



Roanoke County Health Department
Environmental Health Division
POB 307 Vinton VA 24179
Phone: (540) 857-7800 Fax: (540) 857-6991

September 19, 2008

Notice of Suspension of Permit

Penick Incorporated
1615 Bush Farms Dr
Vinton VA 24179

Re: New York Subs
32 Market Sq SE
Roanoke Virginia 24011

Inspections conducted by the Alleghany/Roanoke City Health Districts on September 19, 2008 reveal that New York Subs located at 32 Market Sq SE, Roanoke, Virginia, appears to have flagrant or continuing violations of the Commonwealth of Virginia, Board of Health, Food Regulations and the continued operation constitutes a substantial and imminent threat to the public health.

Your permit to operate has been suspended; pursuant to the Code of Virginia, Title 35.1, without a hearing and all foodservice operations shall cease immediately. The New York Subs shall remain closed until the Alleghany / Roanoke City Health District grants permission to re-open. This permission shall be forthcoming when the public health threat has been corrected and verified by a re-inspection of the restaurant.

The violations which require complete corrective action are the following:

Code Description

12 – VAC 5 – 421 - 3270 - Pests - Controlling Pests*

This is a critical violation

Observation: Evidence of mice and flies observed in building.

Harborage conditions exist within the food establishment. Observations include a large number of flies (both house flies and drain flies), a dead mouse observed adhered to a glue board under the three compartment sink, as well as building defects that would permit pest entry into the

establishment. Observed evidence of widespread and active rodent infestation throughout the facility. Observed the presence of rodent excreta pellets (droppings) in multiple locations. These locations include: droppings under soda containers and packages (>50), large numbers of droppings under the front wooden counter / shelving unit (50-100 +), droppings on the lid of a bucket containing pickles (3-5), large numbers of droppings behind the front three compartment sink unit (50-100 +), large numbers of droppings under sink and by the water heater (>50), droppings on top of the reach in freezer unit in the back part of the establishment (5-10), droppings on top of a shelf located above the three compartment sink (2-5), large amounts of droppings inside the bread storage cooler (2), large numbers of droppings behind the bread storage cooler (where a hole in the wall is located) (50-100 +). Observed a large number of house flies and drain flies in the back section of the food establishment, near the three compartment sink.

Correction: Eliminate harborage conditions. Thorough cleaning of all food and storage areas must be done to help eliminate food and water sources. A clean establishment must be maintained after the initial thorough cleaning. All food and single service items must be stored at least 6" off the floor so proper cleaning can be done. Adequate lighting must be provided in all areas so that proper cleaning can be done. Food must stay covered and be properly stored when not in use. Trash, grease and mop water must be disposed of properly. Repairs must be done to all floors, walls, and ceilings so that surfaces are smooth and easily cleanable. Areas of entry for pests must be eliminated. Ventilation and plumbing systems must be working properly. All water leaks must be repaired. Insects and other pests are capable of transmitting disease to man by contaminating food and food-contact surfaces.

Listed below are code sections; 12 VAC5-420-110. Permits; 12 VAC5-420-120. Application for a permit; 12 VAC5-420-130. Submission of plans, specification and/or other data; I. Penalties, Injunctions, Civil Penalties and Charges for Violations; and 12 VAC5-420-140. Issuance of permit.

12 VAC5-420-110. Permits.

No person shall own, establish, conduct, maintain, manage, or operate any restaurant in this state unless the restaurant is permitted as provided in this section. All permits shall be in the name of the owner or lessee. Permits shall not be issued to newly constructed or extensively remodeled restaurants until a certificate of occupancy has been issued by the Building Official. Only a person who complies with the requirements of this chapter shall be entitled to receive or retain such a permit.

A. Nontransference of Restaurant Permits. Permits issued shall not be transferable from one person to another or from one location to another. A new owner shall be required to make a written application for a permit. The application forms are obtainable at all local health departments.

B. Expansion, Modification or Reclassification of a Restaurant. Any person operating a restaurant with a valid permit who desires to expand or modify the establishment, particularly expansions or modifications which would cause the restaurant to be reclassified, shall notify the director in the jurisdiction where the restaurant is located, and the director shall determine whether such expansion, modification, or reclassification is in compliance with the applicable sections of this chapter.

C. Conditional Permits. A conditional permit permits the owner of a restaurant to operate the restaurant under certain controlled conditions, which may include restrictions of the types of food the restaurant can handle and the type of equipment that can be used.

