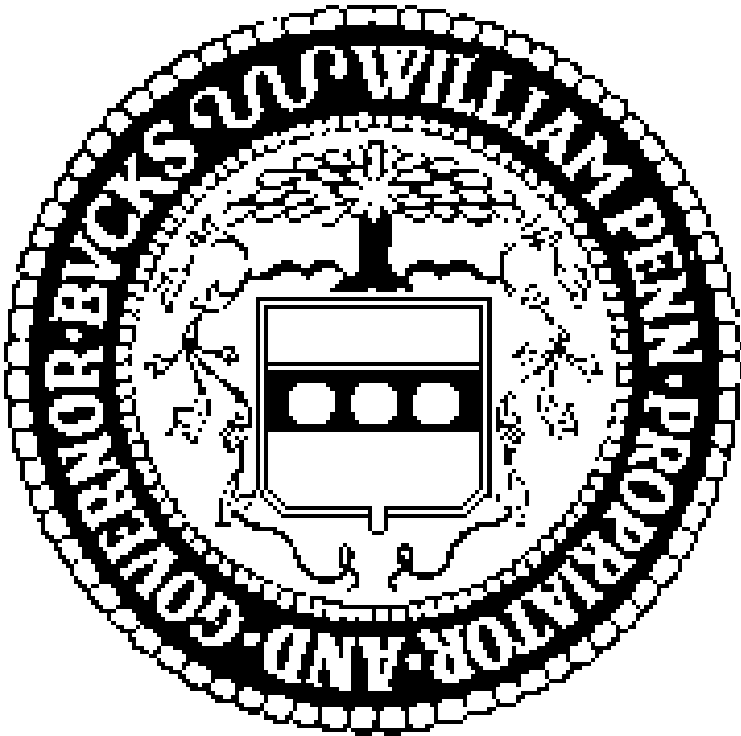


**BUCKS COUNTY DEPARTMENT OF HEALTH  
RULES AND REGULATIONS  
FOR CONDUCTING AND OPERATING  
FOOD FACILITIES**



***EFFECTIVE DATE: October 1, 2014***

**BUCKS COUNTY DEPARTMENT OF HEALTH  
RULES AND REGULATIONS  
FOR CONDUCTING AND OPERATING RETAIL FOOD FACILITIES**

**SECTION ONE - GENERAL PROVISIONS**

**1.1 Purpose and Legal Authority.**

The purpose of these Rules and Regulations is to safeguard the public health and ensure that consumers are provided food that is safe, unadulterated, and honestly presented.

Under the provisions of the "Local Health Administration Law", Act 315, approved August 24, 1951, P.L. 1304, as amended and the Pennsylvania "The Retail Food Facility Safety Act", Act No. 106 (3 Pa. C.S.A. §§5701-5714) and "The Food Safety Act" 93Pa. C.S.A. §§5721-5737), approved November 15, 2010, and the Pennsylvania Code 7, "Food Code – Chapter 46", as amended and effective May 12, 2014, these Rules and Regulations are hereby adopted.

**1.2 Scope and Source.**

The provision of these Rules and Regulations are adopted in accordance with the duties imposed upon the Department under the Local Health Administration Act 315 and shall apply to all municipalities in Bucks County within the jurisdiction of the Department and shall apply equally to all persons.

1.3 Definitions.

(a) The definition of "Licensor" as set forth in the Pennsylvania Department of Agriculture Food Code, Chapter 46 of 2014 shall mean the *Bucks County Department of Health* and can be used interchangeably.

**SECTION TWO - RULES AND REGULATIONS**

**2.1 PDA 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 these 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*.

(c) Certain provisions, in addition to those adopted under Subsection 2.1 of these Rules and Regulations, are set forth in Section 3 – Certified Food Safety Manager. These sections of Bucks County food regulations were pre-existing to the PDA Food Act of 2010 and remain in effect according to law.

(d) These Rules and Regulations shall supersede the previously adopted Rules and Regulations effective November 5, 2008 and entitled "Rules and Regulations For Conducting and Operating Food Facilities".

