



Commercial Cooking Affidavit of Limited Cooking

It is recognized by the Office of the Fire Marshal that relief is appropriate for certain categories of cooking applications from the burden of the code requirements applicable to commercial cooking. The targeted categories of food preparation do not present the risks addressed by the commercial cooking requirements of the Fire Code of New York State and related provisions of the Mechanical Code of New York State.

On the	(date)	day of	(month)	(year)	personally, appeared before me
(name)					Of
(address)					
who, being duly sworn according to law, states that he / she / they is / are the owner / operator of the facility known as					
(business name of the facility containing the subject cooking appliances)					located at
(exact street address)					

state that the above-referenced facility prepares food in compliance with the conditions set forth below in the space(s) listed below and files this affidavit to be relieved from the requirements of the New York State Codes which require a commercial kitchen exhaust hood, duct system and related fire suppression system for commercial cooking as defined therein.

(list rooms and/or spaces, including floor number, in which appliance(s) subject to this affidavit is/are installed)

In so swearing, the undersigned agree(s) to the following conditions:

1. Food prepared on the appliance will not be sold (for purposes of this affidavit, food paid for as a component of weekly or a monthly service fee such as day care, personal care facilities, etc. is not considered as being sold).
2. The appliance will not be used for deep frying (the term "deep frying" means frying in a utensil with sufficient fat or oil to cover the food to be fried).
3. If used in a dwelling unit, the appliance is listed for domestic use.
4. If the appliance is listed for domestic-use-only, it will not be utilized in the preparation of meals on a regular basis for more than 20 people.
5. Upon any change in use of the facility or upon a change in operations which would invalidate these conditions, the Department of Licenses and Inspections will be notified within ten days to re-inspect the facility and re-evaluate the new conditions under the appropriate code provisions.

The undersigned further states that, in the event of the sale or transfer of the said facility or operation, the undersigned will include this Affidavit of Limited Cooking in the terms and documentation of said sale or transfer so that these restrictions and conditions will be binding on subsequent owners/operators, their heirs, successors and assigns.

Applicant Signature	Applicant Name (Print)	Application Date

Notary Public			
Sworn and subscribed to before me this			
	day of		20

Commercial Cooking Affidavit of Limited Cooking Requirements

Purpose

This Bulletin is issued to achieve reasonable and equitable enforcement of the commercial kitchen exhaust hood requirements of the Fire Code of New York State. It is meant to do so while maintaining the intent of the code provisions to provide safety from fire resulting from the accumulation of grease-laden vapors (Type I hoods) and protection from moisture, heat, and fumes (Type II hoods).

Scope

It is recognized by the Office of the Fire Marshal that relief is appropriate for certain categories of cooking applications from the burden of the code requirements applicable to commercial cooking. The targeted categories of food preparation do not present the risks addressed by the commercial cooking requirements of the Fire Code of New York State and related provisions of the Mechanical of New York State.

Discussion

The Building and Fire Codes of New York State require the installation of a commercial kitchen exhaust hood at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes. Determining that an application is “commercial” triggers the requirement of either a Type I or II hood under the Mechanical Code of New York State (MCNYS-507.2) and the requirement of a Type I hood under the Fire Code of New York State (FCNYS-609.2). These requirements are based on the likelihood that smoke or grease will be produced in sufficient quantities to constitute a hazard or that high moisture, heat or fume loads will be produced. Not all circumstances produce such quantities. Reasonable and equitable enforcement, therefore, must consider the nature of the cooking operation and its potential frequency, and duration. This consideration shall be applied in both plan examination and field inspection.

Direction

“Commercial cooking” shall mean any one of the following:

1. A cooking appliance listed for commercial-use-only installed in any location; or
2. A cooking appliance of any type where the appliance is being utilized in the preparation of food for profit or sale at retail or wholesale (this does not mean food paid for as a component of weekly or monthly service fees such as day care, personal care facilities, boarding houses, etc.); or
3. A cooking appliance that is listed for domestic-use-only being utilized in the preparation of meals on a regular basis for more than 20 people.

Exceptions:

An appliance shall not be considered as utilized for commercial purposes where —

1. An Affidavit of Limited Cooking was accepted by the Office of the Fire Marshal under an earlier version of this Bulletin and the conditions attested to in that affidavit have not changed; or
2. The food being prepared on the appliance is not to be sold; and
 - a. The cooking appliance is not used for deep frying (the term “deep frying” shall mean frying in a utensil with sufficient fat or oil to cover the food to be fried); and

b. If used in a dwelling unit, the appliance is listed for domestic use; and

- c. If the cooking appliance is listed for domestic-use-only, it is not being utilized in the preparation of meals on a regular basis for more than 20 people; and
- d. The owner or facility operator submits an "Affidavit of Limited Cooking" to Office of the Fire Marshal and maintains a copy of the affidavit on the premises for inspection by the code enforcement official.

NOTE:

The scope of this Bulletin does not include the application of MCNYS Sections 917.2 and 917.3 that set forth the listed types of cooking appliances appropriate for use in commercial occupancies and in dwelling units.

Be advised that appliances listed for commercial-use-only are not permitted to be installed within dwelling units because safety measures such as child safe knobs and insulated oven doors are not usually installed on such appliances. For similar reasons, appliances listed for domestic-use-only are not to be used in commercial applications.