The application submitted by the owner shall offer the reasons for requesting a conditional permit, shall contain the length of time for which the conditional permit is requested and any other information the director may request which will assist in making a decision regarding the issuance of such a conditional permit. Conditional permits shall not exceed 30 days, except that conditional permits for temporary restaurants shall not exceed 14 consecutive days, nor shall they be renewable.

D. Requirements for Posting Permits. The permit shall be posted in every food service establishment in a place where it is readily observable by the public transacting business with the establishment.

12 VAC5-420-120. Application for a permit.

Any person desiring to operate a restaurant shall make written application for a permit on the application form provided by the regulatory authority. As a minimum, such application shall include name and address of the applicant, the location and type of proposed restaurant the applicant intends to operate, the maximum number of customers expected to be served on their busiest day, the type of sewage disposal system to be used, the type of water supply which will service the establishment and the signature of the applicant. Upon review of the application, the director may require the applicant to submit such additional information as it requires to evaluate the applicant's proposal for the permit.

12 VAC5-420-130. Submission of plans, specification and/or other data.

Whenever a restaurant is constructed or remodeled and whenever an existing structure is converted to use as a food service establishment, properly

prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the director for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The director or the designee shall approve the plans and specifications if they meet the requirements of this chapter. No restaurant shall be constructed, remodeled, or converted except in accordance with plans and specifications approved by the director or the designee. The director may waive the requirement for plans or specifications.

Whenever plans and specifications are required to be submitted to and approved by the director, the director or his designee shall inspect the restaurant prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of this regulation.

The director's or designee's approval of any plans or specifications is no guarantee that plans or specifications are without error and the owner shall have final responsibility for the accuracy and completeness of the plan and specifications, including subsequent construction and installation.

12 VAC5-420-140. Issuance of permit.

Prior to the issuance of a permit, the director or his designee shall inspect the restaurant to determine compliance with the requirements of this chapter. The department shall issue a permit to the applicant if its inspection reveals that the proposed restaurant complies with the requirements of this regulation. The permit shall remain in effect until its expiration date, unless otherwise suspended or revoked.

A permit may be issued for a restaurant which substantially complies with the criteria set forth in these sections. The director shall be responsible to determine what constitutes substantial compliance.

Following the adoption of this chapter, the director shall annually revalidate an existing permit, so long as the original permit holder complies with this regulation, except that the holder of a permit need not comply with 12VAC5-420-120.

I. Penalties, Injunctions, Civil Penalties and Charges for Violations.

1. Any person willfully violating, or refusing, failing, or neglecting to comply with any regulations or order of the board or commissioner, or any provision of this title, shall be guilty of a Class 3 misdemeanor unless a different penalty is specified. Each day of violation shall constitute a separate offense.

2. Any person violating, or failing, neglecting, or refusing to obey any order of the board or commissioner, or any provision of this chapter may be compelled, in a proceeding instituted in an appropriate court by the board or commissioner, to obey and comply with such regulations, order, or any applicable provision of Title 35.1 of the Code of Virginia. The proceeding may be by injunction, mandamus, or other appropriate remedy.

3. Without limiting the remedies which may be obtained pursuant to the above subsection, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to the above subsection shall be subject, in the discretion of the court to a civil penalty not to exceed ten thousand dollars for each violation. Each day of violation shall constitute a separate offense.

Former permit holders have a right to a hearing after the suspension of their permit. If you desire to request a hearing, the request must be made in writing within ten days of receipt of this notice.

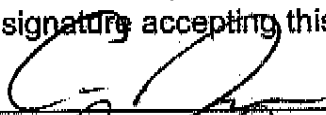
If you have any questions, please call the Environmental Health Division at (540) 857-7663.

Sincerely,




Carrie Douplik
Environmental Health Specialist Senior

This letter is being hand delivered by Carrie Douplik, Environmental Health Specialist Senior, Roanoke City Health Department and will serve as a witness to your signature accepting this letter.