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

### **SECTION THREE - CERTIFIED FOOD SAFETY MANAGER.**

**3.1 General requirements.** No person shall operate a retail food facility in Bucks County who does not employ at least one full time Food Safety Manager certified by the Bucks County Department of Health who is on duty during all hours the facility is open and/or preparing foods. At no time shall the retail food facility be without a Certified Food Safety Manager who has a valid certificate issued by this Bucks County Department of Health unless otherwise approved by this Department or as indicated under section 3.3.

**3.2 Posting of the Certificate.** The certificate granted to a person by this Bucks County Department of Health shall be posted in view of the consumer in the appropriate food facility in which the person is employed and working. The certificate is not transferable between persons and shall not be duplicated by anyone other than the Department.

**3.3 Exemption.** Those retail food facilities that offer only prepackaged foods and/or prepare only non-potentially hazardous non-time/temperature control for safety (non-TCS) foods need not employ a Certified Food Safety Manager and are exempt from this requirement.

**3.4 Issuance of a Certificate for Food Safety Managers.** Any person desiring a certificate as a Food Safety Manager in Bucks County shall make written application on the forms provided by the Bucks County Department of Health. Each application for certification must be accompanied by the appropriate filing fee in accordance with the fee schedule established by the Bucks County Department of Health. The certificate is issued to the applicant for their approved use. However, the certificate is the property of the Bucks County Department of Health and may be suspended or revoked in accordance with section 3.6.

**3.5 Requirements for Certificate Issuance.** Prior to the approval and granting of the certificate by this Bucks County Department of Health the applicant shall do one of the following:

(a) Pass a food safety manager exam within the past year of the application approved by Conference for Food Protection and the Bucks County Department of Health. The Bucks County Department of Health recommends that the applicant also attend the approved food safety course in addition to taking the exam.

(b) Persons who qualify for a certificate shall be granted said certificate for a period of five (5) years from the date of issuance. This certificate shall automatically expire upon this date unless renewed by the person prior to the expiration date.

(c) The certificate may be renewed for another five (5) year period if the person makes the appropriate application, submits the appropriate fee, and shows written proof that he/she has passed a new food safety manager course exam within the past year of application. The Bucks County Department of Health recommends that the applicant take the appropriate food safety manager course in addition to taking a new exam.

**3.6 Suspension and Revocation of Certificates.** Whenever the Bucks County Department of Health determines that the holder of the certificate as a Food Safety Manager is in violation of any provisions of these Rules and Regulations, the Bucks County Department of Health may suspend or revoke his/her certificate. The Bucks County Department of Health shall serve notice of such suspension or revocation in accordance with section 7.3 of these Rules and Regulations. The certificate holder shall be afforded an administrative hearing before the Bucks County Department of Health as provided in section 8.1 of these Rules and Regulations.

**3.7 Duties of Certified Food Safety Managers.** The Certified Food Safety Manager shall be employed as the Certified Food Safety Manager for only one licensed retail food facility within Bucks County during the same work schedule. The Certified Food Safety Manager shall also:

(a) Supervise and instruct his/her retail food facility workers in the techniques of safe food handling, proper maintenance of the food facility and the requirements of these Rules and Regulations.

(b) Report to the Bucks County Department of Health, if the person in charge is unavailable, the occurrence of any possible food or waterborne illnesses or complaints reported by the customer or the facility staff.

(c) Notify the Bucks County Department of Health in writing within five working days after his/her change of food facility employment.

(d) Renew his/her Food Safety Manager certificate prior to the expiration date of the certification.

(e) If the Certified Food Safety Manager is also the person in charge, he/she will also conduct the duties of the person in charge in accordance with section 8.1.

**3.8 Duties of the licensee regarding a Certified Food Safety Manager.** The retail food facility licensee shall employ at least one Certified Food Safety Manager on duty during all hours the facility is open and/or preparing foods. The Certified Food Safety Manager(s) shall be employed within three months of the initial issuance date of the Bucks County Department of Health retail food facility license. If a Certified Food Safety Manager leaves, quits employment, or is no longer acting as the Certified Food Safety Manager at the facility, the licensee shall employ a replacement Certified Food Safety Manager within three months of the employment termination date. The licensee shall notify the Bucks County Department of Health within five working days that the facility lacks the required number of Certified Food Safety Managers.

