

CHAPTER 4

FOOD CODE

ARTICLE A Rules and Regulations for operating retail food facilities

Section 4-1 PURPOSE AND POLICY

The purpose of this chapter is to safeguard public health and ensure that consumers are provided food that is safe, unadulterated and honestly presented.

Legal Authority – The provisions of this Chapter are adopted in accordance with the duties imposed upon the Montgomery County Health Department under Act 106 of 2010: The Retail Food Facility Safety Act (3Pa.C.S.A. §§5701-5714) and The Food Safety Act (3Pa.C.S.A. §§5721-5737) and the Local Health Administration Law Act 315 approved August 24, 1951, P.L. 1304, as amended, as found in 16 P.L. §12001 et seq.

The provisions of this Chapter shall apply to all municipalities in Montgomery County which come under the jurisdiction of the Department, and they apply equally to all persons.

Section 4-2 ADOPTION BY REFERENCE OF THE PA FOOD CODE

(a) The Pennsylvania Department of Agriculture Food Code (“PDA Food Code”) establishes definitions, sets forth standards for management and personnel, food operations and equipment and facilities, and provides for retail food facility plan review, licensing, inspection, and employee restriction.

(b) The PDA Food Code - Chapter 46 of 2014, PA Code 7, is hereby adopted by reference and are made a part of the Montgomery County Health Department’s Rules and Regulations, as fully as if herein set forth at length. This includes the most current version of the U.S. Food & Drug Administration Food Code.

Chapter 46 of the PA Department of Agriculture’s Food Code;
<http://www.pacode.com/secure/data/007/chapter46/chap46toc.html>

(c) These Rules and Regulations and the PDA Food Code shall be enforced by the Montgomery County Health Department in accordance with the provisions contained herein.

Section 4-3 CERTIFICATION OF PERSON IN CHARGE

Every Person in Charge of a public food-service facility shall:

- a. Have successfully completed a course in food-handling acceptable to the Department and shall have received certification thereof from the Department as the certified food safety manager.
- b. Be responsible for at least the following:
 - i. The supervision and instruction of his/her food service workers in the techniques of sanitary food handling and proper maintenance of the food establishment.
 - ii. Notifying the Department in writing within five (5) days after his/her change of employment.
 - iii. Renewing his or her certification by completing the required course work prior to the expiration date listed on the present certificate.
 - iv. Monitoring staff and notifying the proprietor of necessity to remove anyone with signs of active illness from food service line.
 - v. Requesting the proprietor to immediately report instances of foodborne communicable disease to the Health Department.
 - vi. Immediately contact the regulatory authority in the event of a fire, flood, extended interruption of water or electrical service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross unsanitary occurrence, or other emergency in the food establishment which may affect food safety or endanger public health.
- c. A certified food safety manager must be a full time employee and designated as the certified food safety manager at only one food facility location within Montgomery County.
- d. When required by the department a certified food safety manager must be on duty during all hours the facility is open and/or preparing foods.
- e. A Certified Food Safety Manager is required to reapply for certification every five (5) years. At no time shall the public food service facility be without the services of a Person in Charge who has a current and valid certification with the Department.
- f. Whenever the Department determines that the holder of a certification as a Person in Charge is in violation of any provision of this Section, the

Department is authorized to suspend or revoke said certification. Once revoked, that person may not be the holder of a certification in Montgomery County within a time period determined by the Department and not less than six months.

- g. The certification is granted to the Certified Food Safety Manager and shall be posted in a prominent place in the public food service facility in which said Person in Charge is employed or is working. The certificate is the property of the Department is nontransferable and shall not be duplicated by anyone other than the Department.
- h. Exemption for certified food safety manager may be granted to a food establishment which has submitted a written request of exemption to the Department and has met the following requirements:
 - i. A food establishment where only commercially prepackaged food is handled and/or sold.
 - ii. A food establishment that does not handle potentially hazardous food.
- i. Voluntary, non-profit groups in compliance to Pennsylvania Department of Agriculture guidelines may not be required to employ a certified food sanitation manager.

Section 4-4 FEES

Fee(s) accompanying application for retail food facilities shall be in accordance with the most current fee schedule provided by the department.

Section 4-5 REQUIREMENT: LICENSE

- a. General requirement - A person may not operate a food facility, food establishment, retail food establishment, mobile vending unit, a temporary or otherwise transient food establishment without a valid permit to operate issued by the Department.
FDA and PDA registration may also be required and facilities should contact those agencies for their requirements.
- b. Exceptions.
 - i. A food facility selling only prepackaged, non-potentially hazardous food or beverages.
 - ii. Food facility selling only raw agriculture commodities.
 - iii. Food facilities that operate no more than 3 calendar days within a calendar year

- iv. Charitable non-profits managed by an organization that supports extracurricular activities for school-aged youth (booster, boy/girls scouts, little league, softball, other recreational sports clubs).
- v. Food facilities in which food and drinks are sold only through vending machines.
- vi. Food banks owned by non-profits.
- vii. Soup kitchens owned by charitable non-profits.
- viii. Organizations serving “covered Dish” suppers to members only for social events, with no “donations” from, or sale of tickets to, other general public. This does not include food prepared from a common kitchen for all members.
- ix. Lemonade stands managed by preschoolers and school age children.
- x. General cake sales: Limited to cake, cookies, candy, bread, prepackaged commercial goods, and non-cream pies.
- xi. Commercial packaged doughnuts and coffee provided at no charge as a courtesy service.