Carrie Douplik

9-19-08
Date



Signature of Person Accepting Letter

9-20-08
Date

New York Subs



Roanoke City Health
 Department
 515 8th St SW
 Roanoke, VA
 24016
 Phone: (540) 857-7663
 Fax: (540) 857-6991

**COMMONWEALTH OF VIRGINIA
 VIRGINIA DEPARTMENT OF HEALTH**

Foodservice Establishment Evaluation Report

Establishment Information	
Establishment Name:	New York Subs
Establishment Type:	Fast Food Restaurant
Address:	32 Market Sq SE Roanoke, Virginia 24011

Evaluation Information	
Inspection Type:	Other
Evaluation Date/Time:	September 19, 2008 08:45 AM to 09:30 AM
Evaluation Length:	0.8 hour(s)

Equipment Temperatures	
Description	Temperature (Fahrenheit)
Prep Unit	°F
Coca Cola Cooler	°F
Freezer	°F

Food Temperatures	
Description	Temperature (Fahrenheit)

Person In Charge	
Person In Charge:	Byron Penick

Critical Hazards
<p>Total Number: 1</p> <p>3270 - Pests - Controlling Pests*</p> <p>Observation: Evidence of mice and flies observed in building. Harborage conditions exist within the food establishment. Observations include a large number of flies (both house flies and drain flies), a dead mouse observed adhered to a glue board under the three compartment sink, as well as building defects that would permit pest entry into the establishment. Observed evidence of widespread and active rodent infestation throughout the facility. Observed the presence of rodent excreta pellets (droppings) in multiple locations. These locations include: droppings under soda containers and packages (>50), large numbers of droppings under the front wooden counter / shelving unit (50-100 +), droppings on the lid of a bucket containing pickles (3-5), large numbers of droppings behind the front three compartment sink unit (50-100 +), large numbers of droppings under sink and by the water heater (>50), droppings on top of the reach in freezer unit in the back part of the establishment (5-10), droppings on top of a shelf located above the three compartment sink (2-5), large amounts of droppings inside the bread storage cooler (2), large numbers of droppings behind the bread storage cooler (where a hole in the wall is located) (50-100 +). Observed a large number of house flies and drain flies in the back section of the food establishment, near the three compartment sink.</p> <p>Corrective Action(s): Eliminate harborage conditions. Insects and other pests are capable of transmitting disease to man by contaminating food and food-contact surfaces.</p>

Non-Critical Hazards

Total Number: 6

2810 - Floors, Walls, and Ceilings - Cleanability

Observation: Numerous sections of the floors, walls, and ceilings are in disrepair and are no longer smooth and easily cleanable. Floor tiles are in disrepair. Observed holes in the walls of the food establishment. Observed holes and gaps in the ceiling tiles.

Corrective Action(s): Repair or replace floor or floor covering to make it smooth and easily cleanable.

2830 - Floor and Wall Junctures, Coved, and Enclosed or Sealed

Observation: Floor wall juncture in the food establishment is not coved and closed to no larger than 1/32 inch space.

Corrective Action(s): Cove floor wall juncture to no larger than a 1/32 inch space.

3170 - Physical Facilities in Good Repair

Observation: Physical structure of the food establishment is not maintained in good repair. Observed ceiling tiles with holes and gaps. Observed holes in the walls inside the food establishment. Observed floor tiles in disrepair.

Corrective Action(s): Maintain physical facilities in good repair. Poor repair and maintenance compromises the functionality of the physical facilities.

3180 - Physical Facilities - Cleaning Frequency and Restrictions

Observation: Facility floors and walls are noted in need of cleaning, particularly under the cooking equipment where grease has accumulated on the floor tiles and on the sides and legs of the cooking equipment. Floors and walls behind large pieces of equipment are also noted in need of cleaning.

Corrective Action(s): All floors, walls, and ceilings must be cleaned as often as necessary to keep them clean. Cleaning of the physical facilities is an important measure in ensuring the protection and sanitary preparation of food. A regular cleaning schedule should be established and followed to maintain the facility in a clean and sanitary manner.

3280 - Pests - Removing Dead or Trapped Birds - Insects, Rodents, and other Pests

Observation: *(CORRECTED DURING INSPECTION)*: Observed a dead mouse on a glue trap under the three compartment sink.

Corrective Action(s): Remove dead or trapped birds, insects, rodents, and other pests from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

3300 - Premises - Maintaining Premises - Unnecessary Items and Litter

Observation: Facility is storing unnecessary items to the operation or maintenance of the establishment.

Corrective Action(s): Remove all unnecessary items from the facility. The presence of unnecessary articles, including equipment which is no longer used, makes regular and effective cleaning more difficult and less likely. It can also provide harborage for insects and rodents.

Comments

The above listed observations, violations and specified periods of time for correction of the violations are issued in accordance with the Food Regulations. It is the responsibility of the permit holder "to comply with directives of the regulatory authority including time frames for corrective actions. . . ." An opportunity for a hearing on the inspection results, a time limit, or both, shall be granted provided that a written request is filed with the local health department within 30 days following the inspection report.

Received By:

Carrie Deupree
Environmental Health Specialist