## **SECTION FOUR - ACCESS, APPROVALS AND VARIANCES**

**4.1 Access and inspections.** After any Bucks County Department of Health representative presents proper identification, the person in charge shall allow the Licensor access to the facility during the food facility's hours of operation and other reasonable times if the facility is not open during normal business hours. It will then be determined whether the food facility is in compliance with these Rules and Regulations through a facility inspection and provision of information and records specified in these Rules and Regulations.

**4.2 Additional Inspections.** Bucks County Department of Health representatives shall conduct as many inspections of the food facility as necessary to determine if the food facility is in compliance with the following: these Rules and Regulations, an administrative hearing adjudication, or a court request for inspection. A regulatory service fee may be charged by the Licensor for these additional inspections according to the current approved fee schedule.

**4.3 Report of Inspections.** Whenever the Bucks County Department of Health makes an inspection, the findings shall be recorded on the appropriate inspection report form. The inspection form shall summarize the violations found of these Rules and Regulations and include the correction to be made and the date of compliance. Violations of a critical nature and of direct public health importance shall be corrected as soon as possible and in some cases immediately or cease operation of the food facility. The results of the inspection shall be reviewed with the person in charge, signed by that person, and a copy of the inspection form left with the person in charge or licensee in hard copy or digital format. Effective January 1, 2016, a copy of the inspection form shall be left with the person in charge or licensee only via digital format.

**4.4 Correction of violations.** Correction of the violations shall be accomplished within the time period specified by the Bucks County Department of Health. The inspection form shall state that failure to comply with any compliance dates for corrections may result in cessation of the food operation.

## **SECTION FIVE – OBTAINING LICENSE APPROVAL.**

**5.1 General.** This section describes the process by which a person may obtain an approval from the Bucks County Department of Health required by any other provision of these Rules and Regulations not covered by the Food Code, Chapter 46 as revised May 12, 2014.

**5.2 Written request.** A person seeking an approval from the Bucks County Department of Health under these Rules and Regulations shall submit a written request for approval to the entity from which approval is sought. If approval is sought from the Licensor, the written request shall be mailed or delivered to the Licensor.

**5.3 Contents of request.** The written request for approval described in subsection 5.2 shall specify the provision of these Rules and Regulations under which approval is sought; the reason approval is sought and relevant documentation in support of the request.

**5.4 Processing a request.** The Bucks County Department of Health should, within 30 days of receipt of a written request for approval under this section, mail or otherwise provide the requester with a written grant or denial of the request, or a specific request for additional information. If a written request for additional information is made, the Licensors shall have an additional 30 days from the date it receives the additional information within which to mail or otherwise provide the requester with a written grant or denial of the request.

**5.5 Standard for approval.** The Bucks County Department of Health shall grant approval if it determines the approval would not constitute or cause a violation of the Food Act 70, the Public Eating and Drinking Places Law 369, Local Health Administration Act 315 or these Rules and Regulations, and that no health hazard would result from the approval.

## **SECTION SIX - MODIFICATIONS & WAIVERS.**

**6.1 Request for Variance.** The Department may grant a variance. See the PA Food Code, Chapter 46 for requirements.

## **SECTION SEVEN - SUSPENSION AND REVOCATION OF A RETAIL FOOD FACILITY LICENSE.**

**7.1 Suspension of retail food license.** The Bucks County Department of Health may suspend any license to operate a retail food facility if the licensee does not comply with these Rules and Regulations, the operation is found to be in violation of these Rules and Regulations, or the operation of the retail food facility otherwise constitutes a hazard to public health. Notice of suspension shall be provided in accordance with section 7.3 of this subsection. Should the Bucks County Department of Health's Administrative Hearing Officer determine that the food license should be suspended following the hearing, the operation shall cease in accordance with such adjudication. The Bucks County Department of Health may terminate the license suspension and allow the food facility to resume operation when the violations are corrected, the food facility has complied with all the provisions of the Administrative Hearing Officer's adjudication, the Bucks County Department of Health is assured that the public health is protected, and the suspension is terminated in writing by Bucks County Department of Health representative.

**7.2 Revocation of retail food license.** The Bucks County Department of Health may revoke any license to operate a retail food facility if the licensee repeatedly fails to comply with these Rules and Regulations or interferes with a Bucks County Department

of Health representative(s) in the performance of their duties. Notice of food license revocation shall be provided in accordance with section 7.3 of this subsection. Should the Administrative Hearing Officer determine that the retail food license should be revoked following the hearing, the operation shall cease in accordance with such adjudication. Whenever the food license is revoked, the licensee may make written application for a new food license in accordance with these Rules and Regulations.

