obtain approval from the Department before resuming operations.

13-G Timely Correction

Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may agree to or specify a longer time frame for corrective action, not to exceed 14 calendar days after the inspection.

13-H Verification and Documentation of Correction

- 1) If a critical violation is corrected at the time of inspection, the Department shall record the violation and corrective action on the inspection report.
- 2) After receiving notification that the license holder has corrected a critical violation, the Department shall verify correction of the violation,

document the information on an inspection report, and enter the report in the Department's records.

13-I Time Frame for Correction

- 1) Except as specified in (2) of this section, the license holder shall correct noncritical violations by a date and time agreed to or specified by the Department.
- 2) The Department may approve a compliance schedule that extends beyond the time limits specified under (1) of this section, if a written schedule of compliance is submitted by the license holder and no health hazard exists or will result from allowing an extended schedule for compliance.

STATUTORY AUTHORITY: 22 M.R.S.A. §§ 2491 - 2501

EFFECTIVE DATE:

January 1, 2003 - filing 2002-398

NON-SUBSTANTIVE CORRECTION:

March 5, 2003 - removed the "Non-Discrimination Notice" because it was not in the paper filing