**7.3 Service of notice.** A notice of license suspension or revocation is properly served when it is delivered to the licensee or person in charge or certified food safety manager, either (1) in person or (2) when it is sent by registered or certified mail, return requested, to the last known address of the licensee. This notice shall include a date, time, and place of an administrative hearing provided by the Bucks County Department of Health pursuant to the Local Agency Law. A copy of the notice shall be filed in the records of the Bucks County Department of Health.

## **SECTION EIGHT – ADMINISTRATIVE HEARINGS AND MEETINGS.**

**8.1 Administrative hearings.** Administrative hearings provided for in these Rules and Regulations shall be conducted by the Bucks County Department of Health’s Administrative Hearing Officer at a time and place designated by it and in accordance with the Local Agency Law 353. Testimony may be transcribed or recorded and the Hearing Officer shall make available copies of the transcript should either the Licensor or licensee request such copies. The cost of such transcription shall be the expense of the party requesting such transcript. The Hearing Officer of the Bucks County Department of Health shall make an adjudication (decision) in a reasonable time period following the hearing and shall affirm, deny, or modify the notice provided by the Licensor.

**8.2 Administrative meetings.** Administrative meetings may be conducted before the Bucks County Department of Health’s Director, Director of Environmental Health, and/or an Environmental Sanitation Supervisor in order to discuss violations of these Rules and Regulations and compliance remedies necessary by the licensee. A letter defining the result of said meeting shall be delivered to the licensee following the meeting. Administrative meetings may be held but shall not limit the Department’s ability to proceed under any other provision of these Rules and Regulations.

## **SECTION NINE - SEVERABILITY.**

If any section, subsection, paragraph, clause, or provision of these Rules and Regulations shall be declared by a court of competent jurisdiction to be invalid, such decision shall not accept the validity of the Rules and Regulations as a whole or any part thereof. It is hereby declared to be the intention of the Bucks County Department of Health, the Bucks County Board of Health, and the Bucks County Board of Commissioners that the remainder of these Rules and Regulations would have been enacted if such invalid section, subsection, paragraph, clause, or provision had not

been enacted and that it is their intent, intention, and desire that the remaining portion of these Rules and Regulations remain in effect.

## **SECTION TEN - PENALTY PROVISIONS AND INJUNCTIONS.**

**10.1 Summary Offenses.** Any person who violates any of the provisions of these Rules and Regulations of the Bucks County Department of Health, or interferes with the health director, or any other agent of the Bucks County Department of Health in the discharge of his/her duties, for a first offense shall be guilty of a summary offense and, upon conviction thereof, be sentenced to pay the costs of the prosecution and a fine not less than one hundred (\$100) nor more than five hundred (\$500), or undergo imprisonment for a term not exceeding thirty days (30), or both.

**10.2 Misdemeanors.** Any person who violates any of the provisions of these Rules and Regulations of the Bucks County Department of Health, or interferes with the health director, or any other agent of the Bucks County Department of Health in the discharge of his/her duties, shall, having been previously convicted of a summary offense in accordance with section 10.1 of these Rules and Regulations, be guilty of a misdemeanor and, upon conviction thereof, be sentenced to pay the costs of the prosecution and a fine not less than five hundred (\$500) nor more than three thousand (\$3,000), or undergo imprisonment not to exceed 6 months (6), or both.

**10.3 Separate Offenses.** For the purpose of this section, violations on separate days shall be considered separate offenses.

**10.4 Injunctions.** The Bucks County Department of Health may seek to enjoin violations of these Rules and Regulations or may proceed in any court of law or equity to obtain any additional and cumulative remedies to abate any violation under these Rules and Regulations. Nothing in these Rules and Regulations shall in anyway alter rights or actions or remedies now or hereafter existing in equity, or under the common law or statutory law, criminal or civil.

**Approved: Bucks County Board of Health**

**Date: 09/11/2014**

**Approved: Bucks County Board of Commissioners**

**Date: 10/01/2014**

**Effective Date: 10/01/2014**